



Ireland may propose an EU ban on Israeli settlement goods

Minister of Foreign Affairs & Trade, Eamon Gilmore, told Dáil Éireann on 22 May 2012 [\[1\]](#) that, if “matters continued to worsen” in the Occupied Palestinian Territories, in the autumn Ireland may propose “the exclusion from the EU of settlement products and of individual settlers engaged in violence” at an EU Foreign Affairs Council.

The Minister was speaking in the wake of a meeting of the Council on 14 May 2012, which adopted a set of conclusions on what they term the Middle East Peace Process [\[2\]](#). These conclusions constitute an update to the common foreign policy of the EU on Israel/Palestine.

Over the past few years, Council conclusions on this issue have become increasingly critical of Israel. But the conclusions adopted on 14 May 2012 are the most critical by far. They include extraordinarily blunt descriptions of the Israeli oppression of Palestinians in the occupied West Bank, including East Jerusalem, in particular, in Area C, where Israel is accused of “forced transfer of population”, that is, ethnic cleansing.

Their central message is that Israeli actions on the ground in the West Bank, including East Jerusalem, “threaten to make a two-state solution impossible” and that Israel must cease these actions and take steps to remedy the situation.

Gilmore reports to Dáil Éireann

Reporting to Dáil Éireann on 22 May 2012 on the Foreign Affairs Council meeting, Minister of Foreign Affairs & Trade, Eamon Gilmore, said:

“There is increasing concern in the EU, which I have highlighted, that the relentless progress of Israeli policies in the Occupied Palestinian Territories is undermining the possibility of constructing a viable Palestinian state. These policies pose a threat to the prospect of a negotiated political settlement and run directly counter to the two-state solution which has been the central objective of the EU for many years.

“At the urging of Ireland and other member states, the Foreign Affairs Council last Monday focused its discussion not on the overall peace process but on these specific viability issues, notably issues around Israeli settlement expansion and the pressure on Palestinians in East Jerusalem and area C, which is that part of the Occupied Palestinian Territory in the West Bank still fully under Israeli military control and occupation.

“The Council conclusions adopted last week send out a strong and united EU message on these critical and urgent issues. Ireland was heavily involved in the preparation of these important conclusions and fully supports them. The EU has set out in some detail the issues which threaten a two-state solution, the EU’s position in respect of these issues and the remedial action it wishes to see, primarily, of course, from Israel. I very much welcome and support these strong Council conclusions, which restate and in many respects advance EU positions on these key points.” [\[1\]](#)

Apparently, Germany was a prime mover in getting the text endorsed by the Council. According to the Jerusalem Post:

“While Italy and the Netherlands did the heavy lifting for Israel inside the EU bodies drafting the conclusions, other countries that frequently go to bat for Israel in EU forums, such as the Czech Republic and Bulgaria, were less active this time. The officials said this was due to the determination shown by the British, French and especially the Germans in getting the wording passed. The officials said the document represented the prevalent position of Berlin on the Middle East situation.” [\[3\]](#)

Gilmore proposes re-examination in autumn

Eamon Gilmore told the Dáil that he had already suggested to his fellow foreign ministers that this matter be re-examined in the autumn and further action be taken if matters continued to worsen:

“I suggested at the Council that in view of the urgency of these issues on the ground, Ministers should look at them again in the autumn to see if the situation had improved or was continuing to worsen. I suggested that if matters continued to worsen and our existing actions had not improved them, we would clearly need to consider stronger actions. The exclusion from the EU of settlement products and of individual settlers engaged in violence, should, in that case, be considered.

“I have previously stated that Ireland would support a ban on settlement products. We do not support bans or boycotts on Israel, and this is not in question, but the products of illegal settlements constitute a separate and specific matter. However, this is in the future and the Council as a whole will need to decide on any actions.” [\[1\]](#)

This proposal by Eamon Gilmore didn't come out of the blue – he had already expressed support for such a ban, for example, in answering a question in Dáil Éireann on 25 October 2011, when he said:

“The Government's firm views on the establishment and continued expansion of illegal Israeli settlements in the occupied Palestinian territories are clear and well known. I would support any move at EU level to exclude settlement products from entry to the EU.” [\[4\]](#)

However, he qualified his answer then (and on other occasions) by saying that “it is clear that such a proposal would not at this point have any prospect of commanding sufficiently wide support” in the EU. The fact that he is talking about raising the issue at EU level in the autumn must mean that the chances of it commanding sufficiently wide support amongst EU states have increased.

Settlement goods represent a very small proportion of the Israeli goods imported into the EU, so a ban on their entry into the EU market would do very little economic damage to Israel. However, such a ban would be a severe blow politically to Israel, which has up to now been able to count on EU support, despite its oppression of Palestinians under occupation.

Violation of 4th Geneva Convention

It might be said that the Minister is being contradictory when he states that “we do not support bans or boycotts on Israel” while proposing a ban on products from Israeli settlements. But his stance makes political sense.

The settlements are in what the whole world, apart from Israel, regards as Occupied Palestinian Territories, that is, outside the internationally recognised territory of Israel on the territory meant for a Palestinian state – and Israel’s relentless expansion of these settlements on this territory continuously reduces the possibility of a Palestinian state ever coming into being. It therefore makes sense to seek to deter Israel from settlement expansion by banning the import of settlement products. So, there is a far better chance of achieving political support across the EU for such a ban rather than a wider trade ban on Israel.

There is also a technical legal argument for such a ban. The whole world, apart from Israel, agrees that settlement building is in violation of the 4th Geneva Convention [\[5\]](#), Article 49(6) of which forbids an occupying power from transferring parts of its own civilian population into territory it occupies.

Under Article 146 of the Convention, signatories to the Convention, which include every EU state, are required to “take measures necessary for the suppression of all acts contrary to the provisions” of the Convention. The importation of settlement goods clearly bolsters settlements economically, which is a positive encouragement to settlement building and therefore flies in the face of the duty of parties to the Convention under Article 146 to discourage acts contrary to the provisions of the Convention.

So, since settlement building began in the late 1960s, there always has been a solid justification in international law for refusing to trade in settlement goods.

Furthermore, Article 8.2(b)(viii) of the Rome Statute [\[6\]](#) of the International Criminal Court defines “the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies” to be a war crime. So, trading in settlement goods is a positive encouragement to Israel to commit war crimes – and should be therefore stopped.

Reports from EU heads of mission

In recent years, EU foreign policy conclusions on Israel/Palestine have been informed by a series of reports by the EU states’ heads of mission to Palestine. These reports are prepared for the MaMa (Mashreq/Maghreb) Working Group, which feeds into the EU Political and Security Committee (PSC), the body responsible for drafting foreign policy positions for the EU. Each member state has a representative on the PSC.

In other words, the production of these reports is part of a systematic approach to EU foreign policy formation on Israel/Palestine. They are internal EU documents, not meant for publication, but they have come into the public domain.

These reports contain little or no new information – they consist mostly of information already published by various UN bodies and NGOs. However, the impact of this information is greatly enhanced because it has been published by an EU body and is informing EU policy.

Ethnic cleansing of Palestinians from East Jerusalem

A report by the heads of mission in December 2011 sets out in forensic detail Israel's relentless pressure on Palestinians living in East Jerusalem to leave and make way for Jews [\[7\]](#). The report begins as follows:

"1. Without Jerusalem as the future capital of two states, a sustainable peace agreement between Israel and the Palestinians will not be possible. If current trends continue, the prospect of Jerusalem as the future capital of two states becomes increasingly unlikely and unworkable, undermining the two—state solution.

"2. Jerusalem is a strongly emotive subject for both Palestinians and Israelis and incorporates both national and religious interests. It will be amongst the most complex final status issues to resolve in the peace process. Since the occupation and illegal annexation of East Jerusalem by Israel, the Palestinian part of the city has become ever more detached, both in terms of physical links as well as political and cultural ties, from the rest of the West Bank.

"3. Israel is actively perpetuating its annexation by systematically undermining the Palestinian presence in the city through the continued expansion of settlements, restrictive zoning and planning, ongoing demolitions and evictions, an inequitable education policy, difficult access to health care, the inadequate provision of resources and investment and the precarious residency issue. The interlinked Israeli policies and measures continue to negatively affect East Jerusalem's crucial role in Palestinian political, economic, social and cultural life. In 2011 a surge in settlement planning has taken place especially at the southern flank of Jerusalem. This is increasingly undermining the feasibility of Jerusalem as the future capital of two states.

"4. Over the past few years, Israel's actions in East Jerusalem have run counter to its stated commitment to a sustainable peace with the Palestinians through the two-state solution. Attempts to emphasize the Jewish identity of the city, at the expense of its Muslim and Christian residents, threaten its religious diversity and provide fuel to those who want to further radicalise the conflict, with potential regional and global repercussions."

Lest there be any doubt that Israel's purpose is the ethnic cleansing of Palestinians from East Jerusalem, read the following from the heads of mission report:

"10. The demographic factor is a central element in Israeli policy. In 1967, Israel annexed East Jerusalem. Moreover, by adding some 70 km² it redefined the municipal boundaries of Jerusalem. Today, some 790,000 people live within these municipal boundaries, of which around 37 percent are Palestinian. It has been a stated aim in official planning documents to prevent the Palestinian population from becoming more than 30 percent of the municipality's total population. Successive Israeli governments have pursued a policy of transferring Jewish population into the oPt [Occupied Palestinian Territories] in violation of the Fourth Geneva Convention and international humanitarian law. In East Jerusalem 35 percent of the land has been expropriated, thus facilitating settlement construction. Out of a total of 507,000 Israeli settlers living in the oPt, 196,000 now live in settlements inside East Jerusalem."

Ethnic cleansing of Palestinians from Area C

The Palestinian presence in Area C is also being systematically reduced by Israel.

Under the Oslo Agreement, the West Bank, excluding East Jerusalem, is divided into three areas. The largest, Area C consists of 62% the land area and contains most of the agricultural and grazing land and water in the West Bank. It is wholly under Israeli control and is where Jewish settlements are located.

Areas A (18% of the land area) and B (20% of the land area) are a series of islands within Area C. Area A is under Palestinian civil and security control and Area B is under Palestinian civil and shared Israeli-Palestinian security control.

A report by the EU heads of mission to Palestine in July 2011 summarised the situation in Area C as follows [\[8\]](#):

“In 1972 the number of Israeli settlers in Area C was 1,200, in 1993 110,000 and in 2010 310,000 (excluding East Jerusalem). The number of settlers in Area C today is more than double the estimated number of Palestinians (150,000). The settlers live in 124 formal settlements and approximately 100 informal settlements (so-called outposts and illegal under Israeli law).

“The Palestinian presence in Area C has continuously been undermined through different administrative measures, planning regulations and other means adopted by Israel as occupying power. Prior to 1967 there were between 200,000 and 320,000 Palestinians in the Jordan Valley. Today the number is 56,000 (of which 70% live in Area A in Jericho). [The whole of the Jordan Valley, apart from an enclave around Jericho, is in Area C.]

“The increasing integration of Area C into Israel proper has left Palestinian communities in the same area ever more isolated. During the past year there has been a further deterioration of the overall situation in Area C. If current trends are not stopped and reversed, the establishment of a viable Palestinian state within the pre-1967 borders seems more remote than ever.”

Palestinians are being forced to leave Area C because it is virtually impossible for them to get building permits and building without a permit risks demolition by the Israeli army. By contrast, building for Jewish settlement goes on apace in Area C.

In the first half of 2011, 342 Palestinian-owned structures, including 125 residential structures, were demolished by the Israeli authorities and 656 people, including 351 children, lost their homes. Over 3,000 demolition orders are outstanding, including 18 targeting schools.

In addition to the restrictive planning, which makes it next to impossible for Palestinians to build in Area C, many Palestinians there are under constant threat of harassment and physical attacks by armed Israeli settlers, who routinely attack Palestinian men, women and children, burn crops and destroy olive trees. The Israeli army, which is supposed to be responsible for the protection of civilians living under its control, does little to stop this violence and often appears to side with the Israeli settlers.

The overall impact of Israel's policies in Area C is the forcible transfer of Palestinian civilians off the land and into the overcrowded towns and cities of Areas A and B.

Foreign Affairs Council conclusions

The meat of the Council's conclusions [\[2\]](#) is in Paragraphs 5-7.

Paragraph 5 describes Israel's actions on the ground in East Jerusalem and Area C, actions which, according to the Council, are putting a two-state solution in jeopardy:

"5. The viability of a two-state-solution must be maintained. The EU expresses deep concern about developments on the ground which threaten to make a two-state solution impossible:

- the marked acceleration of settlement construction following the end of the 2010 moratorium, the recent decision of the government of Israel regarding the status of some settlements outposts as well as the proposal to relocate settlers from Migron within the occupied Palestinian territory, while all outposts erected since March 2001 should be dismantled, according to the Roadmap.
- in East-Jerusalem the ongoing evictions and house demolitions, changes to the residency status of Palestinians, the expansion of Givat Hamatos and Har Homa, and the prevention of peaceful Palestinian cultural, economic, social or political activities.
- the worsening living conditions of the Palestinian population in Area C and serious limitations for the PA to promote the economic development of Palestinian communities in Area C, as well as plans of forced transfer of the Bedouin communities, in particular from the wider E1 area [between East Jerusalem and the Ma'ale Adumim settlement]."

Paragraph 6 sets out EU policy and makes demands on Israel:

"6. Concerning these developments, the EU reiterates its positions and determination to contribute to maintaining the viability of the two-state-solution in accordance with international law and its positions, including the conclusions of the EU Foreign Affairs Council in December 2009, December 2010 and May 2011:

- Settlements remain illegal under international law, irrespective of recent decisions by the government of Israel. The EU reiterates that it will not recognise any changes to the pre-1967 borders including with regard to Jerusalem, other than those agreed by the parties. The EU and its Member States reaffirm their commitment to fully and effectively implement existing EU legislation and the bilateral arrangements applicable to settlement products. The Council underlines the importance of the work being carried out together with the Commission in this regard.
- The EU reiterates that a way must be found through negotiations to resolve the status of Jerusalem as the future capital of two states. Until then, the EU calls for an equitable provision of resources and investment to the city's population. The EU calls for the reopening of Palestinian institutions in Jerusalem in accordance with the Roadmap. [Under the Roadmap which Israel accepted in 2003, it was supposed to "reopen Palestinian Chamber of Commerce and other closed Palestinian institutions in East Jerusalem" [\[9\]](#). It hasn't done so.]
- Social and economic developments in Area C are of critical importance for the viability of a future Palestinian state, as Area C is its main land reserve. The EU calls upon Israel to meet its obligations regarding the living conditions of the Palestinian population in Area C, including by accelerated approval of Palestinian master plans, halting forced transfer of population and demolition of Palestinian housing and infrastructure, simplifying administrative procedures to

obtain building permits, ensuring access to water and addressing humanitarian needs. The EU calls upon Israel to work together with the PA to allow more access and control of the PA over Area C. The EU will continue to provide financial assistance for Palestinian development in Area C and expects such investment to be protected for future use. The EU will engage with the Government of Israel to work out improved mechanisms for the implementation of the donor funded projects for the benefit of the Palestinian population in Area C.

Paragraph 7 deals with violence by Jewish settlers against Palestinians in Area C:

“7. The EU expresses deep concern regarding settler extremism and incitement by settlers in the West Bank. The EU condemns continuous settler violence and deliberate provocations against Palestinian civilians. It calls on the government of Israel to bring the perpetrators to justice and to comply with its obligations under international law.”

In the Dáil on 22 May 2012, Eamon Gilmore described these conclusions as a “strong and significant statement” which “addresses the conditions on the ground”. He continued:

“We all want to see meaningful talks resuming between Israel and Palestine, with a view to putting in place the two-state solution. It is not realistic to have that, however, in circumstances where settlement activity is taking place. As President Abbas said, one cannot talk about a state for Palestine if one continues to build on it.

“I saw the reality for myself when I visited area C when I was in the region in January. In effect, as these settlements continue, they are making it physically impossible for a two-state solution to materialise. We are seeing a settlement right around the eastern part of Jerusalem, which in many ways is sealing off the Palestinian population within Jerusalem. In addition, we are seeing settlement activity whose effect, if it continues, will be to cut in half the northern part of the West Bank from the southern part, thus making things very difficult on the ground.

“The statement by the EU Foreign Affairs Council has nailed that matter by clearly identifying it. That is why, at the Council meeting, I argued that we need to return to this topic in the autumn to see what has happened in the meantime and then examine what further steps may be appropriate.” [\[1\]](#)

A warning to Israel?

The Foreign Affairs Council statement of 14 May 2012 was unprecedented – never before has the Council described with such bluntness Israel’s oppression of Palestinians in the occupied West Bank, including East Jerusalem, and demanded that Israel cease these actions and take steps to remedy the situation.

In an editorial on 18 May 2012, the Irish Times described the statement as “a warning to Israel”, commenting:

“The tone and detail of the statement reflect exasperation with both the Israeli government’s procrastination and the US’s at best half-hearted engagement with the issue. And it appears to mark a significant shift in thinking in Germany, until now, for understandable reasons of history, Israel’s most uncritical defender in the EU. Israel would do well to take note.” [\[10\]](#)

Most likely, Israel will ignore the Council demands and carry on as before. It remains to be seen if, in that event, the EU will be prepared to take effective action to pressure Israel into changing course. Imposing a ban on the import of settlement products would be a good start, but of itself it is very unlikely to cause Israel to cease settlement building let alone end its occupation of Palestinian territories to allow a Palestinian state to come into being.

David Morrison
June 2012

References:

- [1] debates.oireachtas.ie/dail/2012/05/22/00004.asp
- [2] www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/130195.pdf
- [3] www.jpost.com/DiplomacyAndPolitics/Article.aspx?ID=269957
- [4] debates.oireachtas.ie/dail/2011/10/25/00070.asp
- [5] www.icrc.org/ihl.nsf/FULL/380
- [6] www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome_Statute_English.pdf
- [7] thecepr.org/images/stories/pdf/eu%20homs%20jerusalem%202011.pdf
- [8] thecepr.org/images/stories/pdf/area%20c%20%20final%20report%20july%202011.pdf
- [9] unispal.un.org/unispal.nsf/0/6129b9c832fe59ab85256d43004d87fa
- [10] www.irishtimes.com/newspaper/opinion/2012/05/18/1224316281554.html

Sadaka supports a peaceful settlement in Israel/Palestine based on the principles of democracy and justice, be that in two states or in one state. We maintain an independent position on internal politics within Palestine, favouring neither Fatah, Hamas nor any other Palestinian political organisation.