



## Briefing:

# Dual use and Misuse/Malevolent use of research results in the case of EU funding to Israeli military and security companies

*It is only by getting the ethics right that research excellence can be achieved.*

(EU Commission, Horizon 2020)

## Summary

- This briefing argues that the EU so far has given **no satisfactory justification** for the funding under the Horizon2020 framework for projects that involve Elbit Systems and other Israeli companies and **asks for such projects to be immediately excluded from funding**.
- Israeli military companies (public or private) work in direct connection with the Israeli military, providing necessary equipment and weapons for illegal operations within the framework of Israeli military aggressions and Israeli colonisation of the occupied Palestinian territories.
  - EU funding for these companies **inherently fuels the Israeli capacity to sustain its war crimes and grave violations of human rights and international law**.
  - **Dual use is a constant element for Israeli technology**. As Isaac Ben-Israel, Chairman of the Israel Space Agency, puts it: *“because we are a small country, if you build a small-satellite production line, say at IAI, it will be used for military and for commercial.”*<sup>1</sup>
- Current and past EU funded projects:
  - Have supported the development of Israeli drones technology
  - Have supported the further development of technology used to build/maintain the illegal Wall, enforce the siege on Gaza, during Israeli military aggressions including war crimes and possibly crimes against humanity.
  - This **contradicts the EU policies** and calls on Israel to stop its illegal settlement project, including the Wall, to lift the siege on Gaza and concerns over Israeli military aggressions.
  - The EU has **no means to stop Israeli companies from misusing** the technology and know-how developed through their R&D funding.
- We argue that excluding Israeli military companies from funding:
  - is a necessity in order to comply with EU Horizon2020 ethics regulations, including:
    - **Not to fund research funding for dual use**
    - **To avoid misuse or malevolent use of research results** (research involving or generating materials, methods or knowledge that could be misused for unethical purposes)
    - **To avoid Mission or Function Creep** of technology or information/data beyond the approved initial plan in a way that it harms fundamental ethical values or civil rights
  - would be a concrete way to comply with the obligation of the international community to take effective measures to halt grave breaches of international law.
  - is a necessity if the EU wants to comply their legal obligation not to aid and assist Israel's grave breaches of international law nor maintain the situation created by them.
  - such funding violates the growing call for a military embargo on Israel.

<sup>1</sup> <http://spacenews.com/qa-with-isaac-ben-israel-chairman-of-the-israel-space-agency/#sthash.7E5fRwmj.dpuf>



## The EU responses

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***The EU has not replied to our concern that EU funded R&D may be used for and/or may be based on Israeli war crimes in the framework of military occupation or aggressions.***

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Since 2015, Palestinian and European civil society and MEPs have addressed the EU Commission on this issue. Responses have not been able to address our arguments. Below are the key lines of argument:

- a) In his response to the ECCP from March 19 2016, Christian Berger, director of the EEAS North Africa, Middle East, Arabian Peninsula, Iran and Iraq department, states: *“There is no legal basis to exclude entities/project partners if they carry out military activities outside Horizon2020 actions.”*
  - We are not concerned merely with 'military activities' per se but with companies that likely use technology developed through Horizon2020 projects to implement and enable grave breaches of international law or Horizon2020 projects with companies that likely benefit from technology developed to implement grave breaches of international law and produce sustainability to these breaches and the situation created by them.
- b) In the answer given by the Vice-President Federica Mogherini to the ECCP on April 15 2016 she states that *“Several mechanisms have been put in place to prevent that EU funds are used for activities that could be contrary to international law and human rights valuations (sic), including ethical evaluation by independent experts of the project proposals and an assessment of the possible dual-use in compliance with applicable EU, national and international legislation, including the European Charter of Fundamental Rights.”*
  - These ethics mechanisms are to include ethical screening that is to prevent misuse, malevolent use, dual use or function creep of research results
  - The fact that Israeli companies are not excluded from Horizon2020 is proof that the mentioned mechanisms to prevent dual use, misuse or function creeps of the research results are failing.
- c) In his letter of March 31 2015, Dirk Becker, executive director of Innovation and Networks Executive Agency, states that *“I would also like to point out that the outcome of the research projects in which the company participated is purely scientific and is not ready to be used by industry. Interested companies would still have to invest significant costs and research and development efforts to turn the scientific research into commercial products for civilian use. Therefore, the allegation that the scientific research that was carried out was used or will be used for military purposes and in order to deploy military products is not substantiated.”*
  - The fact that a research is not ready to be used by industry has nothing to do with questions of potential dual use, misuse or function creeps. The guiding questions in the EU Guidance on misuse or malevolent use include: *“Could the materials/methods/technologies and knowledge concerned harm people, animals or the environment if modified or enhanced?”* [highlights by the author of the briefing]



## Horizon 2020: Ethics as the highest priority?

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***EU ethics norms require avoidance of dual use, misuse or mission/function creep of the research results.***

***Projects including Israeli military companies should be excluded as there is no way to guarantee research outcomes will not be used for Israeli war crimes in military occupation or the military aggressions.***

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- **The EU ethics procedures and requirements for Horizon 2020:**
  - Projects have to comply with international law and HR at various levels, including avoiding:
    - **Dual use:** technologies relevant to both civilian and military application are not to be funded under Horizon 2020<sup>2</sup>
    - **Misuse/Malevolent use:** research involving or generating materials, methods or knowledge that could be misused for unethical purposes. *“Although anything could ultimately be used for malevolent purposes, research in this category is that which provides terrorists or criminals with information or technologies that would have substantial direct impacts on the security of individuals, groups or states.”*<sup>3</sup>
    - **Mission/Function Creep:** is used in the security context for a type of misuse concern, where an experiment, a technology or information/data is used beyond the approved initial plan and thereby could harm fundamental ethical values or civil rights.<sup>4</sup>
  
- **Definition of potential misuse or malevolent use:**
  - **Examples** given in EU documentation<sup>5</sup> for research that has other potential misuses:
    - biometric passports/visas
    - Systems for facial recognition in real-time in an unrestricted environment, 3D facial recognition algorithms and iris and facial recognition
    - video surveillance systems in railways, airport, urban areas, commercial, retail, banks, parking, traffic control etc.)
    - « smart » systems / technologies
  
  - EU Ethics Experts define the **areas of concern** regarding research involving or generating materials, methods or knowledge that could be misused for unethical purposes:
    - Research involving agents or equipment that could be directly misused for criminal, terrorist or unethical military purposes;
    - Research which creates knowledge that could be used for criminal, terrorist and unethical military purposes;
    - Research which can result in stigmatization and discrimination;
    - Application and development of surveillance technologies;

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<sup>2</sup> According to the EU Commission: *“Research and innovation activities carried out under Horizon 2020 shall have an exclusive focus on civil applications.”*

([http://ec.europa.eu/research/horizon2020/pdf/proposals/com\(2011\)\\_809\\_final.pdf](http://ec.europa.eu/research/horizon2020/pdf/proposals/com(2011)_809_final.pdf))

<sup>3</sup> [http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/guide\\_research-misuse\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/other/hi/guide_research-misuse_en.pdf)

<sup>4</sup> [http://ec.europa.eu/rea/pdf/5\\_ethics\\_in\\_h2020.pdf](http://ec.europa.eu/rea/pdf/5_ethics_in_h2020.pdf)

<sup>5</sup> [http://ec.europa.eu/rea/pdf/5\\_ethics\\_in\\_h2020.pdf](http://ec.europa.eu/rea/pdf/5_ethics_in_h2020.pdf)



- Data mining and profiling technologies.
- EU proposed **means of avoiding misuse and malevolent use** of research result:
  - take additional security measures, e.g. physical security measures, classification of certain deliverables, compulsory security clearance for those involved in the project
  - take additional safety measures, e.g. compulsory safety training for staff
  - adjust the research design, e.g. use dummy data
  - limit dissemination
  - **Possibility of exclusion** if companies or projects do not - or cannot - comply with their requirements:
    - *“In case of substantial breach of ethical principles, research integrity or relevant legislation, the Commission can carry out an Ethics Audit following the provisions and procedures laid down in the grant agreement. The Checks and Audits can result in an amendment of the grant agreement. In severe cases, it can lead, upon the decision of the Commission services to a reduction of the grant, its termination or any other appropriate measures, in accordance with the provisions of the grant agreement.”*
    - In case the proposed research can not be safeguarded adequately and the risks of misuse outweigh the expected benefits the experts may consider recommending to the EU Commission not to fund the particular work programme or project as a whole.
- **Conclusion:**
  - After the analysis of past and current projects (see Annex), it becomes clear that:
    - Technology tested during or developed to implement violations of international law (unethical purposes, crimes) has been used and further developed with EU funding
    - There seems to be no indication that the EU has attempted, or indeed has the means, to stop Israeli companies from misusing research outcomes.
  - This calls in question the effectiveness of the EU Ethics Procedures.