

Key points:

Corporate involvement with illegal Israeli settlements through trading, investment and other links runs the risk of violating international law. Businesses are increasingly ceasing commercial links with settlements as they become more aware of the risks involved.

Ireland and the EU can follow the example of the UK, the Netherlands and others by actively discouraging economic links with illegal Israeli settlements.

Discouraging corporate involvement with illegal Israeli Settlements

Introduction

Trócaire works in partnership with local Israeli and Palestinian organisations to challenge ongoing human rights abuses and to build a lasting and durable peace. Over the last decade, Trócaire has witnessed a steady deterioration in the human rights situation for the communities we work with on the ground. In particular, the expansion of Israeli settlements undermines the development of Palestinian communities and infringes on the right to self-determination, an adequate standard of living, and freedom of movement.

Israeli settlements in occupied Palestinian territory have been condemned by the UN, the EU, and the International Court of Justice as being illegal under international law. Yet since the beginning of the Oslo peace process in 1992, the number of Israeli settlers in the Palestinian West Bank has more than doubled. There are now more than 500,000 settlers living on occupied Palestinian land, and 42% of the West Bank has been allocated for settlements.

Businesses need to ensure that their activities are not contributing to these ongoing breaches of international law. Trading, investing, and establishing other commercial links with Israeli settlements all contribute to the economic viability of settlements and thus help entrench them.

Increasingly businesses are becoming more aware of the implications of commercial activities which may contribute to settlements and their expansion, and as result a number of private sector actors are taking action. Over the previous year, various European banks and pension funds have divested from Israeli banks because of their involvement in the financing of settlements and provision of services to

settlements. Many Western European retailers are also increasingly choosing not to stock products from Israeli settlements.

European states are also playing a stronger role in providing guidance to the private sector regarding settlements, under their responsibilities covered in international frameworks such as the OECD Guidelines for Multinational enterprises and the UN Guiding principles on Business and Human Rights.

The British government has provided a positive example by introducing national advice to business, warning of the legal and reputational risks of corporate involvement in Israeli settlements. Furthermore, the Dutch government has played an active role in providing advice to private sector entities on risks related to investments in settlements.

In order to respond effectively to the deteriorating situation on the ground, Trócaire believes that Ireland, the EU, and other member states should intensify efforts to actively discourage companies from trading, investing and having other commercial links with Israeli settlements.

Corporate involvement with Israeli settlements

Israel has a competitive modern economy with deep and long-standing business relations with many EU companies. However, many companies investing and trading with Israel are unaware that in the context of the prolonged occupation of the occupied Palestinian territory, and particularly the continuing expansion of illegal Israeli settlements, companies run heightened risks of involvement in violations of international law.

Some private businesses have commercial links with Israeli settlements, and these activities risk supporting and sustaining these illegal settlements. Such commercial activities include providing services to settlements, importing and selling goods sourced from settlements, and also investments in settlement companies and projects.

As such, these trading, investment and other commercial activities contribute to the continued viability of settlements and risk contributing to ongoing violations of international law. A number of Israeli and European businesses have already faced questions over their reputation in response to their commercial links with settlements (some examples are highlighted in Box 1).

Most companies currently lack a clear frame of reference on how to respect international humanitarian and human rights law in this context, and may not be aware of the potential legal and reputational implications of investing in this context. Most EU Member States have not taken sufficient steps to ensure effective guidance for businesses in this context, in line with the UN Guiding Principles on Business and Human Rights.

There is a clear and pressing need for specific government-level guidance, as this would have the value of setting out clear expectations and helping companies to prevent the adverse impacts for their shareholders of legally and ethically questionable investment. It would also help ensure that the private sector is not undermining EU policy which opposes and condemns Israeli settlements as illegal and an obstacle to peace.

**Box 1:
Examples of companies with
links to Israeli settlements**

SodaStream

SodaStream is a multi-million dollar carbonated drinks company based in Israel, which also operates under the name Soda Club. SodaStream operates a factory in the illegal Israeli settlement of Ma'ale Adumim¹. This settlement deprives the area and the local population of agricultural land and valuable water resources. SodaStream products are available for consumers to purchase in many Irish retail outlets.

Cement Roadstone Holdings (CRH)

Cement Roadstone Holdings (CRH) is one of Ireland's largest multinationals. CRH owns a 25% stake in Mashav, Israel's only cement producer². According to Amnesty International, despite CRH's view that there are many other suppliers of cement, the company accepts that 'in all probability' its cement is being used in the construction of the Israeli separation wall³. CRH involvement in the development of the wall, which is illegal under international law, has drawn criticism from both Irish and international groups as well as shareholders, and has resulted in a complaint being taken to the OECD national contact point⁴.

Veolia

Veolia is a French multinational that provides infrastructure through subsidiaries to Israeli local authorities, for the Jerusalem Light Railway, which connects West Jerusalem to illegal Israeli settlements in occupied East Jerusalem. In April 2010, the United Nations Human Rights Council declared the Jerusalem Light Railway Way to be "in clear breach of international law and relevant UN resolutions", as it contributes to Israel's illegal annexation of East Jerusalem⁵. Through subsidiaries, Veolia is also contracted by the Irish government to deliver municipal services such as wastewater treatment plants⁶. It is also involved in operating Dublin's Luas tram service.

Elbit Systems

Elbit Systems is an Israeli security company. It is one of two main providers of the electronic detection fence for the separation wall in the occupied West Bank. The company has also supplied UAVs (Unmanned Aerial Vehicles) to the Israeli army, which are in operational use in during combat in the West Bank and Gaza⁷. Between 2011 and 2014, the Irish government spent over €2.9 million on security contracts with Israeli companies, of which the main expenditure related to a contract with Elbit systems for the supply of ten Ground Surveillance Radars to the Irish Defence Forces⁸.

1 Who Profits, "SodaStream (The Soda Club Group)". <http://www.whoprofits.org/company/sodastream-soda-club-group> [accessed June 2014]

2 CRH 'Annual Report on Form 20-F' (December, 2010) <http://www.crh.com/docs/reports-presentations-2010/2010-form-20-f.pdf?sfvrsn=0>

3 Christian Aid, "Facts on the ground - The end of the two-state solution". Pg. 59. http://www.christianaid.org.uk/images/facts_on_the_ground_2004.pdf [accessed June 2014]

4 OECD Watch, "Ireland-Palestine Solidarity Campaign vs. CRH" (3 May 2011) http://oecdwatch.org/cases/Case_215

5 AL-HAQ, 'Veolia Not Awarded Public Transport Tender in The Hague' (May 2012) www.alhaq.org/advocacy/targets/accountability/72-hermesveolia/577-veolia-not-awarded-public-transport-tender-in-the-hague [accessed June 2014]

6 Written Answers from the Department of Environment, Community and Local Government : Public Private Partnerships. Tuesday 16th July. <http://www.kildarestreet.com/wrans/?id=2013-07-16a.2021&s=veolia+contract#g2025.r> [accessed June 2014]

7 Who Profits, "Elbit Systems". <http://www.whoprofits.org/company/elbit-systems> [accessed June 2014]

8 Oireachtas Debates, Written Answers, Defence Minister Alan Shatter. "Defence Forces Equipment". 7 May 2014. <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/%28indexlookupdail%29/20140507~WRA?opendocument> [accessed 2014]

Response of the UN

Business, corporate social responsibility, and human rights are increasingly becoming a major focus for the UN. In June 2011 the UN Human Rights Council unanimously endorsed the Guiding Principles on Business and Human Rights. The Guiding Principles are 31 principles that guide how states and corporations can protect and promote a respect for human rights in daily business operations.

The principles urge all states to inform, engage with, and provide adequate assistance to business enterprises to assess and address the heightened risks of abuses. The Guiding Principles also assert that states should deny access to public support and services for a business enterprise that is involved with gross human rights abuses and refuses to cooperate in addressing the situation.

Regarding corporate involvement with Israeli settlements, in March 2013, the UN Human Rights Council adopted the report of the independent Fact Finding Mission on Israeli settlements.

The Fact Finding Mission concluded that “businesses enterprises have enabled, facilitated and profited, directly and indirectly, from the construction and growth of the settlements”. The Mission also urged states to take “appropriate measures” to prevent businesses contributing to human rights abuses related to the illegal Israeli settlements⁹.

Furthermore, in March 2014, the UN Human Rights Council urged all states to “provide information to individuals and businesses on the financial, reputational and legal risks, as well as the possible abuses of the rights of individuals, of getting involved in settlement-related activities, including economic and financial activities, the provision of services in settlements and the purchasing of property”.¹⁰

Response of the EU

The EU and its member states have made commitments to take concrete actions related to trade and business links with settlements. In June 2013, at the UN Human Rights Council, the EU called “on European companies to implement the Guiding Principles in all circumstances, including in Israel and occupied Palestinian territory”¹¹.

Furthermore, the EU committed in Foreign Affairs Council conclusions in December 2012 to ensuring “full and effective implementation” of EU legislation regarding settlement products¹². Subsequently 13 member states, including Ireland, wrote to EU foreign policy chief Catherine Ashton requesting that the EU introduce guidelines on the correct labelling of settlement products¹³. Despite this, EU settlement product labelling guidelines have not been introduced. This is particularly disappointing, given that such guidelines would be aimed at simply ensuring that member states are applying existing EU consumer protection law.

However, in June 2013 the EU did introduce a set of guidelines to ensure settlement-based entities are no longer eligible to receive EU research grants and other financial instruments¹⁴. Furthermore, in May 2014, the EU introduced an import ban on poultry from settlements¹⁵. This is a welcome step and significant as it was the first time the EU has banned any settlement product from entering the EU.

While some encouraging steps have been taken by the EU regarding settlements, more can be done by the EU to discourage trade and investment links with settlements. This could take the form of providing guidance to businesses, which a number of European states have begun to do (see box 2 below).

Ultimately, expanding the settlement poultry import ban to a full import ban of all settlement produce would have the greatest impact on curbing settlement activity.

9 United Nations Human Rights Council, “Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem” <http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/FFM/FFMSettlements.pdf> [accessed June 2014]

10 United Nations Human Rights Council, “Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan A/HRC/25/L.3725”, March 2014. <http://unispal.un.org/UNISPAL.NSF/0/9D123C958B82752985257CA90055F57B> [accessed June 2014]

11 United Nations Human Rights Council, “Interactive Dialogue with Special Rapporteur on occupied Palestinian territories occupied since 1967, EU Intervention”. 11 June 2013 http://eeas.europa.eu/delegations/un_geneva/documents/eu_statments/human_right/20130611_id_sr_opt.pdf [accessed June 2014]

12 Council of the European Union, “Council conclusions on the Middle East Peace Process”, 10 December 2012. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/134140.pdf [accessed June 2014]

13 EU Business “EU foreign ministers want West Bank settlement goods labelled” 19 April 2013. <http://www.eubusiness.com/news-eu/israel-palestinians.o3q> [accessed June 2014]

14 Official Journal of the European Union, “Guidelines on the eligibility of Israeli entities and their activities in the territories occupied by Israel since June 1967 for grants, prizes and financial instruments funded by the EU from 2014 onwards”, 19th July 2013. http://eeas.europa.eu/delegations/israel/documents/related-links/20130719_guidelines_on_eligibility_of_israeli_entities_en.pdf [accessed June 2014]

15 Mondoweiss, “European Union ruling: Ban poultry imports from settlements” 23 May 2014 <http://mondoweiss.net/2014/05/european-imports-settlements.html> [accessed June 2014]

Box 2: Examples of Good practice

UK

In December 2013, the UK government published an 'Overseas Business Risk' report regarding Israel, which provides official guidance to the private sector highlighting the risks of involvement with Israeli settlements. Along with highlighting reputational risks for businesses, it references the fact that there are legal risks to such business links, reminding business that the settlements are illegal under international law¹⁶.

The Netherlands

The Dutch government has been actively providing advice to the Dutch private sector, discouraging economic relations with settlements. For instance, the Dutch government advised against Royal Haskoning's involvement in a sewage project in occupied East Jerusalem, which would have served settlements¹⁷.

Norway

The Norwegian Ministry of Finance excluded the Israeli company Elbit Systems Ltd. from the Government Pension Fund. This was done on the basis that Elbit contributes "to serious violations of fundamental ethical norms as a result of the company's integral involvement in Israel's construction of a separation barrier on occupied territory"¹⁸. The Irish government should consider taking similar action regarding governmental contracts with Elbit Systems (see box 1).

Private sector

European commercial banks, investment firms and state-linked investment funds are increasingly acting on an awareness that investments in settlement and occupation-related activities are not in line with international law or ethical investment policies. They have excluded companies and banks that may be operating in breach of international law from their investment portfolios, and/or alerted their clients about the ethical risk of investing in such ventures¹⁹.

Conclusion and recommendations

Illegal Israeli settlements in occupied Palestinian territory are rapidly expanding and causing human rights violations for thousands of Palestinians. It is clear that urgent action is needed to halt violations of international law including the expansion of settlements. Governments and businesses should act responsibly to ensure they are not complicit in these violations.

Recommendations for the Irish government:

- Follow the example of the UK government by introducing formal advice to the Irish private sector regarding Israeli settlements. Robust advice provided by the Irish government should strongly discourage Irish companies from having trading, investment or other commercial links with companies operating in, providing services to, or sourcing goods from settlements.
- Exclude settlement products and companies from public procurement. In tendering of public contracts, such as services or equipment supplies, the Irish government, and state-funded bodies should specify that no settlement products or services may be supplied under the contract and that companies operating in Israeli settlements are excluded. The Irish government should also examine other public contracts with companies that operate in the occupied Palestinian territories, such as Veolia and Elbit Systems, which have been linked to violations of international law.

- Provide advice for Irish tourists to ensure that they avoid supporting companies and tourist sites that are located in the settlements.

Recommendations for the European Union:

- Expand the settlement poultry import ban to a full import ban of all settlement products from the EU market. At a minimum, introduce labelling guidelines for settlement products, and provide official advice to European companies discouraging commercial links with settlements.
- Exclude settlement products and companies from public procurement. In tendering of public contracts, such as services or equipment supplies, EU institutions, governments, and state-funded bodies should specify that no settlement products or services may be supplied under the contract and that companies operating in settlements are excluded.
- EU trade missions, such as EU 'Missions for Growth' to Israel, should ensure that they do not promote trading, investment or other commercial links with companies operating in, providing services to, or sourcing goods from settlements.

Recommendations for Irish and European companies:

- Cease all trading, investment or other commercial links with companies operating in, providing services to, or sourcing goods from Israeli settlements.

¹⁶ UK Foreign & Commonwealth Office, 'Overseas Business Risk - Israel', December 2013. <https://www.gov.uk/government/publications/overseas-business-risk-israel> [accessed June 2014]

¹⁷ Haaretz, "Dutch government urges local firm to cancel East Jerusalem project", 26 August 2013. <http://www.haaretz.com/news/diplomacy-defense/.premium-1.543535> [accessed June 2014]

¹⁸ Govt of Norway, "Supplier of surveillance equipment for the separation barrier in the West Bank excluded from the Government Pension Fund". September 2009. <http://www.regjeringen.no/en/archive/Stoltenbergs-2nd-Government/Ministry-of-Finance/Nyheter-og-pressemeldinger/pressemeldinger/2009/supplier-of-surveillance-equipment-for-t.html?id=575444> [accessed June 2014]

¹⁹ Richard Falk, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, A/HRC/25/67 (13 January 2014) <http://www.refworld.org/docid/531439c44.html> [accessed June 2014]