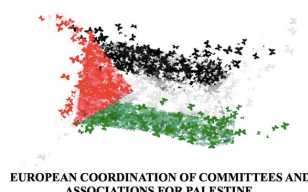


# **EU MECHANISM OF ETHICAL SCREENING IN EU RESEARCH PROGRAMS: WHY DOES IT NOT WORK?**



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# EXECUTIVE SUMMARY

## I. EU GUIDELINES (2013/C 205/05)

- Forbids funding of entities established in the OPT
- Forbids funding of activities conducted in the OPT
- Forbids financial instrument recipients to conduct activities in the OPT

## II. TRANSGRESSIONS OF THOSE GUIDELINES

- GEO-CRADLE project: collection of soil samples in the OPT
- BOUNCE project: participation of Ariel University established in the OPT
- Funding of research papers published by Ariel University professors, based in the OPT

## III. WHY ARE THOSE GUIDELINES NOT PROPERLY IMPLEMENTED ?

- No reference to the Guidelines in the ethics self-assessment
- Ethic screening based on the ethic self-assessment so no screening concerning the Guidelines
- No reference to the Guidelines in the contractual agreement
- Ethics expert unfamiliar with the Guidelines
- No mandatory ethics checks in projects where the Guidelines apply

## IV. OTHER ETHICAL ISSUES REGARDING EUROPEAN FUNDING

- Funding of companies listed on the UN database for their economic activities in OPT due to a loophole in the Guidelines (the example of Bank Leumi)
- Funding of military companies accused of human rights abuses under the dual-use policy

## RECOMMENDATIONS:

- Revise the ethical screening procedure of the new program Horizon Europe along the **recommendations made p.7**.
- Apply **systematic audits** throughout the projects implementation for the companies that are operating in conflict-affected areas.
- Develop an **implementation mechanism** for a limited post-project time period to **monitor** how the technology receiving EU funding and developed for civilian purposes is further used/converted by military companies

# I. WHAT ARE THE EU GUIDELINES CONCERNING ISRAELI ILLEGAL SETTLEMENT?

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IN 2013, THE EU ISSUED 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 (2013/C 205/05)

According to those guidelines, Israeli entities are eligible to receive:

a) grants and prizes, if:

- They have their place of establishment **within Israel's pre-1967 borders**
- If the activities carried out in the framework of an EU funded grant and prize **do not take place in the territories occupied by Israel since June 1967**, comprising the Golan Heights, the Gaza Strip, and the West Bank including East Jerusalem.

(b) financial instruments, if:


- they **do not operate in the territories referred to above**, either in the framework of EU-funded financial instruments or **otherwise**.

Those guidelines apply to Israeli regional or local authorities and other public bodies, public or private companies or corporations and other private legal persons, including non-governmental not-for-profit organisations, and do not apply to Israeli public authorities at national level and natural persons (1).


## II. PROBLEMATIC PROJECTS UNDER HORIZON 2020

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Despite those rules, multiple cases demonstrate failures of the Commission to properly instruct against, monitor for, and rectify project management transgressions.



**GEO-CRADLE** - under this project, Tel Aviv University, one of the partners, was providing data on soil samples for a soil spectral library. Roughly 30% of the samples were collected from occupied Syrian Golan Heights and the Occupied Palestinian Territory, many of which were near illegal Israeli settlements, including in the occupied Jordan Valley. In addition, the GEO-CRADLE database listed Ariel University and Golan Heights Winery as stakeholders - both established in the OPT - and a professor from Ariel University gave a lecture at a GEO-CRADLE regional workshop in Tel Aviv (2). This project constituted a violation of EU 2013 Guidelines.



**BOUNCE** - a project on breast cancer research lists Ariel University as one of its stakeholders. The OPT-based university hosted an event for the project in June 2020 (3), its professor is listed as a co-researcher on the project and as one of the researchers involved in data collection (4). This raises additional questions if research activities could be also carried out in the OPT.



**RESEARCH PAPERS** - Papers indicating funding from EU programmes include authors with Ariel University academic affiliations falsely indicating that this illegal Israeli settlement-based institution is located in Israel. These include two papers for the Horizon 2020-funded CONTEXT project (5), a paper for the CMBSPEC project (6) and a paper for the PROSEQO project (7), as well as a paper for a European Social Fund project (8). This raises concerns regarding the research being carried out within Ariel university, and therefore within the OPT.

# III. WHY ARE THOSE GUIDELINES NOT PROPERLY IMPLEMENTED ?

## ISSUES WITH THE ETHICAL SCREENING PROCEDURE

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Before a contract is signed, all applicants need to complete an **ethics self-assessment** by filling in an ethics issues table (9), which becomes part of the grant agreement and can lead to binding obligations that may later on be checked through ethics checks, reviews or audits.



**ISSUE** - Since no reference to the Guidelines is incorporated in the ethics self-assessment, ethics experts do not systematically assess the project's compliance with the Guidelines (before the grant signature, during the implementation phase nor after the project's ending). In effect, no relevant recommendations, additional documentation requests, checks or audits are suggested by the ethics experts.

The projects where transgressions of the Guidelines were not detected by ethics experts/the Commission highlight a **need for a more effective ethics review process** beyond inclusion of the Guidelines in contractual agreement.

Afterwards, **a pre or full screening** by ethics experts is conducted, followed up by an ethic assessment if a more in-depth analysis of the ethical issues is needed (10). The only case where ethics assessment is systematically performed is on proposals involving the use of Human Embryonic Stem Cells.



**ISSUE** - Ethics screening relies on self-assessment declarations for indication of next steps. As no systematic reference to the Guidelines is included in screening/assessment phase, there are no requirements/provisions enabling the ethics experts to assess compliance nor make any recommendations allowing for ethics checks/audits.

Ethics experts are not familiar with the Guidelines and the EU's Israel & OPT policy are likely to be unaware of potential risks of violation of the Guidelines, making an indication of a need for ethics assessment/checks even more unlikely under the current ethics review procedure.



As an example, in the Ethics Screening Report of GEO-CRADLE project there is no reference to the Guidelines; no risk of potential activities in OPT was flagged; no ethics assessment and checks were requested.

**Ethics checks** can be conducted during the project implementation. While those can be initiated by the Commission services, it does not automatically perform ethics checks in projects where the Guidelines apply despite evidence of violations, and neither on the basis of experts' ethics requirements which as outlined above are not made in the first place (ibid.). In effect, even relatively simple monitoring procedures such as a review of a project's listed stakeholders are not implemented.

## RECOMMENDATIONS TO THE EUROPEAN COMMISSION:

- Incorporating **systematic reference to the Guidelines** in the ethics appraisal procedure for all projects where the Guidelines are applicable
- Requesting **ethics checks** for projects where the Guidelines are applicable
- Conducting **ethics audit** for project where violations are detected
- **Increasing the Commission services' engagement** in projects where the Guidelines apply throughout the project cycle
- Appointing an **ethics expert/qualified staff familiar with the Guidelines** and the EU's Israel and OPT policy (such as differentiation) in the ethics panel for projects where the guidelines apply
- Referring to the UN database of business in **ethics review**
- Ensuring that a **thorough ethics review** is in place for initiatives under financial instruments where the guidelines apply

## IV. OTHER ETHICAL ISSUES REGARDING EUROPEAN FUNDING

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### FUNDING FOR ENTITIES INVOLVED IN ILLEGAL ISRAELI SETTLEMENTS

Although the **European Union recognises Israeli settlements as illegal under international law** (11), it continues to fund entities involved in and operating there. Among the top 10 recipients of Horizon 2020 funding from Israel, are companies and financial institutions complicit in illegal Israeli settlements and **listed on the UN database** such as Mekorot and Bank Leumi among others (12). On the one hand, the EU is criticising Israeli policy of ongoing annexation and settlements expansions, but on the other – **it is funding the very same entities responsible for financing and expanding the settlement industry.**

Despite their clear involvement in an illegal entity, these companies continue to benefit from and participate in EU funded projects under the guidelines introduced in 2013. This is because these **guidelines allow an Israeli entity with operations inside illegal Israeli settlements** to participate if it pledges that the research for which it is receiving funding does not take place in Occupied Palestinian Territory (13). This is **highly insufficient** regarding the seriousness of those firms' breaches to international law and violations of human rights.

 **The case of BANK LEUMI** - the European Investment Fund (EIF) and Bank Leumi signed an agreement in 2016 to increase lending to SMEs in Israel under the 'InnovFin – EU finance for innovators' initiative launched by the European Commission and the EIB Group in the framework of Horizon 2020 (14). However, Bank Leumi is listed in the UN database of businesses involved in Israeli settlements in OPT (15), and several EU member states' pension funds have already excluded the bank from their investment portfolios on ethical grounds.



# FUNDING OF ISRAELI MILITARY COMPANIES ACCUSED OF HUMAN RIGHTS ABUSES

For years, the EU has been **funding Israeli military companies** through its research programs. Though EU rules forbid funding for military technologies, its guidelines on **dual-use** allow the development of military technologies as long as the project itself is aimed at civilian use.

EU representatives have previously conceded that the EU **does not have the mechanisms and capacity to monitor** how the technologies developed for civilian purposes are further developed and converted by military companies after the program is finished. Consequently, flow of EU taxpayers' money to military companies involved in the commission of grave violations, some of which arising to **war crimes** (16), is highly problematic and may incur legal consequences due to the EU's liability.

Two Israeli companies, the privately-owned **Elbit Systems** and the government-owned **Israel Aerospace Industries** are benefiting from European funding in the framework of their participation in research programs such as Horizon 2020. Both are **accused of human rights abuses** and testing their weapons against Palestinian civilians (17) (18).



# RECOMMENDATIONS

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To sum up, the cases of the GEO-CRADLE and BOUNCE projects highlighted the provision of false information by the participants on one side, and the **inability of the EC to properly monitor the projects taking place in conflict-affected areas**.

The **participation of entities listed on the UN database** for their complicity with illegal Israeli settlements, or the one of military companies, underlined the **lack of willingness to hold accountable companies** involved in an internationally recognised occupation, which amounts to **war crimes and human rights violations**.

Therefore, the EU should meet its **legal obligations not to provide support to Israeli illegal settlements** and military companies accused of human rights abuses by:

- 1** **Revising the legal and ethics screening criteria** for applicants for EU grants, prizes and financial instruments to ensure that entities involved in illegal settlements, linked to grave violations and internationally recognized crimes in the context of Israel's occupation, and those that are listed in the UN database are excluded from receiving European taxpayers' money
- 2** Developing **an implementation mechanism** for a limited post-project time period to **monitor** how the technology receiving EU funding and developed for civilian purposes is further used/converted by military companies
- 3** Applying **systematic audits** throughout the projects implementation for the companies that are operating in conflict-affected areas

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