

Palestine's Second Unsuccessful Attempt to Secure UNSC's Recommendation for UN Membership: What Happens Next?



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By Konstantinos D. Magliveras, Attorney at Law; Professor of Public International Law, University of the Aegean, Greece

The State of Palestine, which since 2012 has enjoyed the status of '[Permanent Observer State](#)' in the United Nations (UN), had applied for full membership the year before. At the time, the Security Council (UNSC) did not vote on the application. In April 2024, thirteen years later, Palestine requested that that it be reconsidered. The draft resolution proposed by Algeria that the UNSC recommends to the General Assembly (UNGA) the admission of Palestine was blocked by the US negative vote. These events and what might be the next and best course of action are discussed here.

Admittance to membership under the UN Charter and Palestine's 2011 application

In September 2011, the State of Palestine applied for membership in the UN (UN Doc. [S/2011/592](#)). Article 4, the admission clause in the UN Charter, drafted while WW II was still being waged and never since reviewed, sets out four requirements for applicants: they must be states, which love the peace, accept the Charter's obligations, and are able and willing to carry out these obligations. Procedurally, Article 4, a grammatical interpretation of which suggests that only the latter requirement is "in the judgment of the Organization", envisages a recommendation of the UNSC and the (positive) decision of the UNGA. Such recommendations come under the Article 27(3) voting rule, namely the affirmative vote of nine members including all permanent members' concurring votes, and such decisions under the Article 18(2) voting rule, namely a two-thirds majority of members present and voting.

As the UNSC Committee on the Admission of New Members (all UNSC members sit in it) did not reach a unanimous position on the application ([UN Doc. S/2011/705](#)), a formal vote was not taken. Realistically speaking, this led to two (mutually exclusive) possibilities: (a) Palestine withdrew the membership application and possibly lodged a new one at a later stage (it has never happened before but technically it can be done); or (b) since the application, as a legal document, continued to exist, Palestine asked the UNSC to examine it again hoping for a favourable determination.

Palestine's request that the membership application be re-considered and the outcome: April 2024

On 2 April 2024, Palestine wrote to UN Secretary-General requesting that "renewed consideration" be given to the application during April 2024, and the latter transmitted the letter to the UNSC (UN Doc. [S/2024/286](#)). On 8 April 2024, the Maltese UNSC President, seeing that there was no objection, resolved that the Committee on New Members consider the request on the very same day ([UN Doc. S/PV.9597](#); UN Doc. [SC/15655](#)). Ten days later, Algeria circulated a draft

resolution, whose text was certainly one of the shortest ever: having examined Palestine's application, the UNSC recommended to the UNGA that it be admitted to membership (UN Doc. [S/2024/312](#)). There was no mention whether the above four requirements were met. While the draft resolution attracted twelve positive votes, it was not adopted as the USA voted against it (Switzerland and the UK abstained but that was of no consequence). The explanation of votes (UN Doc. [SC/15670](#); [S/PV.9606](#)) contains interesting declarations by the 15 members. Arguably, they show that, in the present UNSC composition, there is consensus (but not unanimity) that the State of Palestine should be admitted. For example, Japan was adamant that "Palestine meets the criteria for admission to the UN membership", while Mozambique said that "the quasi-universal recognition [of Palestine] is a testament that [it] fulfils the requirement of Statehood". However, according to South Korea, even if it were to happen, it would not have "constitute[d] bilateral recognition of Palestine as a State".

The comment by China that "today ... the application of Palestine for its full membership at the UN has been rejected" raises important questions from a legal/institutional point of view. Clearly, not only such a thing did not happen but the application continues to be valid; in the words of Algeria, "We will return stronger and more vocal". Therefore, China's assertion was incorrect but presumably it was made to emphasize the consequences of the US veto. According to Article 4 of the UN Charter, only the UNGA may reject a membership application, as it is its own absolute decision. Even if the UNSC were to recommend an applicant state for membership, the UNGA could very well reject it. While this has never happened and will probably never happen, it should be remembered that it is the UNGA and not the UNSC that determines who will join. One should, however, consider the opposite, namely what will ensue if the UNSC were to adopt a resolution recommending that the State of Palestine should not be admitted. A recommendation is a recommendation is a recommendation. While, as held by the ICJ in its Advisory Opinion of 3 March 1950 (*Competence of the General Assembly for the Admission of a State to the United Nations*), the UNSC recommendation is necessary for the UNGA to proceed to a decision on admission, it does bind it.

What should (and could) happen in the years to come

The latter consideration leads to the discussion of what happens next. One supposes that the Palestinians regarded that April 2024 was an opportune time to re-activate the membership application, perhaps encouraged by President Macron's statement that [the recognition of a Palestinian state is no longer a taboo for France](#). Therefore, when they feel that another opportune time has come, they could ask the UNSC to re-consider it. However, if for the sake of argument this were to happen in, say, ten years' time from now, perhaps the question will have to be asked if the facts, the circumstances and, generally, the state of affairs that existed at the time of the 2011 application have not in the meantime changed questioning the application's validity. Notwithstanding this consideration, it is submitted that the best outcome for Palestine would be for the UNSC to issue a non-favourable (non-positive) recommendation, which would mean that the matter would at once be transferred to the UNGA. Given that presently around [140 states have recognized the State of Palestine](#) and that, on the basis of the aforementioned UNSC deliberations in April 2024, there are states that would vote in favour of admission irrespective of recognition, there are very good chances that the membership application will be accepted. In conclusion, the best way for the State of Palestine to gain admission to the UN might be for the UNSC not to recommend its admission!

Photo: Ambassador Robert A. Wood of the United States votes against the draft resolution on Palestine in the Security Council, [UN News](#)