

February 6, 2015

Mr. James Carver
Member of the European Parliament
EU Committee on Foreign Affairs

Dear Sir/ Madam,

Re: Illegal and Environmentally Damaging Activities by the EU in the West Bank

I am writing you following some very disturbing findings that have come to our attention. According to a well-documented investigation by the NGO Regavim, the European Union is actively involved in illegal building that is taking place in the Adumim area in the West Bank. According to the findings of the investigation, the EU has financed and been actively involved in the establishment of more than 400 illegal structures within the Adumim area, between 2012 and 2014. Among them, Regavim has identified 181 residential structures and 232 service structures (located separately from the residential structures). The structures all bear the name and flag of the EU and official EU agents have been photographed participating in overseeing the construction, so the active involvement of the EU can hardly be denied. Official EU documents quoted in the report also corroborate the same.

The English version of the report documenting the findings of the investigation is attached hereto.

As I am sure you know, according to the Treaty on European Union (TEU), “the Union is founded on the values of ... the rule of law” (TEU Article 2). Article 3 of the TEU provides:

In its relations with the wider world, the Union shall uphold and promote its values... It shall contribute to peace, security, **the sustainable development of the Earth**, solidarity and mutual respect among peoples... as well as to **the strict observance and the development of international law**, including respect for the principles of the United Nations Charter.¹

Furthermore, Article 21:1 of the TEU provides in relation to the EU External Action:

The Union’s action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, **the rule of law ...and respect for the principles of the United Nations Charter and international law.**

The TEU, which is the chief legal authority for the EU’s action on the international scene, further provides in Article 21:2:

The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

(a) ...

(b) consolidate and support democracy, **the rule of law...and the principles of international law;**

...

(f) help develop international measures to preserve and **improve the quality of the environment and the sustainable development;**

The same is also provided in Article 205 of the Treaty on the Functioning of the European Union (TFEU). Furthermore, Article 23 of the TEU, demands that the EU’s Common Foreign and Security Policy be conducted in accordance with, the general

¹ The emphasis in these and all other quoted provisions are not in the original.

provisions laid down in Chapter 1, namely the respect of the rule of law, the principles of international law and the protection of the environment.

I regret to say, that the actions that have been made on behalf of the EU and documented in the above report do not comply with these provisions of the Founding Treaties. They are (1) disrespectful of the Rule of Law, (2) clearly illegal under International Law, and (3) in some of the cases damaging to the environment and destructive of nature, as will be explained below.

(1) They are disrespectful of the Rule of Law, because constructing buildings without building permits is a manifest violation of law. A country where anyone builds wherever he wants, in complete disregard of zoning laws and without building permits, would be terrible to live in and is a country with no rule of law. Clearly, EU Member States would not allow such behaviour within their own borders, nor would the EU endorse or fund it anywhere within the European Union. So why would the EU do so outside its borders?

(2) They are illegal under International Law, for several reasons. Firstly, according to the Interim Agreement of 1995 between the State of Israel and the Palestinian Liberation Organization (the so-called Oslo II Agreement), the Adumim area (and the other areas where the illegal EU-endorsed construction is taking place) are part of Area C. Pursuant to Article XI of the same agreement, Israel has full administrative responsibility and authority over land located in this area. Thus, any construction in this area must receive permit by the Israeli authorities. Any building constructed without such permit, is illegal, and by endorsing such acts by the Palestinians, the EU is participating in a violation of the Oslo II Agreement.

In this regard, it should be noted that the EU has also signed the Oslo II Agreement as one of the Witnesses of the Agreement and its signature by the parties. The EU is a member of the Quartet and has time and again called for both parties to respect the Oslo Agreement. Only a few days ago, Federica Mogherini, the High Representative of the Union for Foreign Affairs and Security Policy, repeated the call on behalf of the EU to Israel and the Palestinians to respect the agreement.² How can the EU express a credible call to the parties to respect the Oslo Accords, if the EU itself is actively involved in outright violations of these accords?

Even if we were to disregard the Oslo II Agreement, Israel would still be the legal authority under Customary International Law over the area in question. Pursuant to the EU's official position, Israel is the Occupant of the area and as such has the legal authority over the territories under Article 43 of the Hague Convention of 1907. It therefore has the obligation and authority to maintain public order and safety and to respect and administer the Jordanian zoning laws.

(3) Finally, some of the illegal buildings sponsored and financed by the EU are being constructed in nature reserves where building is strictly forbidden and where it causes severe damage to the natural habitat. The illegal EU construction is in designated nature reserves in the Judean Desert, which host rare flora and wildlife. The waste from the illegal communities constructed there by the EU flows into open areas, directly pollutes nature reserves and cause irreparable damage to the natural habitat. Further environmental damage is caused by unsupervised garbage disposal, including burying and burning of refuse. By collecting for their own use the small amounts of water that the desert receives from scarce rain, the inhabitants of these communities deprive the desert's animals and vegetation of their natural needs and bring death and devastation to the nature reserve.

² Statement by High Representative/Vice-President Federica Mogherini on the situation in Israel and Palestine, January 6, 2015.

It should be pointed out that in the Wye River Memorandum, signed between Israel and the Palestinians in 1998, Israel committed to transfer 12% of Area C which was under its control to the control of the Palestinian Authority (Area B), and 3% of that area was defined as green areas and nature reserves. The Palestinian Authority committed itself to act “according to the established scientific standards”, in relation to those areas, and acknowledged that “these standards do not allow new construction in these areas” (Wye River Memorandum, Article I, para. 1A). Thus, by funding and endorsing construction in these areas, the EU is not only causing severe damage to the natural environment, but also assisting and participating in manifest violations of International Law.

I kindly call upon you to do your utmost to bring an end to these illegal and destructive activities. We stand ready to provide any further information and to extend any assistance required in this matter.

Yours sincerely,

Mr. James Carver
Member of the European Parliament
EU Committee on Foreign Affairs