

Supporting Statement

The West Bank Protection Consortium (the Consortium) is a strategic partnership formed in 2015, between the European Union (Humanitarian Aid), ten European Union Member States,¹ including Ireland, the United Kingdom and five international non-governmental organisations, providing humanitarian assistance to over 50,000 Palestinians each year at risk of forcible transfer in the West Bank, including East Jerusalem, due to recurrent violations of international law. The Consortium provides emergency relief in response to demolitions and settler violence, community-based protection, physical and social infrastructure, legal aid and humanitarian advocacy. Importantly, despite the alarming rate of demolitions, over 92% of the structures provided by the Consortium as humanitarian aid since 2015, such as homes, schools, solar systems, water networks and health clinics, remain in-use and with Palestinian communities in the West Bank.

Despite the ostensible suspension of further *de jure* annexation of the West Bank, announced by Israeli Prime Minister Benjamin Netanyahu on 13 August 2020, *de facto* annexation—annexation in practice and in fact—has accelerated dramatically. *De facto* annexation is reinforced through a coercive environment, most acute in Area C, East Jerusalem and H2 Hebron, where Palestinians face a daily threat of displacement due to demolitions and confiscations, settler and military violence, harassment, and restrictions on movement and access to resources, basic services and humanitarian assistance.

The coercive environment represents a systematic denial of Palestinian rights and a lack of accountability for violations of international law, which has led to an ongoing threat of forcible transfer and created a cycle of chronic humanitarian need and aid dependence. Following the suspension of annexation, there has been a marked increase in the elements of the coercive environment, including settler and military violence and settlement expansion; however, of particular concern is the alarming escalation in the destruction of property in the West Bank, including the destruction of humanitarian aid.

Trends show a clear and serious increase in Israel's destruction of Palestinian property and humanitarian assistance, including donor-funded assistance, in the occupied West Bank. In 2020, 848 properties were destroyed, negatively affecting more than 6,300 Palestinians, including more than 520 children. The 156 donor-funded structures destroyed during this period represented a 23 percent increase compared to 2019.

In the first four months of 2021, 316 structures were destroyed, representing a 90 percent increase compared to the same period in 2020. Of particular note, this period witnessed a 108 percent increase in destruction of donor-funded structures compared to the same period in 2020.

Such demolitions and seizures are the direct result of a discriminatory and unlawful planning and zoning system implemented by Israel in Area C of the West Bank (the land classification accounting for more than 60 percent of the West Bank, and subject to full administrative control by Israel). Under this system, Palestinian construction is made virtually impossible, while illegal settlement construction and expansion continues unchecked.

The recent surge in destruction of Palestinian property is exemplified by the herder community of Humsa Al-Bqai'a. In February 2021, Humsa Al-Bqai'a saw five separate demolition and/or seizure events, resulting in the destruction of 80 structures, half of which were funded by the West Bank Protection Consortium, resulting in a loss of some 50,000 Euros. Such destruction contributes to a highly coercive living environment for affected communities, placing them at heightened risk of forcible transfer; a grave breach of the Geneva Conventions and a war crime.

The reasons for the dramatic increase in destruction of Palestinian property across the West Bank cannot be known with certainty, though possible explanations include the need to appeal to the settler movement and Israeli right in the course of recent Israeli elections; appeasement of the settler movement following 'suspension' of formal annexation plans in July 2020; historic absence of accountability for Israeli violations of international law; and removing Palestinians from areas slated for *de facto* annexation, such as in the vicinity of existing settlements.

Destruction of property by an occupying power inside occupied territory absent military necessity is a violation of IHL, as well as also having serious consequences for affected communities' enjoyment of fundamental rights, including access to shelter, water and health, as well as livelihoods. More broadly, demolitions and other practices related to settlement construction contribute to ongoing Israeli *de facto* annexation of West Bank territory. Any form

¹ The European Union members of the Consortium are: Belgium; Denmark; Finland; France; Germany; Ireland; Italy; Luxembourg; Spain; and Sweden.

of annexation constitutes a serious breach of a peremptory norm of international law, undermines the rules-based order and creates a binding obligation on all states to cooperate to bring the resulting unlawful situation to an end.

The international community's response to Israel's continued violations of international law has consisted primarily of criticism and condemnation. Indeed, research by the West Bank Protection Consortium into 96 public communications issued by the European Union External Action Service between 2017-2020 pertaining to Israel's settlements policies highlights an apparent strengthening in such communications, including increased reference to the illegality of settlements and related practices, such as demolitions, and 'forced transfer'.

As noted, however, despite this strengthening, destruction of Palestinian property in the West Bank has sharply increased. In addition, between 2017 and 2021, the settler population in the West Bank, including East Jerusalem, rose by some 55,000 to more than 680,000. This is not to say that the European Union's condemnation approach has not influenced Israeli policy, and it is likely the above figures would be higher absent these interventions. However, it is clear that this approach has proven insufficient to deter Israel from escalation of its settlement policy and associated practices, let alone its cessation and reversal, as is required under international law.

Instead, the reality on the ground dictates that condemnation, though an essential component of the EU's response to Israel's settlement policy, must be paired with more concrete action if future violations are to be prevented. To this end, EU and member state communications should make clear that Israel's continuation of its settlements policy and related practices will draw meaningful consequences. This would not constitute a new development: in 2020 the EU and member states publicly notified Israel that 'significant consequences' would flow from further *de jure* annexation of West Bank territory.

Warning of 'significant consequences' naturally necessitates calibration by the EU of a planned response to future serious violations of international law in the oPt context. To this end, as a matter of priority available options should be mapped and assessed by the EU, including lawful countermeasures and measures of retorsion. Existing efforts by affected states to seek reparations from Israel for the destruction of donor-funded humanitarian assistance should be maintained, while simultaneously exploring means of enforcing these claims, which Israel habitually rejects.