



European funding for Israeli actors that are complicit with violations of international law must not be allowed to continue

A response to the consultation on the European Commission's Green Paper "From Challenges to Opportunities: Towards a Common Strategic Framework for EU Research and Innovation Funding" by Stop the Wall, the Grassroots Palestinian Anti-Apartheid Wall Campaign.

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Israel is a state that denies Palestinian rights with violent impunity and in violation of international law. Corporations or organisations such as universities often directly contribute to such crimes. In other instances, third party actors such as corporations and universities provide the means to facilitate the crime – a material element of complicity. Under international criminal law, those involved in the commission of a criminal offence can be held responsible as principal perpetrators or as complicit accomplices.¹

At least 22 Israeli actors participate in the European Security Research Programme, and many more participate in other themes within the Seventh Framework Programme (FP7), the principal EU research funding mechanism. Israeli participants in FP7 directly contribute to or are complicit accomplices to acts that are illegal under international law, as is shown in the review of six Israeli participants in Annex 1. It is our informed opinion that many of the other Israeli participants in FP7 projects would be shown to be complicit with Israeli violations of international law, if a more thorough analysis were to be conducted. Furthermore, as shown in Annex 2, FP7 projects allow Israeli actors to further develop technology that has been deployed in such a way that facilitates violation of international law

The Lisbon Treaty and other treaty commitments oblige the EU to uphold and promote the rule of international law. In 2004, the International Court of Justice held that international law places certain obligations not only on Israel but also on third parties. These obligations include not rendering aid or assistance in maintaining the situation created by an unlawful act in occupied Palestinian territory and seeing to it that any impediment to the exercise by the Palestinian people of its right to self-determination is brought to an end.²

By allowing Israeli actors that perpetrate or are complicit accomplices to unlawful acts and impediments to Palestinian self-determination to participate in research projects that it funds and administers, including projects that are developing technology that may be used in future unlawful acts, the EU lends legitimacy to Israeli violations of international law and renders assistance to the maintenance of these unlawful acts in a way that calls into question whether the European Union and member states are in violation of their own obligations under international law.

¹ This principle is codified in article 7(1) of the Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY), Article 6(1) of the Statute of the International Criminal Tribunal for Rwanda (ICTR) and article 25 of the ICC Statute.

² Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion (9 July 2004), para. 159 (I.C.J.).

We are concerned that the Green Paper does not at all address these serious problems with existing European research funding mechanisms. Indeed, we are troubled that the Green Paper instead suggests steps should be taken to “encourage greater public acceptance in sensitive fields such as security”.³ We are confident that the suggestions we make will be given serious consideration, and that European research policy will be brought in line with the stated European Union policy of support for international law and for a just and lasting peace between Israel and the Palestinian people.

What should be the measure of success for EU research and innovation funding? Which performances indicators could be used?

At the very minimum, EU research and innovation funding must be in compliance with - and not be allowed to support companies complicit with violations of - international law in order to be considered a success.

The UN Guiding Principles on Business and Human Rights, welcomed by the EU and due to be ratified by the UN in June, clearly articulate and provide guidance regarding the state duty to ensure corporate respect for human rights. For example, the guidelines suggest that “because the risk of gross human rights abuse is heightened in conflict-affected areas, States should help ensure that business enterprises operating in those contexts are not involved with such abuses, including by...denying access to public support and services for a business enterprise that is involved with gross human rights abuses...”. The guidelines stress the centrality of international law, especially in situations of armed conflict, and encourage state actors to introduce new legislation and other steps to prevent business abuse of human rights where necessary. Independent reviews into the extent to which these guidelines have been met by EU research and innovation funding could provide a excellent performance indicator.

How could EU research and innovation activities attract greater interest and involvement of citizens and civil society?

In issues relating to business and institutional complicity with international law, information about such complicity is often compiled by civil society rather than state actors. Future EU research and innovation activities should improve civil society accessibility to decision making processes, especially those relating to the admissibility participants involved in conflicts. Clear communication channels with civil society actors that collate information relevant to decisions regarding admissibility of participants should be established and appropriately resourced.

Which key issues and obstacles concerning ERA should EU funding instruments seek to overcome, and which should be addressed by other (e.g. legislative) measures?

The issue of participation in European research projects by Israeli actors that are complicit with Israeli violations of international law must be addressed with both legislative measures and the introduction of institutional capacity capable over ensuring the adequate implementation of the legislation.

The EU legislation on eligibility for participation in FP7 research programs states that a proposal that “contravenes fundamental ethical principles...shall not be selected”.⁴ When similar legislation regarding participation in the new research framework is developed, it must be expanded. Actors that are complicit with violations of international law must be explicitly excluded from participation by legislation. Where complicity is disputed, the precautionary principle must be invoked.

³Green Paper - From Challenges to Opportunities: Towards a Common Strategic Framework for EU Research and Innovation funding

http://ec.europa.eu/research/csfr/pdf/com_2011_0048_cs_f_green_paper_en.pdf#page=2

⁴Regulation (EC) No 1906/2009 of the European Parliament and of the Council

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:391:0001:0018:EN:PDF>

In addition, institutional capacity must be developed so as to allow the culpability of potential participants to be determined so that they can be excluded. Such investigations must be conducted in an open and accountable fashion, in consultation with civil society and other stakeholders.

Annex 1 – Sample of Israeli participants in FP7 and details of their perpetration of and complicity with violations of international law

Many of the Israeli participants in FP7 perpetrate or are complicit accomplices to acts that are illegal under international law, as is shown in the following review of six Israeli participants.

a. Elbit Systems

Elbit Systems is an Israeli arms company that is involved in the construction of Israel's illegal Wall and the supply of equipment and weapons to the Israeli military. According to research compiled by the Norwegian government, Elbit Systems "supplies an electronic surveillance system called 'Torch' for the separation barrier. Torch is designed to detect persons attempting to cross the barrier and to provide this information to the staff that guard it". The system was designed and is manufactured specifically for use on the Wall.⁵ Subsidiaries Elbit Electro-Optics and Elbit Security Systems supply additional equipment for the Wall.⁶ The Norwegian government report states that the involvement in Elbit Systems in the Wall is likely to be on-going and that "it must be presumed that the company will be involved...after the construction of the barrier has been completed".⁷ In addition, Hermes Unmanned Ariel Vehicles (UAVs) supplied by Elbit Systems were used to attack civilians during the 2008-09 attack on Gaza that were described by Human Rights Watch as indiscriminate and disproportionate in such a way that renders them violations of international humanitarian law. The attacks killed 29 civilians, eight of them children.⁸ Elbit Systems participates in 4 FP7 projects.⁹

In 2004, the International Court of Justice ruled the Wall to be illegal. Elbit Systems has developed and supplies a surveillance system specifically for use in the Wall and is therefore complicit with this unlawful act. The ICJ ruling also stated that "all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction".¹⁰ By supplying the Israeli military with UAVs used in violations of international law, Elbit Systems is also complicit with that violation.

b. Israel Aerospace Industries

Similarly to Elbit Systems, Israel Aerospace Industries (IAI) provides equipment used in Israel's illegal Wall and supplied drones to Israel that were used in attacks against civilians during the 2008-09 attack on Gaza. IAI's subsidiary provides observation systems for the Wall.¹¹ IAI's Heron UAV systems was used in the attacks on civilians condemned by Human Rights Watch as being in violation of international law.¹² IAI participates in 14 FP7 projects.¹³

⁵Council on Ethics, Recommendation on the exclusion of the company Elbit Systems Ltd

http://www.regjeringen.no/pages/2236685/Elbit_engelsk.pdf

⁶Coalition of Women for Peace, Elbit Systems <http://www.whoprofits.org/Company%20Info.php?id=554>

⁷Ibid.

⁸Precisely Wrong, Human Rights Watch (2009)<http://www.hrw.org/en/reports/2009/06/30/precisely-wrong-0>

⁹Cordis Database

http://cordis.europa.eu/fetch?CALLER=FP7_PROJ_EN&QZ_WEBSRCH=elbit&QM_PJA=&USR_SORT=EN_QVD+CHAR+DESC

¹⁰Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion (9 July 2004),

¹¹Execution Aspects, Israeli Defence Ministry

<http://www.securityfence.mod.gov.il/Pages/ENG/execution.htm#2>

¹²Precisely Wrong, Human Rights Watch (2009)

<http://www.hrw.org/en/reports/2009/06/30/precisely-wrong-0>

¹³Cordis Database

http://cordis.europa.eu/fetch?CALLER=FP7_PROJ_EN&QZ_WEBSRCH=%22Israel+Aerospace+Industries%22&QM_PJA=&USR_SORT=EN_QVD+CHAR+DESC

As discussed above in relation to Elbit Systems, IAI is complicit with Israeli violations of international law relating to the construction of the Wall and the targeting of civilians during the 2008-09 attack on Gaza.

c. Ahava Dead Sea Laboratories

Ahava Dead Sea Laboratories is a cosmetics manufacturer and retailer partially owned by three illegal settlements in occupied Palestinian territory. The company factory and visitors centre are both located in the illegal Israeli settlement of Mitzpe Shalem in the occupied Palestinian West Bank.¹⁴ In May 2011, Israeli organisation Coalition of Women for Peace uncovered evidence showing that in 2004 Ahava was given a license for excavating minerals by the Israeli Civil Administration, which is the representative of the Israeli government in the occupied West Bank, and that the excavation site on the occupied shores of the Palestinian section of the Dead Sea is currently active.¹⁵ Ahava participates in 3 FP7 projects.¹⁶

Israeli settlements in occupied Palestinian territory are recognised by the European Union as illegal according to international law.¹⁷ Under the Statute of the International Criminal Court, “the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies” constitutes a war crime in international armed conflicts”.¹⁸ Experts in international law argue that corporations that have relations with a settlement of a type of conduct that “abets or [...] assists” the continued existence of a settlement are complicit with the violation of international law.¹⁹ In addition, Ahava is involved in the direct appropriation of natural resources from occupied Palestinian territory. This is prohibited by Articles 53 and 147 of the Fourth Geneva Convention and Articles 52 and 53 of the Hague regulations.²⁰

d. Motorola Israel

Motorola Israel is involved in several different aspects of Israeli occupation of and population transfer into Palestinian territory and provides equipment to the Israeli military. Motorola has created at least four surveillance systems used in at least twenty illegal Jewish-only settlements and military camps throughout the occupied West Bank.²¹ In addition, until 2009, Motorola Israel was Israel's leading company in the design and manufacture of electronic fuses for aircraft bombs and guided munitions, including those used against civilians during the 2008-09 assault on Gaza.²² Motorola Israel participates in 2 FP7 projects.²³

As discussed above, Israeli settlements on occupied Palestinian territory are illegal under international law and companies that provide assistance to their continued existence are complicit with this violation of international law. In addition, through its irresponsible provision of equipment to

¹⁴ Ahava website

<http://www.ahava.com/?CategoryID=190&ArticleID=188&SearchParam=mitzpe+shalem>

Ahava, Coalition of Women for Peace

<http://www.whoprofits.org/Company%20Info.php?id=575>

¹⁵ Ahava's Theft of Occupied Natural Resources Finally Exposed, Codepink and Coalition of Women for Peace

<http://www.commondreams.org/newswire/2011/05/18>

¹⁶ Cordis Database

http://cordis.europa.eu/fetch?CALLER=FP7_PROJ_EN&QZ_WEBSRCH=ahava&QM_PJA=&USR_SORT=EN_QVD+CHAR+DESC

¹⁷ Statement by EU High Representative Catherine Ashton following the vote in the UN Security Council on the resolution on the settlements (2011)

http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/119391.pdf

¹⁸ Rule 130. Transfer of Own Civilian Population into Occupied Territory, International Committee of the Red Cross

http://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule130

¹⁹ Findings of the London Session of the Russell Tribunal on Palestine into corporate complicity with Israeli violations of international law

<http://www.russelltribunalonpalestine.com/en/wp-content/uploads/2011/01/RTOP-London-Session-Findings.pdf>

²⁰ Ibid.

²¹ Motorola, Coalition of Women for Peace

<http://www.whoprofits.org/Company%20Info.php?id=544>

²² Precisely Wrong, Human Rights Watch (2009)

<http://www.hrw.org/en/reports/2009/06/30/precisely-wrong-0>

²³ Cordis Database

http://cordis.europa.eu/fetch?CALLER=FP7_PROJ_EN&ACTION=D&DOC=1&CAT=PROJ&QUERY=01300873d890:4fc2:2705b624&RCN=87259

http://cordis.europa.eu/fetch?CALLER=FP7_PROJ_EN&ACTION=D&DOC=2&CAT=PROJ&QUERY=01300873d890:4fc2:2705b624&RCN=93727

the Israeli military, Motorola Israel is implicated in the war crimes reported to have taken place during the 2008-09 assault on Gaza by the UN fact finding mission into the conflict.²⁴

e. Hebrew University of Jerusalem

One of the university's campuses has expanded on to occupied Palestinian territory in a confiscation of Palestinian land. Some of the university owned student quarters are located in a settlement neighbourhood of occupied Palestinian East Jerusalem.²⁵ In addition, the Hebrew University maintains close ties with the Israeli military. All Israeli military colleges and training facilities are under the academic auspices and responsibility of the Hebrew University. The university trains soldiers in sciences and technology and hosts a military base on its campus.²⁶ The Hebrew University of Jerusalem participates in 126 FP7 projects.²⁷

The Hebrew University is directly involved in the transfer of civilians into occupied territory which, as described above, is a violation of international law amounting to a war crime. In addition, through its deep links with the Israeli military, the university is directly complicit with violations of international law and abuses of human rights, including those that took place during the 2008-09 assault on Gaza.

f. Technion – Israel Institute of Technology

Technion is coming under increasing scrutiny from academics concerned with its involvement in and collaboration with the Israeli military and Israeli arms companies. The institute conducts a wide variety of research into technology and weapons used to oppress and attack Palestinians. For example, Technion researchers have developed special unmanned vehicles that aid the Israeli army in destroying Palestinian houses.²⁸ The institute also provides specially tailored courses and programs for military officials and Israeli arms company executives.²⁹ Technion has a history of deep collaboration with Elbit Systems, including receiving research grants and opening a joint research centre.³⁰ Technion participates in 106 FP7 projects.³¹

House demolitions have been widely condemned by international and non-governmental organisations. Israeli demolitions of Palestinian houses breach international law which allows destruction of property only where it is a military necessity.³² By knowingly developing technology used in house demolitions, Technion is actively and directly complicit in these violations of international law. More broadly, through its deep and on-going relationship with the Israeli military and industry, Technion is complicit with the violations that they commit.

Annex 2 – FP7 projects allowing Israeli actors to develop technology that they have deployed in order to facilitate the violation of international law

We are concerned that Israeli actors are able to participate in FP7 research projects in order to further develop technologies that they have deployed in order to facilitate the violation of Palestinian rights and international law. The following FP7 projects illustrate this problem:

²⁴ UN mission finds evidence of war crimes by both sides in Gaza conflict, UN News Centre (2009)

<http://www.un.org/apps/news/story.asp?NewsID=32057>

²⁵ Shir Hever, Economy of the Occupation, Socioeconomic Bulletin No 23

<http://www.bdsmovement.net/files/2011/02/EOO23-24-Web.pdf>

²⁶ Ibid.

²⁷ Cordis Database

http://cordis.europa.eu/fetch?CALLER=FP7_PROJ_EN&QZ_WEBSRCH=%22Hebrew+University%22&QM_PJA=&USR_SORT=EN_QVD+CHAR+DESC

²⁸ Press release, Technion

http://pard.technion.ac.il/archives/pressheb/html/PR_d-9_19_10.html

Shir Hever, Economy of the Occupation, Socioeconomic Bulletin No 23

<http://www.bdsmovement.net/files/2011/02/EOO23-24-Web.pdf>

²⁹ <http://www.tadamon.ca/wp-content/uploads/Technion-English.pdf>

³⁰ Ibid.

³¹ Cordis Database

http://cordis.europa.eu/fetch?CALLER=FP7_PROJ_EN&QZ_WEBSRCH=Technion&QM_PJA=&USR_SORT=EN_QVD+CHAR+DESC

³² Article 53, Fourth Geneva Convention

<http://www.icrc.org/ihl.nsf/9861b8c2f0e83ed3c1256403003fb8c5/74dee157d151f7eac12563cd0051be1b?OpenDocument>

Open Architecture for UAV-based Surveillance Systems (OPARUS), receiving an EU subsidy of €11.88m for the development of Unmanned Ariel Vehicles, despite the fact that their use is illegal above Europe. Israeli Aerospace Industries (IAI) participates in the project. According to Human Rights Watch, armed Heron drones manufactured by IAI were involved in at least some of the deadly drone attacks on Palestinian civilians during Operation Cast Lead, which in total killed 29 civilians, eight of them children.³³ The UN Goldstone found serious evidence of war crimes and crimes against humanity perpetrated mainly by Israel against the occupied Palestinian population in Gaza.

IDETECT4ALL, receiving an EU subsidy of €2.29m for the development of intruder detection and authentication optical sensing technology. According to the project website, the project is developing technology “to detect the presence of objects inside or in the surrounding area of restricted critical infrastructures”.³⁴ One of the four Israeli companies in the consortium, Motorola Israel, provides very similar surveillance systems for at least twenty illegal Israeli settlements and the illegal apartheid wall.³⁵

³³ Precisely Wrong, Human Rights Watch (2009)
<http://www.hrw.org/en/reports/2009/06/30/precisely-wrong-0>

³⁴ iDetect4ALL (2010) Product description
<http://www.idetect4all.com/category/product>

³⁵ Coalition of Women for Peace (2011)
<http://www.whoprofits.org/Company%20Info.php?id=544>