

IMPLICATIONS FOR BANKS AND FINANCIAL INSTITUTIONS

This document provides a preliminary assessment of the implications for banks and financial institutions emanating from the findings of the International Court of Justice (ICJ) in its Advisory Opinion of 19 July 2024 on the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem.

In the Advisory Opinion, the ICJ set out four corollary obligations of the duty for third States to distinguish in their dealings with Israel between the territory of Israel and the occupied Palestinian territory (oPt). Perhaps the broadest obligation in this regard is for States to take steps to prevent trade or investment relations that assist in the maintenance of the illegal situation created by Israel in the oPt. This has implications for States themselves as well as for persons and entities under their jurisdiction – including banks and financial institutions – doing business with Israeli companies to the extent that the latter are engaged in activities that assist Israel in maintaining the occupation.

The database of businesses operating in the settlements prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) specifically lists the following activities that advance the settlement enterprise and thus assist in maintaining Israel's unlawful presence in the oPt:

- (a) The supply of equipment and materials facilitating the construction and the expansion of settlements and the wall, and associated infrastructure;
- (b) The supply of surveillance and identification equipment for settlements, the wall and checkpoints directly linked with settlements;
- (c) The supply of equipment for the demolition of housing and property, the destruction of agricultural farms, greenhouses, olive groves and crops;
- (d) The supply of security services, equipment and materials to enterprises operating in settlements;
- (e) The provision of services and utilities supporting the maintenance and existence of settlements, including transport;
- (f) Banking and financial operations helping to develop, expand or maintain settlements and their activities, including loans for housing and the development of businesses;
- (g) The use of natural resources, in particular water and land, for business purposes;
- (h) Pollution, and the dumping of waste in or its transfer to Palestinian villages;

- (i) Captivity of the Palestinian financial and economic markets, as well as practices that disadvantage Palestinian enterprises, including through restrictions on movement, administrative and legal constraints;
- (j) The use of benefits and reinvestments of enterprises owned totally or partially by settlers for developing, expanding and maintaining the settlements.

Concretely, this means that third States should determine to what extent banks and financial institutions registered within their respective jurisdictions as well as their subsidiaries and parent companies engage in such activities themselves or in conjunction with Israeli companies, including by means of investing in them.

For example, they should assess if the banks in question themselves offer 'loans for housing and the development of businesses' in settlements or invest in or otherwise cooperate with Israeli banks that do so. For reference, the following banks are identified in the OHCHR database because they engage in listed activities (e), (f), and (g):

- Bank Hapoalim;
- Bank Leumi;
- Bank of Jerusalem;
- First International Bank of Israel;
- Israel Discount Bank;
- Mercantile Discount Bank; and
- Mizrahi Tefahot Bank.

Another example would be banks and financial institutions investing in companies that provide 'services and utilities supporting the maintenance and existence of settlements'. For purposes of illustration, Norway's sovereign wealth fund recently divested from Israeli telecommunications company Bezeq due its activities in the oPt. Other telecommunications providers listed in the OHCHR database are Partner, Pelephone, Cellcom, Hot Mobile, and Hot Telecommunications, for example. Airbnb, TripAdvisor, and Expedia, all US-based companies, offer tourism-related services; Egged, Merkavim, and Israel Railways Corporation provide public transportation. Mekorot, Israel's national water company, is involved in the exploitation of natural resources in the oPt and provides utilities to settlements.

There are also implications for banks and financial institutions investing in weapons manufacturers and arms companies – to the extent that these manufacture or deliver weapons that may be used in the oPt or to commit violations of international humanitarian law (IHL). Two of Israel's largest defence companies, Israel Aerospace Industries (IAI) and Rafael Advanced

Defense Systems (Rafael), are majority State-owned and produce the Spike missile and the Heron drone, for example, that have reportedly been used in Gaza. Elbit Systems (Elbit) is one of the largest suppliers of weapons and related equipment to the Israeli military and is known as a leading manufacturer of surveillance equipment, some of which has reportedly been tested and used in the oPt as well. This applies mutatis mutandis to foreign arms manufacturers whose products are used in the oPt or to commit violations of IHL.