

STAND VAN ZAKEN INZAKE DE EFFECTIVITEIT VAN UNRWA-BIJSTAND

(februari 2021)

In verschillende beschikkingen stelt de Raad voor Vreemdelingenbetwistingen voor de uitsluitingsbeslissing genomen door het CGVS op basis van artikel 1D, eerste lid van het Vluchtelingenverdrag te vernietigen omdat:

“ Les parties s'accordent sur le fait que, formellement, l'UNRWA n'a pas cessé d'exister. Il n'est pas non plus contesté qu'elle a pu maintenir certaines activités sur le terrain en 2020, malgré toutes les difficultés auxquelles elle est confrontée. Toutefois, le Conseil estime que l'extrême volatilité de la situation et la dégradation continue de la situation de l'UNRWA, sur lesquelles les parties semblent également s'accorder, rendent nécessaire de disposer d'informations plus précises et actualisées afin d'évaluer s'il convient ou non de conclure que l'assistance de l'UNRWA n'est de facto plus effective. 5. Il découle de ce qui précède qu'il manque des éléments essentiels qui impliquent que le Conseil ne peut conclure à la confirmation ou à la réformation de la décision attaquée sans qu'il soit procédé à des mesures d'instruction complémentaires.”

De vraag stelt zich naar de impact van de financiële moeilijkheden van UNRWA en de groeiende humanitaire noden in de UNRWA-mandaatgebieden, op de effectiviteit van UNRWA-bijstand. In dit overzicht geeft NANSEN landeninformatie en rechtspraak weer die eventueel nuttig zouden kunnen zijn voor advocaten die dossiers van Palestijnen onder UNRWA-mandaat verdedigen. Het betreft geen exhaustief overzicht.

1. Landeninformatie

- Uit volgende objectieve landeninformatie volgt dat het financieel deficit van UNRWA chronisch is, dat er onvoldoende donaties zijn van Staten en dat UNRWA er enkel in slaagde zijn kritieke operaties te handhaven door een subsidie van het centrale noodfonds van de VN (CERF) en met voorschotten uit de programmabudget van UNRWA zelf dat op zich onder grote financiële druk staat.

*“ 95. The **financial situation** of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) **remains a serious concern**. UNRWA is not only a lifeline for millions of Palestine refugees, but also critical for regional stability. Sufficient funding is essential for the Agency's continuity.”* UN Security Council, Implementation of Security Council resolution 2334 (2016) Report of the Secretary-General, 16/12/2020, https://www.ecoi.net/en/file/local/2042770/S_2020_1234_E.pdf

*“ COVID-19 has compounded the thirteen-year blockade of Gaza, to cut civilians off from critical supplies. Gaza remains heavily isolated by Israel and, since COVID-19 began, the number of people crossing in and out of the territory has dropped significantly, as have imports of fuel and cooking gas (from 26.6 million litres in September 2019 to 6.3 million in September 2020) (OCHA). **All the while, funding levels for humanitarian agencies, particularly UNRWA, are at record lows and the humanitarian response has been particularly challenged**. UNRWA is the second largest employer in Gaza, with 11,000 staff, and so **shortfalls in its funding threaten to push unemployment there - which is already 50% - even higher**.”* International Rescue Committee, Watchlist 2021, 50, <https://www.rescue.org/sites/default/files/document/5481/2021emergencywatchlistirc.pdf>

“Statement of the UNRWA Commissioner-General before the Special Political and Decolonization Committee, UNHQ”

*“But rising poverty is leading a growing number of refugees to rely solely on UNRWA services. They ask us to do more at a time **when we do not know whether we will be able to sustain our core services from one month to another.***

Maintaining quality services requires adequate resources. It gives me no pleasure to turn now to UNRWA’s finances and inform you that they are still not in good shape.

*I will focus first on **our core Programme Budget, which is the backbone of the Agency. UNRWA’s funding gap today is \$130 million dollars.***

*In addition to our core Programme Budget we are **also appealing for support for our COVID-19 response.** This support is critical to adequately protect our health staff during the pandemic, so that they can maintain lifesaving primary health care, including vaccinations, and maternal and child health care. Additional funds are also urgently needed to sustain a blended approach to education and to address the severe socioeconomic impact of COVID-19. We recently launched an appeal for 95 million USD and I hereby call on UN Member States to make funding available as generously as they did to our earlier COVID-19 appeal.*

UNRWA also needs 40 million USD to sustain its humanitarian operations, including food and cash assistance** to over 1.4 million conflict affected refugees coming from Syria or living in the occupied Palestinian territory. **Today, 15 million USD of this amount is urgently required to sustain the food pipeline in Gaza for over 1 million refugees.

***My priority now is to raise the necessary funds to sustain all our essential services.** Failing to raise the necessary funds will impact both the salaries of 28,000 staff and the **delivery of critical services, including the schooling** of more than half a million girls and boys. Such a situation will force me to revert back to you for advice on which parts of the UNRWA mandate to prioritize.” UNRWA Newsroom, 12/10/2020, https://www.unrwa.org/newsroom/official-statements/Statement_of_the_UNRWA_Commissioner_General*

- De structurele financiële problemen van UNRWA hebben een impact op de diensten die het nog kan leveren en op hun kwaliteit. Dit geldt ook voor de essentiële dienstverlening door UNRWA zoals voedselhulp, onderwijs en medische zorgen. Dit volgt onder andere uit informatie van UNRWA zelf.

*“Lebanon’s population of over 200,000 Palestinians and 20,000 refugees of other nationalities are facing similar economic hardships.¹³ **On November 9, Philippe Lazzarini, the commissioner-general of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), announced that the UN agency, upon which many Palestinians rely for everything from education to medical care, had run out of money.**¹⁴ Claudio Cordone, UNRWA’s Lebanon country director, told CSIS that they **had to suspend salaries to their staff and may have to suspend some services.**¹⁵ Those affected have already gathered to protest outside UNRWA offices. Meanwhile, Covid-19 cases in the Palestinian refugee community surged from 200 in July to more than 10,000 the first week of October 2020.¹⁶” CSIS Briefs, The Importance of Marginalized Communities in Lebanon, december 2020, https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/201214_Hall_Marginalized_Communities_Lebanon.pdf*

“ The UN Agency, which supports 5.7 million Palestine refugees in the Middle East, announced it needs US\$ 70 million this month to pay its staff, continue education and health services amidst pandemic

*Today, Commissioner-General for the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) Philippe Lazzarini announced that **the Agency has run out of money as of today to pay the salaries of 28,000 UNRWA staff in November. The Agency needs to raise US\$ 70 million by the end of the month if it is to pay full salaries for the months of November and December.***

“Despite all of our efforts to raise the resources needed to keep our humanitarian and development programmes running, it was with great regret that I informed our staff today that we don’t have sufficient funding at this stage to honor their salaries this month,” said Lazzarini. **“If additional funding is not pledged in the next weeks, UNRWA will be forced to defer partial salaries to all staff.** I am deeply saddened to know that the earned salaries of our fearless, resilient social, sanitation and health-care workers on the front lines and our teachers working to ensure students’ education continue during this emergency health crisis are at risk.””

“ Over the last five years, **UNRWA cut US\$ 500 million out of its budget by enacting efficiency and cost-reduction measures.** This has included cutting staff, stopping needed repairs and investments in our infrastructure, increasing classroom size to 50 students per teacher, and reducing life-saving humanitarian assistance at a time of rising needs.

“Today’s call to the international community comes with the **utmost urgency,**” continued the UNRWA Commissioner-General. **“To ensure the Agency can continue its critical services and live-saving operations,** it is imperative that UN Member States match their political commitment with sufficient and predictable financial contributions so that UNRWA has a reliable stream of funding to purchase medical supplies, continue fighting the COVID-19 pandemic in refugees camps, and deliver on social services and emergency response programmes. Without their income, UNRWA staff, the vast majority of whom are refugees themselves, will see their source of livelihoods disappear, and they are very likely to descend into deep poverty.” UNRWA Newsroom, 9/11/2020 <https://www.unrwa.org/newsroom/press-releases/unrwa-issues-emergency-call-humanitarian-assistance-amid-end-year-shortfall>

“ A serious financial crisis affecting UNRWA may result in **further** deterioration of the socioeconomic conditions. On 9 November, the agency announced that it had run out of money to pay the November salaries of its 28,000 staff across its five fields of operations in the Middle East. The Gaza Strip, with 13,000 employees, will be the most affected. The Agency needs to raise US\$70 million by the end of November to pay full salaries for November and December.” OCHA, Occupied Palestinian Territory (oPt): COVID-19 Emergency Situation Report No.22 (3 – 17 November 2020), https://www.ecoi.net/en/file/local/2041168/sitrep_22_covid_19.pdf

“ 199. Under its mandate, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) provides employment, hospital coverage and education to Palestine refugees in Lebanon, including those from Syria, **although the financial constraints the Agency has been facing for several years have had repercussions on its ability to deliver those services.** ”UNGA, Human Rights Council, National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/11 Lebanese Republic, 12/11/2020, https://www.ecoi.net/en/file/local/2042301/a_hrc_wg.6_37_lbn_1_E.pdf

“**Impact of Underfunding**

UNRWA emergency operations in the oPt continue to face a serious funding shortfall, which is putting at risk the continuity of vital assistance to Palestine refugees. During the reporting period, **critical operations could only be maintained thanks to a grant from the UN Central Emergency Response Fund (CERF) and with advances from the UNRWA programme budget.** Such advances will no longer be available due to financial pressures on the programme budget. If no additional funding is received for the oPt emergency appeal for the second half of the year, **essential services** such as cash assistance to abject poor in the West Bank , MHPSS, and food assistance in Gaza **may be disrupted,** with negative consequences on Palestine refugees and on the stability of the oPt. ” (p.8)

“ Operational developments

Financial constraints remained a cause for concern for the implementation of UNRWA emergency operations in Gaza. As of 30 June 2020, the UNRWA oPt Emergency Appeal (EA) remained largely underfunded. Out of the US\$ 145 million requested for the Gaza portion of the oPt EA, US\$ 54 million had been received. In these challenging circumstances and in order to avoid a break in the delivery of lifesaving assistance, the Agency had to seek recourse to CERF for an emergency grant to cover one quarter of food commodities and distribution, and fill critical funding gaps in its emergency interventions through an advance from its programme budget. Prioritized emergency interventions included supporting the food and nutritional needs of over one million vulnerable Palestine refugees, providing short-term employment opportunities to over 5,000 individuals and continuing psychosocial services »

*“ Food assistance remains one of the top priorities for UNRWA in Gaza, to address food insecurity amongst Palestine refugees and to support wider market stability. The restrictions imposed to prevent the spread of COVID-19 have exacerbated an already dire socio-economic situation, with increasing numbers of people struggling to meet their basic needs. Palestine refugees eligible for the emergency food assistance are identified through the Agency’s Poverty Assessment Survey (PAS), conducted by UNRWA relief workers through home visits to each household. **However, in the third quarter of 2019, UNRWA suspended the assessment for admission of new cases in light of the constrained funding environment.** In 2020, UNRWA is **reviewing its methodology** for assessment, eligibility and prioritization, and monitoring of food assistance. Modifications to this intervention are being explored as appropriate to better respond to increased demand and ensure that the most vulnerable Palestine refugees continue to receive the necessary support to meet their vital needs. UNRWA aims to introduce these changes as part of the 2021 Emergency Appeal, with the possibility of launching a pilot in the last quarter of 2020. In the first half of 2020, UNRWA provided 1,043,173 refugees (519,277 female and 523,896 male) with in-kind food assistance under the oPt EA. 606,037 Palestine refugees (117,560 families) living below the abject-poverty line received a food basket that **covers 80 per cent of a person’s daily caloric requirement**, while 437,136 Palestine refugees (92,198 families), who live between the abject poverty line and the absolute poverty line, received food assistance **covering 43 per cent of their daily caloric needs.**⁹ The food aid caseload included 16,399 female headed households, 42,392 persons with disabilities, and 45,140 people above the age of 60.” (p.13) UNRWA, oPt emergency appeal progress report for the reporting period 01 January – 30 June 2020,*

https://reliefweb.int/sites/reliefweb.int/files/resources/opt_ea_progress_report_2020_final_4.pdf

*“UNRWA has sacked 17 teachers from its schools in the Palestinian refugee camps in Lebanon, Safa news agency reported yesterday. According to the human rights group, Shated, UNRWA claimed that the teachers were surplus to necessity. Shated said that **UNRWA had increased the number of classes each teacher had to cover in its schools and increased the number of students in them to over 50.** The rights group said that the UNRWA was also **forcing teachers to teach subjects which were not their areas of expertise or qualification.** This has meant fewer teachers are needed but that **education standards are dropping in the refugee camps.**” Middle East Monitor, UNRWA fires 17 teachers from its schools in Lebanon, 9 januari 2020, beschikbaar op <https://www.middleeastmonitor.com/20200109-unrwa-fires-17-teachers-from-its-schools-in-lebanon/>*

2. Rechtspraak

NANSEN vond twee interessante beslissingen terug van de rechter in Nieuw-Zeeland en Nederland met betrekking tot de effectiviteit van UNRWA-bijstand.

- E (Lebanon) [2019] NZIPT 801588, New Zealand: Immigration and Protection Tribunal, 28 May 2019, available at: https://www.refworld.org/cases,NZ_IPT,5d7a3bb04.html

“UNRWA financial situation

[60] UNRWA is funded almost entirely from state and other voluntary donations. This has always been a matter of some concern in terms of the sustainability of its operations. However, **the funding of UNWRA has hit crisis point in recent years with the international humanitarian system being put under enormous strain by multiple humanitarian crises** requiring financial and operational burdens on reception states, UN agencies, state donors and non-government organisations.

[61] In the UNRWA Financial Report and Audited Financial Statements for 2017 (13 September 2018) at pp9–10, for the year ended 31 December 2017, the UNRWA auditors summarised the year’s funding situation and financial outlook as follows (emphasis added):

“UNRWA is primarily funded through voluntary contributions. In 2017, total contributions were \$1,207.44 million, of which voluntary contributions were \$1,156.45 million (96 per cent), and total expenses amounted to \$1,310.44 million

...

*UNRWA continues to experience financial difficulties in carrying out its mandate of serving the Palestine refugees. In 2017, the Agency carried forward a programme budget cash deficit of \$49 million and has projected a further deficit of \$397 million for the year 2018. Therefore, the projected overall deficit for the year 2018 is \$446 million, including \$49 million from the previous year. The increase in deficit is a result of suspended contributions amounting to \$400 million from one of the major donors in respect of the years 2017 and 2018. **This situation threatens the Agency’s ability to deliver its core mandate to Palestine refugees. While the Agency continues with its effort to mobilize resources from various donors to curb the impact of the projected deficit, it also continues with the implementation of austerity measures aimed at substantially reducing non-core operations costs as a serving strategy.**”*

[62] **Already at the point where expenses were outstripping income, the financial woes of UNWRA intensified further.** The **United States** had previously been the most generous and reliable donor to UNRWA operations; see UNRWA Resource Mobilization Strategy 2019–2021 (2019) at [11]. However, in January 2018, the United States announced that it would **reduce** its annual contribution to UNRWA by USD300 million (almost a quarter of the operational funding budget of UNWRA), from USD360 million to USD60 million. As noted by the UNRWA Commissioner General Pierre Krähenbühl, the result was that UNRWA was confronted with “an **existential crisis**”; see “Open letter from UNRWA Commissioner-General to Palestine Refugees and UNRWA Staff” (1 September 2018) at www.unrwa.org.

[63] **While some of the funding shortfall was mitigated** through a global, 'Dignity is Priceless' fundraising campaign, **UNRWA also had to implement reductions in its emergency interventions and service programme and suspend other programmes so as to keep critical services operational throughout the year;** see UNRWA Draft Annual Operational Report 2018 (April 2019) at p4.

Impact on PRL

[64] The available information indicates that there is little current prospect of UNRWA being able to provide a sustainable level of financial assistance to PRL individuals and families who cannot otherwise meet their basic needs.

[65] UNRWA operates a “**Social Safety Net Programme**” (SSNP) in an effort to directly support those it categorises as being in “abject poverty”. This comprises a cash **payment of \$10 per family member every three months**. That amount is **unlikely to provide even basic necessities** (see discussion of living costs below at [75]).

[66] **Moreover, in 2015, even before the funding withdrawal by the United States, there were already 6,500 PRL on the waiting list for SSNP payments**. These were people who were eligible for payments (that is, they were in abject poverty), but could not receive payments due to the UNRWA’s financial constraints; see American University of Beirut & UNRWA Survey on the Socioeconomic Status of Palestine Refugees in Lebanon 2015 (2016) at p24. Given the country information cited herein as to the deteriorating financial situation in both Lebanon generally and 17 for UNRWA, **it is reasonable to conclude that the number of people who currently need the SSNP payments but cannot access them will have increased between 2015 and the current time**.

[67] The opportunity for PRL to access other humanitarian aid is also limited. As noted in analysis by L Khoury “Palestinians in Lebanon: 'It's like living in a prison'” Al Jazeera (16 December 2017), the humanitarian aid available in Lebanon is often focused on the more recently arrived Syrian population:

“Today, Palestinians are competing with nearly two million Syrian refugees in Lebanon for jobs and aid. ‘The vast majority of international humanitarian aid coming into Lebanon is focused on the Syrian refugee crisis, which means we are overlooking the long-standing human rights violations that Palestinians have faced here for decades,’ [a Human Rights Watch spokesperson] said. The United Nations Relief and Works Agency (UNRWA) deals with aid for Palestinians, while the UN High Commissioner for Refugees (UNHCR) covers Syrians - and the difference in the aid provided is stark. UNHCR gives 150,000 Syrians in Lebanon \$175 a month per family; UNRWA, however, can only give 61,000 Palestinians \$10 for each family member every three months, spokespersons told Al Jazeera. Both agencies say they target whoever is considered the most vulnerable.”

[81] **The country information before the Tribunal establishes that, at the present time, UNRWA is experiencing a dire funding shortfall such that it cannot fund any secondary or tertiary medical treatment for Palestine refugees. Even basic primary health services have been impacted by the funding crisis with replacement of medical personnel being delayed and services being cut. Nor does UNRWA have sufficient funds to provide financial or basic needs support, even for all of those who fall within the criteria of living in “abject poverty”.**

[85] **On that basis, the appellant will not be able to access, either privately or through UNWRA, financial assistance sufficient to provide the necessities of life, nor any assistance to pay for his ongoing medication and, possibly, hospitalisation costs.** For the appellant, with his particular medical presentation, a lack of sufficient medical care may well result in significant cardiac issues or stroke.

[86] For the reasons given, **in particular the inability of UNRWA to guarantee access to even the most basic living allowance and adequate medical services**, the Tribunal finds that for the purpose of Article 1D(2), **the assistance of UNWRA to which the appellant is entitled has de facto ceased**. According to Article 1D(2), the appellant is therefore ipso facto entitled to the benefits of the Refugee Convention. ”

- Rechtbank Den Haag , 24 augustus 2020, nr. NL20.6600, <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2020:7999>

“7.3.Uit verschillende openbare bronnen blijkt dat UNRWA (recent) financieel fors is gekort en niet meer in staat is de benodigde bescherming te bieden.¹² Momenteel bestaat er bij de UNRWA een tekort van \$ 348 miljoen.¹³

7.4.

The Committee on the Rights of the Child rapporteert op 10 februari 2020¹⁴: “The Committee is deeply concerned about the high number of refugee and internally displaced children in the State party due to the Israeli occupation, forced displacement, evictions and armed hostilities. It notes with concern the dire situation of the majority of these children in refugee camps or living with extended family, including due to overcrowding, poor living conditions, the unemployment of their parents, the discontinuation of cash payments by UNRWA, food insecurity and lack of privacy.”

7.5.

Uit recente informatie¹⁵ blijkt dat er in de gezondheidszorg in Gaza ernstige tekorten zijn wat betreft medische apparatuur, essentiële medicijnen en medicijnvoorraden, chirurgische uitrusting en ambulance benodigdheden.

7.6.

De rechtbank constateert op basis van deze bronnen:

- dat in Gaza sprake is van een humanitaire noodtoestand;
- **dat UNRWA vanwege ernstige financiële en materiële tekorten niet in staat is de burgers van Gaza te voorzien in hun dagelijkse levensbehoeften;**
- dat UNRWA niet is gemandateerd of uitgerust de burgers van Gaza bescherming te bieden tegen oorlogsgeweld;
- dat de Palestijnen in Gaza grotendeels onder de armoedegrens leven;
- **een groot deel van de huishoudens in Gaza niet genoeg heeft aan de vouchers die door de UNRWA worden verstrekt voor het aanschaffen van producten;**
- dat de burgers van Gaza soms hun met voedselbonnen verkregen voedsel moeten verkopen om rond te kunnen komen;
- dat meer dan de helft van de bevolking van Gaza werkloos is;
- dat de meerderheid van de kinderen in Gaza door de Israëlische bezetting, gewapende conflicten en gedwongen uittochten gedwongen is te leven onder erbarmelijke omstandigheden in vluchtelingenkampen;
- dat op het gebied van onderwijs ernstige tekorten zijn ontstaan aan (middelbare) scholen, onderwijzers en lesmateriaal;
- dat salarisbetalingen aan onderwijzers worden stopgezet en het normale onderwijs geen doorgang kan vinden;
- dat het zorgstelsel in Gaza erg onder druk staat;
- dat er in de zorg in Gaza ernstige tekorten zijn aan artsen, ziekenhuizen, medische apparatuur, medicijnen, chirurgische uitrusting en ambulance benodigdheden;
- dat Gaza niet in staat is adequaat te handelen bij grootschalige virusuitbraken zoals thans de uitbraak van het coronavirus.

7.7.

Deze rapportages bevestigen het standpunt van eiser dat het voor de UNRWA

onmogelijk is gebleken om de Palestijnen in Gaza en dus ook eiser en zijn gezin de levensomstandigheden te bieden die stroken met de opdracht waarmee de UNRWA is belast. De rechtbank is van oordeel dat eiser hiermee heeft aangetoond dat hij gedwongen was te vertrekken uit Gaza als bedoeld in de hierboven genoemde rechtspraak. Van hem kan dan ook niet worden verwacht dat hij terugkeert naar Gaza.”