

**RE: Protection crisis in Area C of the West Bank and EU's response**

Brussels, March, 1st 2016

Your Excellency,

We welcome the specific attention that the EU has devoted to Area C since 2012 and, in particular, the 2014 understandings with regards to the demolitions and confiscations of EU and Member State funded humanitarian aid in Area C<sup>1</sup>. We encourage you now to move forward with their implementation without delay.

This is because of Israel's disregard of EU requests to discuss and address the unlawful restrictions it has continued to impose over the delivery of aid in Area C throughout the structured dialogue. Since the start of this dialogue on September 17 2015, the Israeli military has unlawfully demolished or seized 127 donor funded humanitarian structures in Area C – 106 of those since January 2016<sup>2</sup>. This rate demonstrates a dramatic increase from 2015, when a total of 110 donor-funded structures were destroyed. These incidents took place within vulnerable communities where the EU has invested significant aid and political resources to protect their inhabitants<sup>3</sup>.

This trend comes within a context of growing animosity towards EU-funded interventions in Area C<sup>4</sup>, as suggested by PM Netanyahu's recent statement<sup>5</sup>. In two cases, demolitions were carried out in Bedouin communities adjacent to the Al Jabal relocation site (completed in August 2015). This raises serious and imminent concerns about Israel's intention to proceed with plans to transfer Palestinian Bedouins from the periphery of Jerusalem and the central West Bank to so-called 'relocation sites'<sup>6</sup>. These plans and current steps taken toward their execution may amount to individual and mass forcible transfer - which constitute grave breaches of the Fourth Geneva Convention and are classified as war crimes under the Rome Statute<sup>7</sup>.

During the same dialogue period Israel has also advanced existing settlement plans within East Jerusalem and resumed the construction of the Wall around its unilaterally asserted periphery<sup>8</sup>.

It is against this backdrop that ACT Alliance EU urges you to persist in your engagement and to take additional steps to safeguard humanitarian space and protect Palestinian communities in Area C from being forcibly transferred from the area. Specifically, we call on you to:

**1. Implement the 2014 operational decisions on Area C without delay.**

This includes

- Continuing to replace destroyed and confiscated relief structures.
- Protesting demolitions and confiscation incidents affecting Commission and MS funded structures more systematically and in a maximally coordinated fashion.
- Making public the costs of destruction and confiscation of Commission and MS funded structures, as well as of the caseload at imminent risk.
- Claiming compensation at a political level in response to the damages incurred.

ACT Alliance EU believes that these actions also are needed to ensure accountability to European taxpayers.

**2. Firmly reiterate that EU humanitarian activities in Area C are carried out in full compliance with international humanitarian law and humanitarian principles.**

The EU should emphasise the legitimacy of its humanitarian assistance support in Area C, which is based solely on the humanitarian needs of the population in accordance with international law<sup>9</sup> and global standards<sup>10</sup>.

The EU can do this in a variety of ways, including via Foreign Affairs Council Conclusions and private demarches or, publicly, through statements in response to demolitions and confiscation incidents<sup>11</sup>.

**3. Develop a more strategic approach to the structured dialogue with Israel**

ACT Alliance EU recognises the importance of maintaining diplomatic dialogue with Israel. We also believe that in the face of actions that so-significantly undermine the purposes of the structured dialogue, failing to honour previous agreements would place EU credibility and effectiveness at risk.

In general, we encourage you to pursue calendar-driven discussions for which progress can be measured against specific benchmarks. We also call on you to ensure that this dialogue does not absolve Israel of its responsibilities as Occupying Power or compromises EU's ability to fulfil its protection and humanitarian responsibilities in Area C.

Such criteria can also serve to assess the EU's influence over unlawful Israeli policies it has long sought to change and will provide leverage toward that objective, as well as an exit strategy from this dialogue, if required.

**4. Ensure greater consistency in the EU's current approach towards illegal settlement policy**

ACT Alliance EU welcomes the fact that the EU acknowledges that the "Israeli settlement policy" encompasses not only settlement construction but also forcible transfers, including of Bedouin communities, settler violence and movement and access restrictions<sup>12</sup>. We also have noted your readiness to act in reaction to settlement expansion in and around East Jerusalem<sup>13</sup>.

In light of this, we call on you to take further steps to counter Israel's settlement policy and actions, particularly by:

- Strengthening commitments regarding differentiation and ensuring their full implementation across the full scope of EU and Member State relations with Israel
- Revitalizing the discussion around "(re)actions" to counteract serious international law violations.

We thank you in advance for your attention and we look forward to hearing from you.

With the highest consideration,



Floris Faber,  
Director, ACT Alliance EU

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<sup>1</sup> *“Operational conclusions MaMa – COHAFA on Area C and compensations”*, December 2014

<sup>2</sup> Number includes both EU/MS and non-EU donor funded humanitarian structures. The vast majority of the demolished/seized structures however are either EU or Member State funded.

<sup>3</sup> Those have affected communities in among others the South-Hebron hills (*Susiya, Khirbet a-Rahwa, Al Halaweh and Jinba*), the Jordan River Valley (*Al Hadidiya, al-Mkassar*), Central West Bank (*Ain Rashash*) in the E1 area (*Abu Nwar and Jabal al Baba*).

<sup>4</sup> This situation is propelled by settler organisations that advocate in the media and in the Knesset for the acceleration of forcible transfer plans affecting Bedouins and the dismantlement of humanitarian aid in Area C. In February 2015, the publication of the report on EU’s provision of humanitarian aid by the settler organisation Regavim prompted PM Netanyahu to **order** the demolition of EU funded infrastructures in Area C.

<sup>5</sup> *“They’re building without authorization, against the accepted rules, and there’s a clear attempt to create political realities there. And when we take down this illegal construction we’re then, again, condemned, so it’s a catch-22 here”*. **Remarks by PM Netanyahu** (January, 14 2016).

<sup>6</sup> *“Bedouin Communities at Risk of Forcible Transfer”*, UN Office for the Coordination of Humanitarian Affairs (September 2014).

<sup>7</sup> *“Removing Peace by Force” - Legal analysis of Israeli policies of forcible transfer in the occupied Palestinian territory*” Diakonia IHL Center (December 2015).

<sup>8</sup> Advancement of settlement plans – incl. in the periphery of Jerusalem (September – February 16)

- ✓ In November 2015, the Israeli authorities gave the final approval to the construction of **1400 units** in the settlement of Ramot (a hundred of which will be located over the Green Line) and gave the go-ahead for the construction and marketing of additional **436 unit** in Ramat Shlomo. The imminent construction in those areas, which the EU and US **opposed** and **highlighted** as particular sensitive, will result in the isolation of East Jerusalem from Ramallah.
- ✓ In December, the Israeli authorities announced the resumption of the construction of the Barrier and the advancement of plans for the construction of **891 housing units** in the settlement of Gilo. Compounded, those developments would create territorial contiguity between Gilo and Har Gilo – paving the way for the de-facto annexation of the latter to Israel.
- ✓ In **January 2016**, 153 new housing units in West Bank settlements were approved for construction.

<sup>9</sup> According to Art. 54-59 of the IV Geneva Convention, the Occupying Power must either ensure that the civilian population receives essential supplies and, if the population needs are not being adequately met, it must agree to relief actions by others. Relief may not be arbitrarily denied. In “Legal opinion- The right to provide and and receive humanitarian assistance” (Professor Michael Bothe, November 2015).

<sup>10</sup> *Good Humanitarian Donorship Principles* (endorsed by **Member States and the European Commission**).

<sup>11</sup> **Statement by the spokespersons of High Representative Catherine Ashton and Commissioner Georgieva on the confiscation of humanitarian assistance by Israeli security forces** (September 2013): **Statement by the Spokesperson of High representative Mogherini on the latest developments in Area C of the occupied Palestinian territory** (February 2015).

<sup>12</sup> Since Foreign Affairs Council Conclusions on the MEPP from **July 2015**.

<sup>13</sup> Since Foreign Affairs Council Conclusions on the MEPP from **December 2012**.