



ALIGNING PRINCIPLES AND PRACTICE

EU Assistance to The Palestinian

Authority and Palestinian NGOs –

Rethinking the Approach to

Meet Normative Goals



**B'NAI B'RITH
INTERNATIONAL**

Aligning Principles and Practice: EU Assistance to The Palestinian Authority and Palestinian NGOs – Rethinking the Approach to Meet Normative Goals

This publication was commissioned by B'nai B'rith International. The writing of the chapters was concluded in November 2021.

Since 1843, B'nai B'rith International has been a global voice for the Jewish community. Through advocacy, diplomacy, coalition-building and educational programming, we work across the political spectrum to safeguard Jewish life, tackle anti-Semitism and ensure Israel's security. We are dedicated to improving the quality of life for people around the globe through disaster relief efforts and by providing affordable housing for senior citizens.

We work with leaders and civil society in the United States, at the United Nations, in the European Union, in Israel and across the world to impact and inform policy on the crucial matters facing the Jewish people.

The B'nai B'rith World Center in Jerusalem was established in 1980 in response to U.N. 478 that called on all states to withdraw their embassies from Jerusalem and since then has served as B'nai B'rith's permanent presence in Jerusalem and foreign affairs arm in Israel. Our Office of EU Affairs has been operating in Brussels since 1997, engaging with key actors in the EU institutions to forward B'nai B'rith International's mission.

This report is offered with the intention that it will be seriously considered by all those involved in the EU assistance process to ensure that in the coming funding period, EU funding will only be used to promote the high goals of the Union and the interests of its citizens. In particular, the report, coupled with the recent publication of the first ever *EU Strategy to Combating Antisemitism and Foster Jewish Life*, to which B'nai B'rith has contributed recommendations earlier in the year, should help redress persistent anti-Semitism in the Palestinian education system.

Alan Schneider, Director
B'nai B'rith World Center
Jerusalem, Israel

Alina Bricman, Director
B'nai B'rith Office of EU Affairs
Brussels, Belgium

Foreword

Throughout the history of the EU's engagement as a dynamic actor in the Middle East, there has been a tangible tension between projecting its stated values and pursuing its immediate interest of ensuring stability in its Southern Neighbourhood.

Regarding its engagement with the Palestinian Authority (PA) and the Palestinians, this need not be the case. A more stable, prosperous and democratic PA means not only a more secure Israel, but also a more viable partner for negotiations in the Middle East Peace Process. As the PA's main donor, the EU has an essential role to play.

That is why a study of current assistance mechanisms of the EU to the Palestinian governmental and non-governmental institutions is so timely. Future assistance to the Palestinian Authority and other Palestinian beneficiaries must hinge on local reforms to advance human rights, democratization processes and the rule of law as well as a curtailment of incentives for terrorism and anti-Semitism.

The hostilities directed by Hamas against Israel at the start of May 2021 have revealed – once again – the challenges faced by the international community in its engagement with the Palestinians: the difficulty of isolating malign actors, the importance of installing tight safeguards towards ensuring that funding is truly destined for humanitarian aid, the internal dynamics between Hamas and the Palestinian Authority. Between the terrorist entity in Gaza whose stated goal is the destruction of the Jewish State and a corrupt and stale PA leadership that has persistently refused to engage in peace talks and has continued practices of rewarding terror, it's easy to fall in the trap of low expectations. But to demand no accountability of Palestinian actors for assistance received, is to perpetrate this very status quo, from which the Palestinians themselves suffer the most.

Tectonic shifts have taken place in the Middle-East over the past years, with Israel forging new and unprecedented ties, cutting the Gordian knot of political deadlock in the Middle East. An increasing number of countries in the Middle East are growing impatient with the Palestinians – both their political dysfunction and their failure to come to the negotiating table time and time again. This momentous paradigm shift is a unique opportunity for the European Union to review existing mechanisms and assess their impact on peace and stability in the EU's Southern Neighbourhood.

This paper lays bare the discrepancies between the principles and practice of the European Unions' approach and mechanisms of engaging with the Palestinian Authority and other Palestinian beneficiaries, offering constructive solutions.

We hope it will encourage policy-makers to intensify their efforts to address weaknesses and ultimately align principle and practice.

Daniel S. Mariaschin

Executive Vice-President and CEO

B'nai B'rith International

Summary

This policy paper explores the EU's accountability mechanisms in its relationship with the Palestinian Authority (PA) and other Palestinian beneficiaries and makes policy recommendations to improve the effectiveness and value coherence of existing instruments to remedy persistent deficiencies.

To understand the EU's approach in this specific case, the paper first takes a step back and looks at the overarching external action framework within which the EU engages with Palestinian counterparts.

As the EU, despite hurdles, has been moving incrementally towards deeper integration, it has also cemented its external action. This materialized through the European Neighbourhood Policy (ENP).

The ENP has reflected the EU's approach that it is only as strong as its neighbours – that the Union will only prosper if its neighbours too are economically and politically stable. The EU has exercised its normative power by laying out, in bilateral agreements with individual partner countries, a series of conditions – respect for rule of law, human rights and democratization – and has set out to offer financial assistance linked to reforms in these fields.

Yet, within the implementation process, the exercise of this power is often lacking. This is particularly true with regard to the Southern Neighbourhood region, a key external action focus following the 2011 Arab Spring. The EU has aspired to play an influential role in the Middle East Peace Process (MEPP), and it is seemingly against this backdrop that it has shaped its relationship with the Palestinian Authority.

The EU is the largest provider of financial assistance to actors engaging with the Palestinians, namely the Palestinian Authority, UNRWA and Palestinian NGOs. Despite this, the EU has not used its leverage with the Palestinian Authority to push for significant reforms and has not held Palestinian authorities accountable for the human rights violations perpetrated against Palestinians and others.

While the EU formally ties its support to “deep democracy” reforms, in practice it not only takes a lenient approach towards non-compliance, but it also justifies non-compliance by connecting lack of reforms with Palestinian disputes with Israel. This dynamic is confirmed by the European Court of Auditors' Report on the EU's financial support to the PA that was published ahead of the current Action Plan governing EU relations with Palestinians, set to expire at the end of 2021.

What's more, despite existing anti-terrorism regulations, the EU has not addressed funding by the Palestinian Authority to families of convicted terrorists as well as the persistent issue of incitement to hatred and widespread anti-Semitism in Palestinian textbooks supported and utilized by UNRWA.

The EU is right in its neighbourhood approach: a more democratic neighbourhood means a stronger European Union. It must however move to bring this approach to life in the case of Palestinian beneficiaries. To do so, it must develop a robust system of effective conditionality, linked to clear demands for implementing individual rights and the rule of law, suppressing terrorism, addressing anti-Semitism and promoting peaceful coexistence and recognition. This is particularly relevant in the context of what is being described as an intractable conflict between the Israelis and Palestinians. Given the EU's appetite to play a role in the MEPP, reviewing conditionality and insisting on accountability in the relationship with the PA and other Palestinian beneficiaries is an essential part of that engagement.

About the authors

Dr. Tommaso Virgili is a Postdoctoral Research Fellow at the WZB Berlin Social Science Center, where he works on liberal movements within Islam in response to the challenge of Islamism, with a focus on Europe and the Middle East. Dr. Virgili is also a Research Associate at the Wilfried Martens Centre for European Studies and a Visiting Fellow at the European Foundation for Democracy in Brussels.

Dr Paul Stott is a writer and commentator based in the United Kingdom. A fellow of the European Foundation for South Asian Studies (EFSAS) his research interests cover the fields of terrorism, Islamism and the political fringe. He received his PhD in 2015 from the University of East Anglia for the research 'British Jihadism: The Detail and the Denial.'

Table of Contents

About the authors.....	4
List of acronyms.....	6
I. INTRODUCTION	7
II. THE EUROPEAN NEIGHBOURHOOD POLICY	10
The ENP and its evolution	11
The values-based dimension of the ENP today.....	12
III. EU FUNDING TO THE PALESTINIAN AUTHORITY AND OTHER PALESTINIAN BENEFICIARIES: WEAKNESSES AND VULNERABILITIES	16
Main components of the EU funding to the Palestinian Authority and Palestinian CSOs	17
The EU assistance to Palestinians: normative inconsistencies and lack of criteria.....	18
UNRWA: a case study of misguided funding.....	20
IV. EU FUNDING TO PALESTINIANS: THE RISK OF ABETTING TERRORISM AND ANTI-SEMITISM	25
Anti-terrorist measures and open challenges surrounding the PA and Palestinian NGOs	26
Transfers to the Palestinian Authority.....	26
Transfers to Palestinian NGOs.....	28
Palestinian CSOs and anti-Semitism	30
V. CONCLUSIONS	32
VI. WHAT SHOULD HAPPEN NEXT: POLICY RECOMMENDATIONS.....	34

List of acronyms

AP	Action Plan
AAP	Annual Action Programme
CSO	Civil society organisation
DFS	Direct Financial Support
ECA	European Court of Auditors
EEAS	European External Action Service
ENI	European Neighbourhood Instrument
ENP	European Neighbourhood Policy
EP	European Parliament
HRVP	High Representative/Vice President
NDICI	Neighbourhood, Development and International Cooperation Instrument
PA	Palestinian Authority
PEGASE	<i>Mécanisme Palestino-Européen de Gestion et d'Aide Socio-Economique</i>
PLO	Palestine Liberation Organisation
PQ	Parliamentary Question
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East



INTRODUCTION

The EU is commonly depicted as a “soft power”, promoting democracy and fundamental rights with its neighbouring countries and globally,¹ and as a “normative power”, namely “an ‘ideational’ actor characterised by common principles and acting to diffuse norms within international relations”.² Undeniably, the value dimension is deeply enshrined both in the EU’s policy documents and in its statements in all matters of foreign policy. But are those values concretely and efficaciously promoted beyond the formal declarations?

In this policy paper we test the implementation of the EU’s normative power vis-à-vis the Palestinian Authority (PA) and other Palestinian beneficiaries of EU funding in the framework of the European Neighbourhood Policy. We base our analysis on primary and secondary literature (EU legislation, official documents and statements and scholarly papers), complemented by interviews with EU officials from the European Parliament, the European Commission and the European External Action Service. We are grateful with those who took time to correspond with us on these complex matters.

This report documents shortcomings in the EU’s implementation of its stated values in its relations with Palestinian actors. Our aim is to present a constructive assessment and set of recommendations to the EU, with the goal of improving oversight and accountability of its funding mechanisms and bringing them in line with its core values.

A fundamental reassessment of the overall EU policy towards Palestinian actors seems more urgent than ever in light of the May 2021 confrontation between Hamas and Israel. The terror group has shown an unprecedented offensive capacity, thanks to the millions of dollars spent to amass 30,000 rockets³ and build a complex system of tunnels that it uses for smuggling and storing weaponry, conducting military exercises, hiding militants and other offensive purposes.⁴ It was free to do so because the international communi-

ty was largely taking care of the basic needs of the Gazan population,⁵ oppressed under the dictatorship of Hamas, the Islamic Jihad and other jihadi groups since 2007. This situation is, evidently, untenable, as it harms Israelis and Palestinians simultaneously. The EU must go beyond its policy of non-engagement with Hamas, which it lists as a terrorist organization,⁶ and adopt mechanisms that will deter Hamas from striking again, if it does not want to emerge as a facilitator of its terrorist activities. While this report focuses on the EU’s assistance to the PA and the West Bank, its findings and recommendations, if implemented, will have a deterring effect towards malign actors in Gaza as well.

Following this Introduction, the paper is divided into six parts.

In Part II, we address the European Neighbourhood Policy, focusing especially on the values-based components that have characterized it since the Arab Spring. We highlight how the ENP and additional instruments regulating the EU external action have hinged on human rights and democracy promotion, to be attained through the use of conditionality. While this objective has not been consistently and effectively pursued, it has been recently reasserted in the *NDICI – Global Europe Regulation* that will fund the upcoming ENP cycle.

In Part III, we address the ENP and its normative goals in the context of the EU funding to the Palestinian Authority and Palestinian NGOs. After a brief overview of the cooperation documents and the main financial instruments, we assess whether they have been effective in promoting human rights and the rule of law. We conclude that, beyond the formal reiteration of principles, the EU has not used its leverage with the Palestinian Authority to push for significant reforms in this domain. This reticence, not new in the context of the ENP, in this specific case is mainly the consequence of an erroneous correlation drawn between the unresolved Israeli-Palestinian dispute and

1 ‘Geopolitics & Values: What Is the Real Power of the EU?’, IED Institute of European Democrats, 18 December 2020, <https://www.iedonline.eu/publications/2020/geopolitics-values.php>.

2 R. Whitman, ed., *Normative Power Europe: Empirical and Theoretical Perspectives*, Palgrave Studies in European Union Politics (Palgrave Macmillan UK, 2011), <https://doi.org/10.1057/9780230305601>.

3 Mona El-Naggar, ‘Gaza’s Rockets: A Replenished Arsenal That Vexes Israel’, *The New York Times*, 13 May 2021, <https://www.nytimes.com/2021/05/13/world/middleeast/gaza-rockets-hamas-israel.html>.

4 Sophie Wingate, ‘Animated Video Shows Hamas Tunnel System Targeted by Israeli Airstrikes in Gaza’, *The Independent*, May 2021, <https://www.independent.co.uk/tv/news/illustrative-video-show-the-hamas-terror-metro-tunnel-system-va5dd1f7e>.

5 As concerns the EU humanitarian support in the Gaza Strip, see here: https://ec.europa.eu/echo/where/middle-east/palestine_en

6 <https://www.sanctionsmap.eu/#/main>


the human rights violations perpetrated by Palestinian authorities against their own subjects. We also focus on EU funding for UNRWA, the United Nations agency supporting Palestinian refugees, which has come under consistent criticism due to its use of educational textbooks promoting violence and hatred.

Part IV is dedicated to the specific aspect of terrorism against the backdrop of EU anti-terrorism regulations. In particular, we focus on the risk of European funding to the PA or to Palestinian civil society organizations inadvertently benefitting individuals and organizations linked with terrorism. We also address anti-Semitism and the need of avoiding supporting actors with hateful narratives.

Finally, we make an overall evaluation of the EU assistance to the Palestinian Authority and other actors against the backdrop of the ENP and its normative goals, and we make a series of policy recommendations to improve oversight and accountability of its funding mechanisms with a view to a more effective promotion of human rights and the rule of law, consistent with European values.



THE EUROPEAN NEIGHBOURHOOD POLICY

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- The relations between the EU and its neighbouring countries are conducted within the framework of the European Neighbourhood Policy (ENP).
 - The EU foreign policy relies on a pronounced values-based component, assisted by theoretical conditionality in the attribution of EU funding.
 - In concrete terms, however, the EU has not consistently implemented its normative goals.
 - Recent policy documents and the renewed ENP financial instrument reassert the principle of conditionality. The EU now has the chance to implement its normative goals in a more coherent and decisive manner.

The ENP and its evolution

The relationship of the European Union with its neighbouring countries, to the East and the South, is conducted under the European Neighbourhood Policy (ENP). The ENP “builds on common interests with partner countries of the East and South, as well as on a shared commitment to work together on key priority areas.”⁷

The bilateral procedures are conducted under the framework of an international treaty (the Association Agreement) stipulated between the EU and each concerned state, followed by an Action Plan that sets the concrete terms of cooperation and, theoretically, the conditions for the EU support. This support takes different forms; between 2014 and 2020, the largest share of financial assistance came via the European Neighbourhood Instrument (ENI), worth €15.4 billion.⁸

The concrete implementation of the Action Plans is coordinated by the EU with each partner country through six annual thematic sub-committees and a Joint Committee.⁹ As regards the financial assistance, the multiannual package is divided into Annual Action Programmes that the Commission adopts each year. These programmes “include conditions and related indicators to be fulfilled. The Commission ensures coherence and respect of identified objectives and indicators through regular monitoring and evaluations.”¹⁰

Launched in 2004, the ENP gained momentum in 2011, following the Arab Spring. The 2011 review of the ENP, outlined in the documents *A Partnership for Democracy & Shared Prosperity with the Southern Mediterranean*¹¹ and *A New Response to the Changing Neighbourhood*¹² represented, on paper, a reverse of the logic that had driven the EU foreign policy until then, based on the presupposition that economic support would foster democratization. The EU was now pivoting its priorities to supporting in primis democratization, the rule of law and human rights (collectively termed “deep democracy”¹³), via a system of “positive and negative conditionality” – in other words, sticks and carrots.¹⁴

The normative grand ambitions have, in many cases, collided with realpolitik and with an increasingly unstable political situation both externally and domestically. The “more for more” approach has proved to be either ineffective or insufficiently used,¹⁵ while negative conditionality has not been predominant in the Action Plans, which mainly offered incentives but no punishments in case of violations.¹⁶ The implementation of concrete democratization efforts has been further complicated by the lack of rigorous and coherent benchmarks.¹⁷

For these reasons, in 2015 the Commission, under the mandate of Member States, proposed a review of

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- 7 ‘European Neighbourhood Policy (ENP)’, European External Action Service, 8.2.2021, https://eeas.europa.eu/diplomatic-network/european-neighbourhood-policy-enp/330/european-neighbourhood-policy-enp_en.
 - 8 ‘European Neighbourhood Instrument (ENI)’, European Commission, accessed 20 April 2021, https://ec.europa.eu/regional_policy/en/policy/what/glossary/e/european-neighbourhood-investment.
 - 9 EEAS and EC officials, written replies to the authors’ questions, 14 June 2021.
 - 10 EEAS and EC officials.
 - 11 European Commission and High Representative of the EU for Foreign Affairs and Security Policy, ‘Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean’, 8 March 2011, COM(2011) 200 final, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0200:FIN:en:PDF>.
 - 12 European Commission and High Representative of the EU for Foreign Affairs and Security Policy, ‘Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A New Response to a Changing Neighbourhood’, 25 May 2011, COM(2011) 303, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0303&from=EN>.
 - 13 “The kind that lasts because the right to vote is accompanied by rights to exercise free speech, form competing political parties, receive impartial justice from independent judges, security from accountable police and army forces, access to a competent and noncorrupt civil service — and other civil and human rights that many Europeans take for granted, such as the freedom of thought, conscience and religion”. Ibid.
 - 14 Tommaso Virgili, ‘The “Arab Spring” and the EU’s “Democracy Promotion” in Egypt: A Missed Appointment?’, *Perspectives on Federalism* 6 (2014): 46–47.
 - 15 Ibid., 62.
 - 16 Mariam Dekanozishvili, ‘The European Union’s Credibility–Expectations Gap in Its European Neighbourhood Policy: Perspectives from Georgia and Ukraine’, *Southeast European and Black Sea Studies* 20, no. 2 (2 April 2020): 4.
 - 17 Ibid.

the ENP via a public consultation.¹⁸ The 2015 Review of the European Neighbourhood Policy took stock of the failure of conditionality, but it fell short of proposing an alternative, simply stating that “The EU will explore more effective ways to make its case for fundamental reforms with partners, including through engagement with civil, economic and social actors.”¹⁹

Conversely, the document stressed the challenge of an increasingly volatile geopolitical situation in the Neighbourhood, and consequently it put stability atop the priorities of the new ENP – before democracy and human rights. It also acknowledged the insufficient flexibility of past instruments, and the need for a differentiated approach in dealing with different countries. Furthermore, the document put a spotlight on two of Europe’s core interests, namely cooperation in the field of migration and terrorism²⁰ – a reflection of the EU’s and member states’ shifting priorities due to the refugee crisis and multiple terror attacks.²¹

The failure of the 2015 ENP Review to ensure EU’s leverage in the Southern Neighbourhood was decried by the European Parliament in a 2019 resolution on *Post-Arab Spring: way forward for the Middle East and North Africa (MENA) region*.²² The Parliament expressed concern at the fact that “in spite of its considerable political and budgetary investments and continuous political and economic outreach, the EU has not been able to gain real, substantive political and economic leverage.” It also regretted that “the initial efforts after the Arab Spring (or Arab Springs) to introduce stricter conditionality and delivery incentives for beneficiary countries through the ‘more for more’ principle did not lead to greater leverage on the part of the EU in its ability to promote real change in the areas of democ-

racy, the rule of law, human rights and fundamental freedoms” and that “partnership priorities are being concluded with countries without any conditions attached and despite significant and continuing backsliding in the field of democracy, human rights and the rule of law”.

Hence, the Parliament called for “a more consistent application of the ‘more for more’ principle by defining, at policy, programme and project levels in bilateral relations, concrete goals and benchmarks for increased support”.

The values-based dimension of the ENP today

Despite the temporary setback, the normative dimension of the EU’s foreign policy has never completely disappeared. Throughout the last decade, several policy documents have continued to depict the European Union as a force for promoting democracy worldwide.²³ Indeed, the recent EU Action Plan on Human Rights and Democracy 2020-2024 assertively begins with the following words:

“The European Union (EU) is founded on a strong commitment to promote and protect human rights, democracy and the rule of law. This is at the heart of its activities, both internally and in its relations with other countries and regions. In line with the 2019-2024 strategic agenda adopted by the European Council and the 2019-2024 political guidelines for the European Commission, the EU has a strategic interest in advancing its **global leadership** on human rights and democracy with the aim of bringing tangible benefits to people around the world [Emphasis in the original].”²⁴

18 European Commission and High Representative of the EU for Foreign Affairs and Security Policy, ‘Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Review of the European Neighbourhood Policy’, 18 November 2015, 2, JOIN(2015) 50, https://eeas.europa.eu/archives/docs/enp/documents/2015/151118_joint-communication_review-of-the-enp_en.pdf.

19 European Commission and High Representative of the EU for Foreign Affairs and Security Policy, ‘Review of the European Neighbourhood Policy’.

20 Ibid.

21 Ken Godfrey and Richard Youngs, ‘Toward a New EU Democracy Strategy’, Carnegie Europe, 17 September 2019, <https://carnegieeurope.eu/2019/09/17/toward-new-eu-democracy-strategy-pub-79844>.

22 ‘Post-Arab Spring: Way Forward for the Middle East and North Africa (MENA) Region. European Parliament Resolution of 27 March 2019 on the Post-Arab Spring: Way Forward for the MENA Region (2018/2160(INI))’ (European Parliament, 27 March 2019), P8_TA(2019)0318. https://www.europarl.europa.eu/doceo/document/TA-8-2019-0318_EN.html

23 Godfrey and Youngs, ‘Toward a New EU Democracy Strategy’.

24 European Commission and High Representative of the EU for Foreign Affairs and Security Policy, ‘Joint Communication to the European Parliament and the Council: EU Action Plan on Human Rights and Democracy 2020-2024’, 25 March 2020, JOIN(2020) 5 final, https://eur-lex.europa.eu/resource.html?uri=cellar:e9112a36-6e95-11ea-b735-01aa75ed71a1.0002.02/DOC_3&format=PDF

Additional specific human rights clauses apply to EU external funding, outlined in an array of documents. For instance, on freedom of religion and belief the European Commission states:

“With the adoption of the EU Guidelines on the promotion and protection of freedom of religion or belief in 2013, the EU has committed to advance this fundamental freedom in its external action, including through its financial instruments. In doing so, the EU is guided by the principles of non-discrimination and interrelatedness of human rights.”²⁵

A strong commitment toward conditionality is also present in the *Neighbourhood, Development and International Cooperation Instrument - Global Europe (NDICI-Global Europe)*.²⁶ Entered into force on 14 June 2021, NDICI will streamline ENI and the other budget lines of the ENP for the 2021-2027 period.²⁷

The Commission has clarified that this funding will be based – importantly - on “quantitative as well as qualitative indicators” that will take into account “commitments and performance regarding political reforms, economic and social development, as well as the partner countries’ absorption capacity.” There is also a reference to positive conditionality, with the reiteration of the “more for more” approach, as well as the mention of a “rule of law score” to evaluate the impact and coherence of EU policies in external spending.²⁸

In particular, Chapter II of the NDICI Regulation, dedicated to “Specific provisions for the Neighbourhood area”, establishes a set of criteria for the allocation of funding to the ENP countries, including “deep democracy”:

“Union support under geographic programmes in the Neighbourhood area shall be differentiated in form and in amounts, taking into account the partner country’s:

- a needs, using indicators such as population, inequalities and level of development;
- b commitment to and progress in implementing jointly agreed political, economic, environmental and social reform objectives;
- c commitment to and progress in building deep and sustainable democracy, the rule of law, good governance, human rights, and the fight against corruption;
- d partnership with the Union, including the level of ambition for that partnership;
- e absorption capacity and potential impact of Union support under this Instrument.”²⁹

Furthermore, Article 20 of the Regulation establishes a clear performance incentive for governments, at the same time ensuring that support for civil society is not affected:

- “1. Indicatively 10% of the financial envelope set out in the first indent of point (a) of Article 6(2) to supplement the country indicative financial allocations referred to in Article 14 shall be allocated to the partner countries and territories listed in Annex I as an incentive towards reforms. Such allocations shall be decided on the basis of their performance and progress towards democracy, good governance and the rule of law including cooperation with civil society, human rights including gender equality, cooperation on migration, economic governance and reforms, in particular those reforms that have been jointly agreed. The progress of the partner countries shall be regularly assessed, in particular by means of progress reports which include trends as compared to previous years.
2. Paragraph 1 shall not apply to support to civil society, conflict prevention and peacebuilding,

25 ‘Human Rights’, Text, European Commission, accessed 16 February 2021, https://ec.europa.eu/international-partnerships/topics/human-rights_en.

26 ‘Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 Establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, Amending and Repealing Decision No 466/2014/EU and Repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No 480/2009 (Text with EEA Relevance)’ (European Parliament and Council of the European Union, 14 June 2021), 2021/947. <https://eur-lex.europa.eu/eli/reg/2021/947/oj>

27 ‘NDICI-Global Europe: Final Green Light for the New Financial Instrument to Support the EU’s External Action’, European Council - Council of the EU, 9 June 2021, <https://www.consilium.europa.eu/en/press/press-releases/2021/06/09/ndici-global-europe-final-green-light-for-the-new-financial-instrument-to-support-the-eu-s-external-action/>.

28 ‘Questions and Answers: The EU Budget for External Action in the next Multiannual Financial Framework’, Text, European Commission, accessed 19 February 2021, https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_988.

29 ‘NDICI Regulation’. Art. 19.2

people-to-people contacts, including cooperation between local authorities, support for the improvement of human rights or crisis-related support measures. In the event of serious or persistent degradation of democracy, human rights or the rule of law, or an increased risk of conflict, support to those actions shall be increased, where possible and appropriate.”³⁰

The 2021 *New Agenda for the Mediterranean* makes direct reference to the NDICI incentive-based approach, linking it to the priorities for the Southern Neighbourhood.³¹ Among them is the promotion of human rights and the rule of law, with the explicit mention of women’s rights and the fight against intolerance, racism, homophobia, anti-Semitism, anti-Muslim hatred and other forms of xenophobia.³²

However, it is not yet clear how these objectives will be concretely pursued - the *New Agenda* and the related *Economic and Investment Plan for the Southern Neighbourhood*³³ define multiple goals, but they fall short of clarifying to what extent they will make use of conditionality to implement them.

30 Ibid. Art. 20.

31 European Commission and High Representative of the EU for Foreign Affairs and Security Policy, ‘Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Renewed Partnership with the Southern Neighbourhood - A New Agenda for the Mediterranean’, 9 February 2021, 6, JOIN(2021) 2 final, https://eeas.europa.eu/sites/eeas/files/joint_communication_renewed_partnership_southern_neighbourhood.pdf.

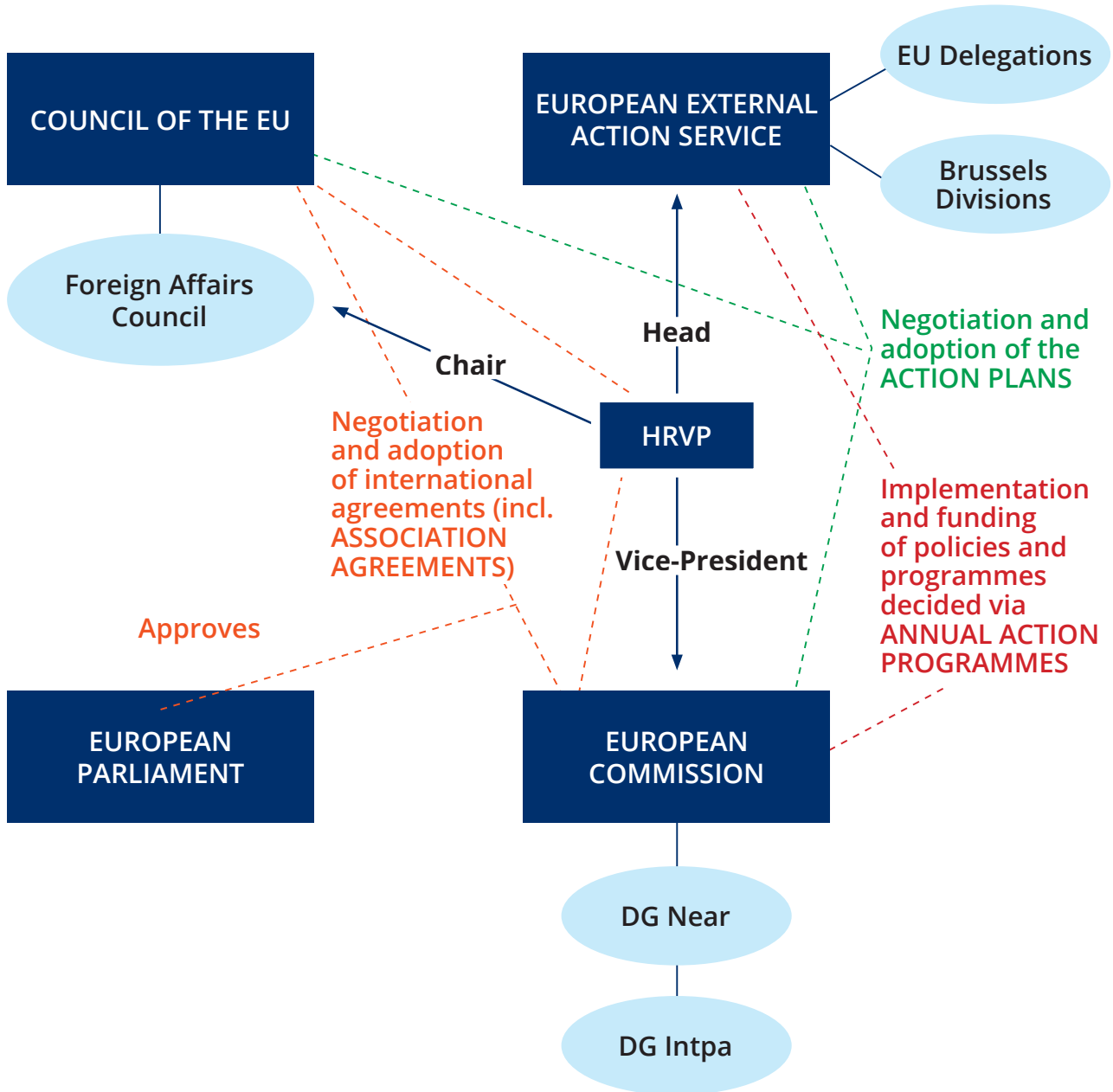
32 Ibid., 3.

33 European Commission and High Representative of the EU for Foreign Affairs and Security Policy, ‘Joint Staff Working Document: Renewed Partnership with the Southern Neighbourhood Economic and Investment Plan for the Southern Neighbours’, 9 February 2021, SWD(2021) 23 final, https://eeas.europa.eu/sites/default/files/joint_staff_working_document_renewed_partnership_southern_neighbourhood.pdf.

THE EUROPEAN NEIGHBOURHOOD POLICY (ENP)

Legislative bases

- Art. 8 TEU
- Title V TEU (External Action)
- Artt. 206-207 (trade) and 216-219 (international Agreements) TFEU





EU FUNDING TO THE PALESTINIAN AUTHORITY AND OTHER PALESTINIAN BENEFICIARIES: WEAKNESSES AND VULNERABILITIES

- The EU is the largest provider of financial assistance to Palestinian actors, namely the Palestinian Authority, UNRWA and Palestinian NGOs.
- This funding is unconditional, even in case of human rights violations, which the EU invariably correlates to lack of progress in the Middle East Peace Process. The PA is thus exempted from liability.
- Funding to UNRWA is likewise unconditional, despite substantive criticism linked to the anti-Semitic behaviour of certain members and to the textbooks employed in UNRWA's schools, which teach hateful and anti-Semitic content that glorifies terror.

Main components of the EU funding to the Palestinian Authority and Palestinian CSOs

The relations between the EU and PA are part of the ENP framework and are based on the 1997 *Interim Association Agreement on Trade and Cooperation*.³⁴ Political and economic cooperation falls under the 2013 EU-Palestinian Authority Action Plan, which was extended in December 2018 for three years.³⁵ Officials from the European Commission and the EEAS confirm that the current Action Plan will remain in force until January 2022, although, as of summer 2021, the procedures for renewal (which involve the EEAS, EC and the Council of the EU) were yet to start.³⁶

The EU is the largest provider of financial assistance to Palestinian entities,³⁷ which, in turn, are among the largest recipients of EU funding in the Neighbourhood. The majority of this funding is provided through the ENI and is supplemented additionally with funding for CSOs under different programmes and instruments.

Under ENI alone, the financial allocation between 2017 and 2020 amounted to €1.28 billion.³⁸ For comparison, Jordan and Lebanon received from ENI €765 million³⁹ and €402.3 million⁴⁰ respectively for the entire period 2014-2020. Additional funding to CSOs has occurred through programmes such as the Europe-

an Peacebuilding Initiative, the European Instrument for Democracy and Human Rights, the Erasmus+, and others. The total amount is hard to determine.⁴¹ As said above, all these different instruments will be dissolved into NDICI.

The EU funding under ENI is divided between direct financial support to the Palestinian Authority and the funding of UNRWA. The first is channelled through PEGASE - *Mécanisme Palestino-Européen de Gestion et d'Aide Socio-Economique*, which, between 2008 and 2020, has provided the PA with €2.3 billion in “systematic, predictable and *unconditional* contributions to the payment of PA civil servant salaries and pensions [...], of social allowances to the poorest and most vulnerable Palestinians families [...] and, since 2013, of health referral bills [emphasis added]”.⁴²

Concerning UNRWA, the EU and its Member States are “by far the largest provider of assistance to Palestine refugees”.⁴³ The Commission provided UNRWA with €535.5 million between 2014 and 2018,⁴⁴ and €395.6 million between 2018 and 2020.⁴⁵ In 2020 the funding was topped up with extra money “in response to UNRWA’s urgent financing needs,” bringing the total contribution for the single year to “€102.3 million, as the second largest donor to the Agency”⁴⁶ after Germany and before the UK and Sweden.⁴⁷ In 2021, the Commission announced a further increase

34 ‘Euro-Mediterranean Interim Association Agreement on Trade and Cooperation between the European Community, of the One Part, and the Palestine Liberation Organization (PLO) for the Benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the Other Part’, Eur-Lex, 16 July 1997, [https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21997A0716\(01\):EN:HTML](https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21997A0716(01):EN:HTML).

35 ‘Palestine*’, European Commission, accessed 19 February 2021, https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/palestine_en.

36 EEAS and EC officials, interview.

37 ‘Palestine*’.

38 Ibid.

39 ‘Jordan’, European Commission, accessed 20 April 2021, https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/jordan_en.

40 ‘Lebanon’, European Commission, accessed 20 April 2021, https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/lebanon_en.

41 ‘Palestine*’. ‘European Union’, NGO Monitor, 8 September 2020, https://www.ngo-monitor.org/funder/european_union/

42 European Commission, ‘Commission Implementing Decision of 1.9.2020 Amending Commission Implementing Decision C(2018) 1271 of 23.02.2018 on the Multiannual Action Programme for 2018, 2019 and 2020 in Favour of Palestine1 from the General Budget of the Union’, 1 September 2020, [3], C(2020) 6046 final, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/c_2020_6046_palesting_amending_PEGASE_commission_implementing_decision_en_merged.pdf.

43 ‘Palestine*’.

44 Commissioner Johannes Hahn on behalf of the Commission, ‘Answer to Parliamentary Question E-005181/18: ENI, UNRWA and PEGASE’, European Parliament, 21 January 2019, https://www.europarl.europa.eu/doceo/document/E-8-2018-005181-ASW_EN.html.

45 ‘Palestine*’.

46 ‘European Commission Announces €4.6 Million Additional Funds in Response to UNRWA’s Urgent Financing Needs’, European Commission, 11 November 2020, https://ec.europa.eu/commission/commissioners/2019-2024/varhelyi/announcements/european-commission-announces-eu46-million-additional-funds-response-unrwas-urgent-financing-needs_en.

47 ‘2020 Pledges to UNRWA’s Programmes (Cash and In-Kind) - Overall Donor Ranking as 31 December 2020’ (UNRWA), accessed 27 April 2021, https://www.unrwa.org/sites/default/files/2020_overall_donor_ranking_.pdf.

in its support to UNRWA's budget,⁴⁸ separate from bilateral contributions from member states.

Overall, thanks also to the significant EU contribution, "Palestine has become the largest recipient of international aid per capita in the world."⁴⁹

The EU assistance to Palestinians: normative inconsistencies and lack of criteria

As noted above, the framework for the relations between the EU and Palestinian Authority is currently regulated by the 2013 Action Plan. In this section, we address the terms and goals of that agreement, to assess if they are consistent with the normative goals laid out by the ENP.

The Action Plan confirms the paradigm of the *New Response to a Changing Neighbourhood* by reiterating the principles of "differentiation, mutual accountability and a shared commitment to universal values, international law, international human rights standards, democracy and the rule of law."⁵⁰ Furthermore, the AP stresses that the EU's "external instruments, of which the Palestinian people will be a beneficiary, will be more closely linked to progress in implementing reforms. In this regard, the EU's financial assistance to the Palestinian people shall be closely aligned with this Action Plan's key policy objectives."⁵¹ Thereby, the document theoretically reasserts the conditionality principle.

However, to a large extent, the document lacks normative rigour, for two main reasons: first, it connects reforms in the field of democratization and human rights to unrelated territorial issues; second, it seems to imply that the implementation of human rights and democratic reforms is a distant goal, only to be attained once a formal State of Palestine has been created.

As regards the first issue, the document seems to disavow the principle of conditionality right after enunciating it:

"Achieving the objectives outlined in this Action Plan is linked to the capacity to address the challenges imposed primarily by the occupation, as well as by the current division between the West Bank and the Gaza Strip, the current uncertainties surrounding the PA fiscal sustainability as well as by the ongoing lack of progress in the Israeli-Palestinian peace negotiations. These factors seriously jeopardise the achievements of the PA."⁵²

Consistent with this approach, the demands related to the rule of law and human rights are framed under a priority objective titled "A Palestinian state based on the rule of law and respect for human rights within a functioning deep democracy and with accountable institutions." Although some of the sub-goals are tagged as "continuous" or "short term", the phrasing of the priority objective, read in combination with the above-quoted paragraph, seems to imply that the normative goals are only attainable once a formal state has been achieved. And even if this interpretation were not correct – that is, even if the proponents genuinely meant "continuous" and "short term" in a literal sense – the failure to attain many of those goals has not led the EU to revise the structure of its assistance to the PA. The most visible example is the "short-term" goal of "genuine, democratic elections at all levels in line with international standards": expected to take place in 2021 after 15 years, they were eventually cancelled once again.⁵³

In other words, the EU states a theoretical principle that is in line with its normative policies. However, de facto, it disowns this principle by denying the PA's agency - thus exempting it from liability.

It is relevant to note that the Action Plan currently in place was released at the same time as a European Court of Auditors' Report on the EU's financial support to the PA. The report censured the previous Action Plan in that "there was no specific linkage between priorities set out in the action plan and the PEGASE

48 Commissioner Olivér Várhelyi on behalf of the European Commission, 'Answer to Parliamentary Question E-000094/21: EU Financial Support to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)', European Parliament, 12 March 2021, https://www.europarl.europa.eu/doceo/document/E-9-2021-000094-ASW_EN.html.

49 Moa Rydell, 'EU's Securitized Aid: A Case Study of the EU's Counterterrorism Regulations' Effects on Aid Delivery in Palestine', 2020, 42, <http://lup.lub.lu.se/student-papers/record/9026948>.

50 'European Union - Palestinian Authority Action Plan', 2013, https://ec.europa.eu/neighbourhood-enlargement/system/files/2019-01/eu-palestine_action_plan_2013.pdf.

51 Ibid.

52 Ibid.

53 Patrick Kingsley, 'Palestinian Vote Delayed, Prolonging Split for West Bank and Gaza - The New York Times', The New York Times, 29 April 2021, <https://www.nytimes.com/2021/04/29/world/middleeast/palestinian-vote-delayed.html>.

DFS⁵⁴ support, although the latter was the EU's most important funding instrument."⁵⁵ The ECA further stressed that "No performance indicators were included in the financing agreements for PEGASE" and that "the Commission and the EEAS have not developed a clear strategy on how to reduce the PA's dependency on PEGASE DFS support."⁵⁶

While the 2013 Action Plan presents performance indicators and benchmarks, these remain abstract, as the plan does not anticipate any negative consequences when they are not met. This is part and parcel of the overall failure of the ENP to implement conditionality, as stressed above. However, in the case of the PA we can detect an additional ideological component, namely an aprioristic vindication for its lack of compliance. As the Commission and the EEAS replied to the ECA,

"The aim of providing DFS through PEGASE is to enable the PA to meet its existing commitments to its population, insofar as this is possible. It is not realistic to expect a significant qualitative improvement of these in the current financial situation. The factors on which the achievement of the objectives depend are *mainly external and beyond the PA's control* [emphasis added]. PEGASE DFS is a political instrument whose ultimate objective is to maintain the viability of the two-state solution by sustaining the basic living conditions of the Palestinian people. Palestine⁵⁷ is not an independent country whose government can mobilise a wide range of resources in support of a particular target."⁵⁸

This discrepancy between the stated intention of the AP to link EU support to "deep democracy" reforms, and the post-facto lenient justification above, connecting support to Palestinians to disputes with Israel, is not an isolated occurrence. For instance, the 2018 *Evaluation of EU Support for Security Sector Reform* depicts the "erosion of human rights standards, stag-

nation of democracy and a drift towards authoritarian control" as the consequence of lack of progress in diplomatic negotiations and political solutions. Even more explicitly, that analysis claims that "the lack of progress in achieving a two-state solution and realisation of statehood for Palestine has led to an erosion of human rights and a drift towards more authoritarian control, where the justice system has been used to repress dissent."⁵⁹

The lack of progress in international and bilateral talks on the Middle East Peace Process does not provide a causal justification for the erosion of human rights and the repression of internal dissent - namely for the violations committed by Palestinian authorities against the Palestinian people. While the Oslo Agreements that created the Palestinian Authority limited the scope of its sovereignty, especially in matters of borders and security, they also entrusted it with full civil jurisdiction on Areas A and B.⁶⁰ The PA in the areas of its jurisdiction is fully responsible for human rights infringements and for that justice system which tolerates "zero dissent."⁶¹

The denial of the PA's agency seems to contradict the very premise of its relationship with the EU. As explained above, the ENP involves a partnership between the EU and a "country" in the Neighbourhood: by entering into a contractual relationship with the PA despite the particular situation of the area beyond the 1967 lines, the EU presupposes the capacity of the PA as a governing body. Indeed, PEGASE is framed as "Direct Financial Support to the Palestinian Government," in support of its "institutions," "Ministries" and "police."⁶² In other words, in the eyes of the EU the effective authority of the PA is not in question, and neither should be the duty of the PA to respect human rights.

54 Direct Financial Support

55 European Court of Auditors, 'European Union Direct Financial Support to the Palestinian Authority', Special Report N. 14, 2013, 16, https://www.eca.europa.eu/Lists/ECADocuments/SR13_14/SR13_14_EN.pdf.

56 Ibid., 17.

57 The EU uses the term "Palestine" with the following specification: "This designation shall not be construed as recognition of a State of Palestine and is without prejudice to the individual positions of the Member States on this issue."

58 European Commission, 'Replies of the Commission and the EEAS to the Special Report of the European Court of Auditors "European Union Direct Financial Support to the Palestinian Authority"', 27 November 2013, 4, COM(2013) 852 final. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52013DC0852>

59 Ana Sorina Canea et al., 'Evaluation of EU Support for Security Sector Reform in Enlargement and Neighbourhood Countries (2010-2016)', 2018, Ares(2018)2597863.

60 Rouba Al-Fattal, *The Foreign Policy of the EU in the Palestinian Territory*, CEPS Working Document 328 (Brussels: CEPS, 2010), 9.

61 'Two Authorities, One Way, Zero Dissent', Human Rights Watch, 23 October 2018, <https://www.hrw.org/report/2018/10/23/two-authorities-one-way-zero-dissent/arbitrary-arrest-and-torture-under>.

62 'PEGASE: Direct Financial Support to the Palestinian Government. Sustaining Palestinian Institutions', European External Action Service, 2009, https://eeas.europa.eu/archives/delegations/westbank/documents/eu_westbank/directfinancialsupport_en.pdf.

Things do not seem to have improved much since the 2013 ECA Report. In 2017, the Commission released a report assessing the accomplishments of the ENP after the 2015 Review. Concerning the Palestinian Authority, the paragraph related to “Good governance, democracy, rule of law and human rights” only mentions the EU intervention in the fields of “governance, fiscal consolidation and regulatory framework,” stressing that the “ongoing occupation” hinders Palestinian state-building.⁶³ As these issues only pertain to good governance, but not to human rights and the rule of law, this arguably means that the EU has not taken relevant action in these critical and mandatory domains.

After all, as seen above, the EU proudly advertises PEGASE’s support as “unconditional”⁶⁴ – to the point that even concerns that this support will underwrite terrorism have no impact on it, as we will explain in the next chapter.

UNRWA: a case study of misguided funding

The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) is the UN Agency established in 1948 to “carry out direct relief and works programmes for Palestine refugees.” In a report entitled *UNRWA’s Future Reconsidered*, Simon Waldman argues that the EU, among other agencies, now has the opportunity to review its funding of UNRWA:

“UNRWA uniquely extends refugee status to the descendants of all Palestinian refugee males. Instead of attending to the needs of the estimated 30,000 remaining Palestinian refugees from the

1948 war, under UNRWA’s problematic definition of refugee status the Palestinian refugee community has extended to 5,000,000.”⁶⁵

Most of the recent debate around this issue has tended to focus on former US President Trump terminating American payments to the organization on 1 September 2018, and it has obfuscated the deep and longstanding problems surrounding the UN agency. Far less attention, for instance, has been paid to the dysfunction exposed by a series of resignations and internal disputes that racked UNRWA in 2019. These saw the organisation’s Commissioner-General, Deputy Commissioner-General and a Senior Advisor to the Commissioner-General all leave the organisation, amid accusations of abuses of authority.⁶⁶ As a consequence of this, Switzerland, the Netherlands and Belgium suspended payments to UNRWA.⁶⁷ The Norwegian government also sought to cut its funding to the Palestinian Authority in 2019, due to promotion of anti-Israel and anti-Jewish tropes in school text books.⁶⁸

The Biden administration promptly resumed American funding,⁶⁹ a decision that has angered those who wished to see any renewed contributions tied to appropriate standards of behaviour.⁷⁰ It is worth setting out in some detail what these problems are. An enduring controversy around UNRWA centres on its teaching activities. The Commissioner General of UNRWA, Philippe Lazzarini, has stated that there are currently 711 UNRWA schools, with 28,000 staff and 532,000 students. Lazzarini is bullish about the education they receive:

“...our students organise in school parliaments and learn about the importance of human rights, equality and tolerance. UNRWA schoolteachers are

63 European Commission and High Representative of the Union for Foreign Affairs and Security Policy, ‘Joint Report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Report on the Implementation of the European Neighbourhood Policy Review’, 18.5.2017, 13, JOIN(2017) 18 final. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52017JC0018>

64 V. supra, fn. 42.

65 Simon Waldman, ‘UNRWA’s Future Reconsidered’, 2020, 4, <https://henryjacksonsociety.org/wp-content/uploads/2020/03/HJS-UNRWA-Report-web.pdf>.

66 Ian Williams, ‘Ethics Report Accuses UNRWA Leadership of Abuse of Power’, Al Jazeera, 29 July 2019, <https://www.aljazeera.com/news/2019/7/29/ethics-report-accuses-unrwa-leadership-of-abuse-of-power>.

67 ‘Ex-UNRWA Chief Says Agency “Victim of Campaign to Undermine It”’, Al Jazeera, 7 November 2019, <https://www.aljazeera.com/news/2019/11/7/ex-unrwa-chief-says-agency-victim-of-campaign-to-undermine-it>.

68 ‘Norwegian Parliament Tells Government to Cut Funding to PA over Textbooks’, The Jerusalem Post, 6 December 2019, <https://www.jpost.com/arab-israeli-conflict/norwegian-parliament-tells-government-to-cut-funding-to-pa-over-textbooks-610120>.

69 Antony J. Blinken, Secretary of State, ‘The United States Restores Assistance for the Palestinians’, United States Department of State, 7 April 2021, <https://www.state.gov/the-united-states-restores-assistance-for-the-palestinians/>.

70 ‘Risch Leads 20 Colleagues in Urging Administration to Cease Assistance to UNRWA Until Reforms Are Secured’, 22 April 2021, <https://www.foreign.senate.gov/press/ranking/release/risch-leads-20-colleagues-in-urging-administration-to-cease-assistance-to-unrwa-until-reforms-are-secured>.

constantly trained on how to approach critically any educational content that is not in line with UN values. It is a testament to our 28,000 staff and some 532,000 students that they overwhelmingly assert these values even amid emergency and crisis, remaining neutral even during conflicts".⁷¹

But there is strong evidence to the contrary. In 2017, a detailed report of UN Watch showed "UNRWA teachers and staffers celebrating the terrorist kidnapping of Israeli teenagers, cheering rockets being fired at Israeli civilian centers, endorsing various forms of violence, erasing Israel from the map, praising Hitler and posting his photo, and posting overtly antisemitic videos, caricatures, and statements".⁷²

In January 2021, a report into the Palestinian Authority's curriculum taught in UNRWA's schools in Gaza, the West bank and Jerusalem was released. Authored by the organization IMPACT-SE, the report made for disturbing reading:⁷³

"Extensive research of PA school textbooks has consistently shown a systematic insertion of violence, martyrdom and jihad across all grades and subjects, with the proliferation of extreme nationalism and Islamist ideologies throughout the curriculum, including science and math textbooks; rejection of the possibility of peace with Israel; and complete omission of any historical Jewish presence in the modern-day territories of Israel and the PA."⁷⁴

According to the report, "UNRWA-produced material frequently references, and sometimes directly reproduces, texts and phrases from the PA textbooks that glorify violence and sacrificing one's life and blood to defend the 'motherland'."⁷⁵ This includes the

glorification of known terrorists in grammar lessons,⁷⁶ "math exercises that ask students to tally the number of dead 'martyrs' in the First Intifada",⁷⁷ social studies booklets accusing Israel of deliberately dumping radioactive wastes in Palestinian lands, stealing Palestinian antiquities and having caused the 1969 Al-Aqsa mosque fire (for which an Australian citizen was actually convicted), and similar examples.⁷⁸ In some cases Israel is erased from the map, with its entire territory referred to as Palestine,⁷⁹ and it is described as either the "Zionist Occupation" or "The Enemy."⁸⁰

The European Union now possess its own confirmation of the incitement running through Palestinian school books. In 2019, the EEAS commissioned a report on the subject from the Georg Eckert Institute for International Textbook Research,⁸¹ whose researchers examined 156 textbooks and 16 teaching guides from the periods 2017-19 and 2020. The analysis, released in June 2021, shows that the textbooks, despite some improvement, still contain many problematic examples of encouragement of violence, anti-Semitism and demonization or erasure of Israel. These occur in subjects as diverse as social studies, religion, mathematics and science.

For instance, in a science book, Newton's second law of motion was demonstrated by an image of Palestinians firing slingshots at Israelis,⁸² while a history textbook promotes a conspiracy theory whereby Israel has removed ancient stones at historic sites in Jerusalem and replaced them with items containing "Zionist drawings and shapes."⁸³ Overall, the report identifies "the creation of a connection between the stated deception of the 'Jews' in the early days of

71 Philippe Lazzarini, 'Aiding Palestine Refugees Is Not Political', Al Jazeera, 6 April 2021, <https://www.aljazeera.com/opinions/2021/4/6/aiding-palestine-refugees-is-not-political>.

72 UN Watch, 'Poisoning Palestinian Children: A Report on Unrwa Teachers' Incitement to Jihadist Terrorism and Antisemitism', February 2017, 1, https://www.jewishvirtuallibrary.org/jsource/images/unrwa_incitement_2017.pdf.

73 Itam Shalev, 'Review of UNRWA-Produced Study Materials in the Palestinian Territories', January 2021, <https://www.impact-se.org/wp-content/uploads/UNRWA-Produced-Study-Materials-in-the-Palestinian-Territories.pdf>.

74 Ibid., 1.

75 Ibid., 7.

76 Ibid.

77 Ibid., 8.

78 Ibid.

79 Ibid., 9.

80 Ibid., 8.

81 Carmen Avram (S&D), 'Parliamentary Question E-005567/2020: EU-Funded Report on Palestinian Textbooks: Concerns over Incitement, Anti-Semitic Content and Imagery – the EU's Position and Response', European Parliament, accessed 7 October 2021, https://www.europarl.europa.eu/doceo/document/E-9-2020-005567_EN.html.

82 Georg Eckert Institute for International Textbook Research., 'Report on Palestinian Textbooks', 2021, 150, <http://www.gei.de/en/departments/knowledge-in-transition/analysis-of-palestinian-textbooks-paltex.html>.

83 Ibid., 98.

Islam and the insinuated behaviour of Jews today” calling it “extremely escalatory”.⁸⁴ One textbook ties Muhammad’s aunt, who clubbed a Jew to death, to a question about Palestinian women’s steadfastness in the face of “Jewish Zionist occupation”.⁸⁵ Such teaching attempts to construct a theological basis for contemporary anti-Semitism and for the glorification of offensive *jihad*. References to the “holy war” (in its military meaning) recur throughout the texts, and the honorific title *shuhada* (“martyrs”) is applied to protagonists of violence against Israeli civilians,⁸⁶ which is presented as a legitimate form of resistance.⁸⁷ Particularly troubling is the “romanticising and heroic glorification”⁸⁸ of Dalal al-Mughrabi, a member of the Fatah faction of the Palestine Liberation Organization who participated in the 1978 Coastal Road bus hijacking and massacre in which 38 Israeli civilians, 13 of them children, were murdered.

On 1 September 2021, Phillippe Lazzarini of UNRWA, in evidence to the Committee on Foreign Affairs, acknowledged that anti-Semitism persists in school textbooks.⁸⁹ Despite this admission, and past exposure of openly pro-violence and pro-terrorist materials in Palestinian textbooks, little so far seems to have changed. Instead of working to improve the standards of education in the Palestinian territories, UNRWA is adding to existing divisions in the region and rejects UN principles, including the recognition of the state of Israel. Nor was the 2021 schoolbooks scandal the first of its type – similar stories showing Palestinian textbooks as a source incitement to hatred and violence broke in 2016⁹⁰ 2017⁹¹ and 2018.⁹² An analysis of Palestinian textbooks going back to 2000 (when the Pal-

estinian Authority began to replace books produced in Jordan and Egypt) has found that they have never taught peace or greater understanding.⁹³

Pro-Palestinian voices have at times been dismissive on the UNRWA schoolbooks question, portraying it as either hackneyed or an attempt to politicize a welfare issue. For example, after a 2016 House of Lords debate in which a member observed that Palestinians were being taught to hate Israelis in their schools, Alan Duncan, a then UK Conservative minister sympathetic to the Palestinian cause, wrote, “I said I thought his incitement line was wearing a bit thin.”⁹⁴ In an intervention in April 2021 Philippe Lazzarini declared:

“The recent attacks on UNRWA – alleging that we teach “jihad” and “terrorism” – are biased attempts to drag a principled humanitarian agency into a highly politicised sphere where it does not belong. Moreover, they incorrectly cast UNRWA students as prone or supportive to jihad and terrorism. There should be no tolerance for stereotyping.”⁹⁵

But the “incitement line” persists for the simple reason that the problem still exists. The concern is not that UNRWA’s students are more “prone” to support extremism than anyone else, but rather that they are being taught extremist ideas.

The position of UNRWA is that it cannot act decisively on the issue, as the content of teaching materials is a matter of Palestinian sovereignty: “As an independent UN Agency providing humanitarian and development assistance, UNRWA has no mandate to alter any host government’s curriculum or textbooks which are a matter of national sovereignty.”⁹⁶ But in

84 Ibid., 89.

85 Ibid.

86 Ibid., 74.

87 Ibid., 123.

88 Ibid., 114.

89 ‘Committee on Foreign Affairs’, European Parliament, 1 September 2021, https://multimedia.europarl.europa.eu/en/committee-on-foreign-affairs_20210901-1345-COMMITTEE-AFET_vd.

90 Daniel K. Eisenbud, ‘Palestinian Text Books in UNRWA Schools Reportedly Teach of Killing Jews’, The Jerusalem Post, 8 November 2016, <https://www.jpost.com/arab-israeli-conflict/palestinian-text-books-in-UNRWA-schools-reportedly-teach-of-killing-jews-472012>.

91 Danielle Ziri, ‘New UNRWA Textbooks for Palestinians Demonize Israel and Jews’, The Jerusalem Post, 28 September 2017, <https://www.jpost.com/Arab-Israeli-Conflict/New-UNRWA-textbooks-display-extreme-anti-Jewish-and-anti-Israel-sentiments-study-shows-506174>.

92 David Bedein, ‘UNRWA Textbooks Still Contain Endless Incitement’, *Algemeiner*, 9 March 2018, <https://www.algemeiner.com/2018/03/09/unrwa-textbooks-still-contain-endless-incitement/>.

93 Arnon Groiss and Ronni Shaked, ‘Schoolbooks of the Palestinian Authority (PA): The Attitude to the Jews, to Israel and to Peace’, September 2017, https://www.terrorism-info.org.il/app/uploads/2017/12/E_259_17.pdf.

94 Alan Duncan, *In the Thick of It: The Private Diaries of a Minister*. (London: William Collins, 2021), 16.

95 Lazzarini, ‘Aiding Palestine Refugees Is Not Political’.

96 UNRWA, ‘Demystifying the UNRWA Approach to Curriculum’, January 2020, https://www.unrwa.org/sites/default/files/content/resources/demystifying_unrwa_approach_to_curriculum2020.pdf.

contradiction to this, UNRWA declares that under its *Framework for Analysis and Quality Implementation of the Curriculum* it reviews classroom materials and teaching practices. This “helps ensure that the inclusive education approach is consistent with UN humanitarian principles of neutrality and respect of human rights and applied throughout the teaching and learning process in UNRWA schools.”⁹⁷ Hence, it is hard to maintain that UNRWA has no accountability in the teaching material it employs. Its agency in the matter has also been acknowledged by the EU, via a declaration of former HRVP Mogherini in 2019:

“The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) uses national curricula in its fields of operations. It operates a review of the relevant textbooks to ensure their compliance with United Nations (UN) values.”⁹⁸

The European Union’s unconditional support for UNRWA seems, from this perspective, paradoxical. Whilst the EU is publicly committed to a two-state solution, and issues funding in support of that strategic objective, its position is undermined when “the rejection of a peaceful resolution to the Palestine question is actively propagated inside UNRWA schools and by UNRWA’s educational staff”.⁹⁹

As interviews conducted for this research attest, European Parliament officials are both aware of the negative publicity around UNRWA and concerned by it. Most recently, in September 2021, MEPs from the *European Parliament Working Group Against Antisemitism* held an online meeting with Henrike Trautmann, Head of Unit and Acting Director for the Southern Neighbourhood at Directorate-General for Neigh-

bourhood and Enlargement Negotiations (DG NEAR), to discuss the issue.¹⁰⁰

A formal demarche has also started thanks to the efforts of the European Parliament’s Committee on Budgetary Control. In its report on the European Union’s general budget for 2018,¹⁰¹ the body included a Section 302 that expresses concern “about the continued failure to act effectively against hate speech and violence in school textbooks.”¹⁰² Whilst the European Union does not fund Palestinian textbooks, more substantially it pays the salaries of the teachers who work with those textbooks, through PEGASE¹⁰³ - which, as Mogherini stated, “is subject to strict control criteria to ensure EU funds are used appropriately.”¹⁰⁴ Therefore, the Budgetary Committee “Insists that salaries of teachers and education sector civil servants that are financed from Union funds such as PEGASE be used for drafting and teaching curricula which reflects UNESCO standards of peace, tolerance, coexistence, and non-violence.”¹⁰⁵

As can be seen from the IMPACT-SE and the GEI reports, the EU’s concerns have been ignored by both the PA and UNRWA. Hence, the 2021 Discharge Report has reiterated the point even more decisively: the Budgetary Control

“Is concerned about the hate speech and violence taught in Palestinian school textbooks and used in schools by UNRWA in the West Bank, Gaza Strip and East Jerusalem; is concerned about the effectiveness of UNRWA’s mechanisms of adherence to UN values in educational materials used and taught by UNRWA staff in its schools, which contain hate speech and incitement to violence; insists that UNRWA acts in full transparency and publishes in an open-source plat-

97 Ibid.

98 Vice-President Federica Mogherini on behalf of the European Commission, ‘Answer to Parliamentary Question P-002029-19: VP/HR — EU Funding through PEGASE and Education in UNRWA Schools’, European Parliament, 26 June 2019, https://www.europarl.europa.eu/doceo/document/P-8-2019-002029-ASW_EN.html.

99 Waldman, ‘UNRWA’s Future Reconsidered’, 9.

100 ‘WGAS MEPs Discuss Antisemitic Content in Palestinian Textbooks’, European Parliament Working Group Against Antisemitism, 9 October 2021, <https://ep-wgas.eu/2021/09/10/online-hate-speech-conspiracy-theories-radicalisation-webinar/>.

101 Committee on Budgetary Control, ‘Report on Discharge in Respect of the Implementation of the General Budget of the European Union for the Financial Year 2018, Section III – Commission and Executive Agencies (2019/2055(DEC))’, 3 March 2020, A9-0069/2020, https://www.europarl.europa.eu/doceo/document/A-9-2020-0069_EN.pdf.

102 Ibid.

103 Vice-President Federica Mogherini on behalf of the European Commission, ‘Answer to Parliamentary Question P-002029-19: VP/HR — EU Funding through PEGASE and Education in UNRWA Schools’.

104 Ibid.

105 Committee on Budgetary Control, ‘Report on Discharge in Respect of the Implementation of the General Budget of the European Union for the Financial Year 2018, Section III – Commission and Executive Agencies (2019/2055(DEC))’, 67.

form all its educational materials for teachers and students, as well as its reviews of host country textbooks used to ensure that content adheres to UN values and does not encourage hatred; requests that all school material, which is not in compliance with these standards be removed immediately; insists that the earmarking of EU funding such as PEGASE for salaries paid to teachers and public servants in the education sector must be made conditional on educational material and course content complying with UNESCO standards of peace, tolerance, coexistence, and non-violence, as was decided upon by Union education ministers in Paris on 17 March 2015.¹⁰⁶

Indeed, the need for tolerance and non-discrimination within education was first agreed by EU education ministers in 2015. The failure to see this decision implemented on the ground in the Palestinian territories, even whilst funding the education system there, is damaging to the reputation of the European Union, and also further inhibits any potential for peace between the Palestinians and Israel.

Worse, UNRWA employees themselves have expressed support for extremist views and terrorism.¹⁰⁷ At the United Nations Human Rights Council in July 2020, the NGO United Nations Watch presented evidence of incitement by Palestinian Authority officials and educators, incitement in school textbooks, the naming of schools, summer camps and youth centres after terrorists, and children's play that involved pretending to be terrorists.¹⁰⁸

The problem is ongoing and should raise questions about the future of EU funding of UNRWA. After all, it is young people, currently educated in a divisive manner, who will be expected to maintain any peace agreement reached by Israeli and Palestinian representatives. Morally, Europe's taxpayers should not fund the salaries of people promoting hatred through the use of extremist materials and messages in the education of school children.

106 Committee on Budgetary Control, 'Report on Discharge in Respect of the Implementation of the General Budget of the European Union for the Financial Year 2019, Section III – Commission and Executive Agencies (2020/2140(DEC))', 9 April 2021, para. 438, A9-0069/2020, https://www.europarl.europa.eu/doceo/document/A-9-2021-0117_EN.html.

107 'UNRWA Suspends Employees after UN Watch Exposed Incitement to Anti-Semitic Violence', UN Watch, 22 October 2015, <https://unwatch.org/unrwa-suspends-employees-after-un-watch-exposed-incitement-to-anti-semitic-violence/>.

108 'HRC 44 Written Statement: Antisemitism and Terrorist Incitement in Palestinian Education', UN Watch, 22 July 2020, <https://unwatch.org/hrc-44-written-statement-antisemitism-and-terrorist-incitement-in-palestinian-education/>.

IV.

EU FUNDING TO PALESTINIANS: THE RISK OF ABETTING TERRORISM AND ANTI-SEMITISM

- EU expenditures are bound by a net of regulations against funding of terrorism and money laundering. Palestinian recipients are no exception.
- The PA has kept financing the families of convicted terrorists, but the EU has never made its funding conditional on the halt of this practice.
- In 2019 the EU adopted an anti-terrorism contract clause that applies also to Palestinian NGOs receiving EU funding. However, due to contradictory statements from EU authorities, it remains unclear whether this clause is consistently enforced.
- Despite its policies rejecting anti-Semitism and its endorsement of the International Holocaust Remembrance Alliance (IHRA) working definition of anti-Semitism, the European Commission has not explicitly demanded that Palestinian actors receiving EU funding refrain from anti-Semitic statements and behaviours.

Anti-terrorist measures and open challenges surrounding the PA and Palestinian NGOs

As we have said above, the fight against terrorism and radicalization, against the backdrop of a renewed focus on security, is a pillar of the 2015 ENP Review. When it comes to EU expenditures, this is not merely a policy or normative goal, but a legal one: the European Commission, like any other actor, is bound by EU regulations against money laundering and terrorism financing.

The most relevant instrument is *EU Directive 2017/541 on Combating Terrorism*, which makes it illegal to support “by any means” “directly or indirectly” any type of terrorist act, with the exception of “the provision of humanitarian activities by impartial humanitarian organizations recognized by international law”.¹⁰⁹

With regard specifically to the EU budget and due diligence, we must refer to the *EU Financial Regulation*.¹¹⁰ In particular, Article 136(d), paragraphs (iv) and (v), reads:

“The authorising officer responsible shall exclude a person or entity referred to in Article 135(2) from participating in award procedures governed by this Regulation or from being selected for implementing Union funds where that person or entity is in one or more of the following exclusion situations:

[...]

(d) it has been established by a final judgment that the person or entity is guilty of any of the following:

[...]

(iv) money laundering or terrorist financing within the meaning of Article 1(3), (4) and (5) of Directive (EU) 2015/849 of the European Parliament and of the Council (1) ;

(v) terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA (2), respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision.”

In 2019, the EU took another important step, namely the adoption of an anti-terrorism contract clause in the framework of its financial regulations. The clause requires that beneficiaries of EU funding avoid any kind of engagement with individuals and organizations present in the EU anti-terrorism blacklists:¹¹¹

“Grant beneficiaries and contractors must ensure that there is no detection of subcontractors, natural persons, including participants to workshops and/or trainings and recipients of financial support to third parties, in the lists of EU restrictive measures.”¹¹²

How are these anti-terrorism guarantees applied in the case of Palestinian recipients?

As noted in Chapter II, the majority of EU funding to Palestinians is provided to the PA through ENI, and it is supplemented with funding for CSOs under different programmes and instruments. We look at both below.

Transfers to the Palestinian Authority

A first issue to consider is that the EU recognizes the Palestine Liberation Organisation (PLO) - an umbrella organisation which declares itself the primary representative of the Palestinian people. Key agreements, such as the 1997 Euro-Mediterranean Interim Association Agreement, were signed between the then European Community and the PLO, with the latter acting on behalf of the Palestinian Authority.¹¹³ It is therefore a cause of major concern that, after Fatah, the largest grouping within the PLO is the Popular Front for the Liberation of Palestine (PFLP), which the

109 European Parliament and Council of the European Union, ‘Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on Combating Terrorism and Replacing Council Framework Decision 2002/475/JHA and Amending Council Decision 2005/671/JHA’, 15 March 2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017L0541&rid=6>.

110 ‘Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the Financial Rules Applicable to the General Budget of the Union, Amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and Repealing Regulation (EU, Euratom) No 966/2012’ (European Parliament and Council of the European Union, 30 July 2018), 2018/1046.

111 For an updated list, see <https://www.sanctionsmap.eu>

112 Annex G2, Annex II, Art. 1.5bis, <https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?ADSSChck=1578925525617&do=publi.detPUB&searchtype=AS&zgeo=35466&ccnt=7573876&debpub=&orderby=upd&orderby-ad=Desc&nbPubliList=50&page=1&aoref=167188>

113 ‘Interim Association Agreement’.

EU categorises as a terrorist group.¹¹⁴ The central role played by the PFLP within the PLO thus places only the flimsiest of divisions between the European Union and a faction it recognizes as a terrorist organization. Though not recognized by the EU as a terrorist entity, Fatah itself has engaged in numerous terrorist activities, even after the Oslo Accords came into effect.¹¹⁵

Transfers from the PA to the PLO are actually used to fund the controversial “pay-for-slay” programme - monthly salaries paid by the PA to convicted terrorists and their families,¹¹⁶ which amount to more than 7 percent of the PA budget.¹¹⁷ Whilst the Commission has denied that its money goes to convicted terrorists, stressing that PEGASE is separate from the PA budget for prisoners and that any beneficiary of EU funding is strictly scrutinized,¹¹⁸ the issue here once again comes down to conditionality: the EU is perfectly aware of this highly problematic PA budget line,¹¹⁹ but it has never subordinated its contribution to a cessation of this practice. Even worse, when President Abbas explicitly declared that he would cut teachers’ salaries to keep paying terrorists, the EU, far from forcing him to desist, actually stepped in to top up the teachers’ salaries.¹²⁰ Hence, even if no EU money

flows directly to convicted terrorists in a formal sense, de facto EU contributions enable the PA to persevere with this practice.

The EU attitude has been different in other circumstances - for example vis-à-vis Ethiopia, which saw its budget support suspended in 2021 for not allowing humanitarian agencies to access the Tigray region;¹²¹ and vis-à-vis Lebanon, where “the European Union and European governments have disbursed no significant funds over the past couple of years, except for humanitarian aid and money for projects already underway” due to the government’s lack of compliance with the requested reforms.¹²² In the recent past, the governments of Nicaragua¹²³ and Egypt¹²⁴ were, for example, both punished with the freezing of EU budget support because of human rights and rule of law violations.

In a different comparative perspective, it is worth noting that the United States, with the bi-partisan adoption of the Taylor Force Act, has moved to cut off funding to the PA until the “pay for slay” practice is dismantled. “The logic is simple: since money is fungible, aid that supplants the governance responsibilities of the PA frees up PA money to reward

114 See for example High Representative/Vice-President Borrell and on behalf of the European Commission, ‘Answer to Parliamentary Question E-000251/20’, European Parliament, 7 April 2020, https://www.europarl.europa.eu/doceo/document/E-9-2020-000251-ASW_EN.html.

115 ‘Al-Aqsa Martyrs Brigade’, in *Encyclopedia.Com*, accessed 17 October 2021, <https://www.encyclopedia.com/politics/legal-and-political-magazines/al-aqsa-martyrs-brigade>.

116 Donna Rachel Edmunds, ‘PA Hiding Terrorist’s Salaries from Donor Countries in Financial Reports’, *The Jerusalem Post*, 6 May 2020, <https://www.jpost.com/arab-israeli-conflict/pa-hiding-terrorist-salaries-from-donor-countries-in-financial-reports-627111>.

117 ‘Pay for Slay in Palestine’, *Wall Street Journal*, 27 March 2017, sec. Opinion, <https://www.wsj.com/articles/pay-for-slay-in-palestine-1490653597>. Sander Gerber, Mike Pompeo, and Stuart Force, ‘Is the Biden Administration Planning on Violating the Taylor Force Act, as the PA Continues Its Despicable Anti-Israel, Anti-America Pay-for-Slay Policy?’, *JINSA*, 3 October 2021, <https://jinsa.org/is-the-biden-administration-planning-on-violating-the-taylor-force-act-as-the-pa-continues-its-despicable-anti-israel-anti-america-pay-for-slay-policy/>.

118 Commissioner Olivér Várhelyi on behalf of the European Commission, ‘Answer to Parliamentary Question E-004157/19: The Palestinian Authority’s Use of EU Financial Support and EU Action to Prevent Iran Financing Hezbollah and Other Terrorist Groups’, European Parliament, 25 March 2020, https://www.europarl.europa.eu/doceo/document/E-9-2019-004157-ASW_EN.html.

119 Ibid.

120 ‘EU Reportedly Transferring 15 m Euros to PA, Enabling Pay-for-Slay’, *The Jerusalem Post*, 10 May 2019, <https://www.jpost.com/israel-news/is-the-eu-funding-ongoing-palestinian-authority-terrorist-payments-589377>.

121 Reuters Staff, ‘EU Suspends Ethiopian Budget Support over Tigray Crisis’, *Reuters*, 15 January 2021, <https://www.reuters.com/article/us-ethiopia-conflict-eu-idUSKBN29K1SS>.

122 ‘How Europe Can Help Lebanon Overcome Its Economic Implosion’, *International Crisis Group*, 30 October 2020, <https://www.crisisgroup.org/middle-east-north-africa/eastern-mediterranean/lebanon/219-how-europe-can-help-lebanon-overcome-its-economic-implosion>.

123 Blake Schmidt, ‘EU Suspends Budget Support to Nicaragua’, *The Tico Times*, 12 December 2008, <https://ticotimes.net/2008/12/12/eu-suspends-budget-support-to-nicaragua>.

124 ‘Parliamentary Question E-002033-19: The Resumption of Direct Budget Support to Egypt’, European Parliament, 18 April 2019, https://www.europarl.europa.eu/doceo/document/E-8-2019-002033_EN.html.

terrorists".¹²⁵ While there is debate as to whether current transfers from the Biden Administration might violate the Taylor Force Act, the legislation poses a significant constraint on the executive.¹²⁶

Transfers to Palestinian NGOs

The recent designation by the Israeli government of six Palestinian NGOs as terrorist, following the assessment of their ties to the PFLP, has brought once more to the forefront the question of thorough screenings of NGOs as a prerequisite to providing assistance.

Indeed, the direct funding to the Palestinian Authority is not the only problematic form of financial aid: contributions to civil society organizations also risk being exploited for murky purposes. The 2019 anti-terrorism contract clause represents, in fact, a commendable attempt from the EU to counter this phenomenon.

According to a recent study, as many as 81% of Palestinian NGOs have claimed to be negatively affected by the EU anti-terrorism regulations,¹²⁷ and 56% have reportedly lost access to some EU funding because of them.¹²⁸ The 2019 anti-terrorism clause is regarded with particular hostility, to the point that over 230 organizations, united under the "Palestinian National Campaign to Reject Conditional Funding,"¹²⁹ have signed a declaration in which they commit to refuse EU funding as long as the clause remains in place.¹³⁰ Their argument is that the reference to the EU's sanc-

tions list criminalizes their "resistance" and makes it impossible for them to operate.¹³¹

A significant case is that of the BADIL Resource Center for Palestinian Residency and Refugee Rights, which saw the cancellation of a 1.7-million-euro project by the EU.¹³² According to the statement on its website, BADIL objected to the anti-terrorism clause and on 12 June 2020 the European Union cancelled the agreement between the two bodies. BADIL argued that they were being asked to conduct "screening" procedures that would amount to "policing".¹³³ In an April 2020 position paper BADIL claims that the EU's approach unjustly affects the Palestinian people:

"Under the banner of 'committing terrorist acts,' the focus is on criminalizing forms of legitimate armed resistance that are nonetheless legal as per the UN General Assembly resolutions, and recognized as owned by the Palestinian people in the particular context of their resistance for liberation from colonial domination."¹³⁴

The parlance "legitimate armed resistance" in practice means support for the continuation of armed violence and the embedding of conflict.

This is not the only instance where BADIL downplayed violence; in an attempt to develop a sustained response to the textbooks controversy, in December 2020 it published a paper complaining of "Israel's apartheid-colonial education" in which Israel is portrayed as influencing the EU, and the international

125 Gerber, Pompeo, and Force, 'Is the Biden Administration Planning on Violating the Taylor Force Act, as the PA Continues Its Despicable Anti-Israel, Anti-America Pay-for-Slay Policy?'

126 Louis Jacobson and Amy Sherman, 'Biden Keeps Promise to Resume Ties with the Palestinian Authority', PolitiFact, accessed 17 October 2021, <https://www.politifact.com/truth-o-meter/promises/biden-promise-tracker/promise/1534/resume-ties-palestinianauthority/>. Mike Pompeo, Sander Gerber, and Stuart Force, 'Commentary: Has the Biden Administration Violated the Taylor Force Act?', The Detroit Jewish News, 17 June 2021, <https://thejewishnews.com/2021/06/17/commentary-has-the-biden-administration-violated-the-taylor-force-act/>.

127 Rydell, 'EU's Securitized Aid', 43.

128 Ibid., 47.

129 BADIL, 'Statement of the Palestinian National Campaign to Reject Conditional Funding on the EU's Clarification Letter: An Attempt to Normalize and Market the Unacceptable Conditions in Order to Lure Organizations to Sign', BADIL Resource Center for Palestinian Residency and Refugee Rights, 4 April 2020, <http://www.badil.org/en/publication/press-releases/92-2020/5063-pr-en-040420-14.html>.

130 'Against Terrorism and Against Conditional Funding: Statement of the Palestinian National Campaign to Reject Conditional Funding', BADIL Resource Center for Palestinian Residency and Refugee Rights, 30 December 2019, <https://www.badil.org/en/publication/press-releases/92-2020/5033-pr-en-301219-65.html>. Rydell, 'EU's Securitized Aid', 53.

131 Rydell, 'EU's Securitized Aid', 55.

132 Amaya Al-Orzza, 'EU Agenda: Diminishing Support for Palestinians One Clause at a Time', Mondoweiss, 7 February 2020, <https://mondoweiss.net/2020/07/eu-agenda-diminishing-support-for-palestinians-one-clause-at-a-time/>.

133 BADIL, 'Exclusion of BADIL from the List of Beneficiaries of the European Union Grants Due to Refusal to Sign the Condition Criminalizing the Palestinian Struggle', BADIL Resource Center for Palestinian Residency and Refugee Rights, 16 June 2020, <http://www.badil.org/en/publication/press-releases/92-2020/5085-pr-en-160620-27.html>.

134 BADIL, 'European Union Conditional Funding: Its Illegality and Political Implications', April 2020, 14, [http://www.badil.org/phocadownloadpap/badil-new/publications/research/in-focus/EuropeanUnionConditionalFunding\(PositionPaper-April2020\).pdf](http://www.badil.org/phocadownloadpap/badil-new/publications/research/in-focus/EuropeanUnionConditionalFunding(PositionPaper-April2020).pdf).

community as reinforcing this process.¹³⁵ The result of this, according to BADIL, is “problematic pressure exerted on the Palestinian Authority to relinquish teaching the Palestinian people’s collective national identity, heritage and values through framing its current curriculum as overly nationalistic and inciting racial hatred and violence.”¹³⁶ But as we have seen earlier in this report, segments in past and current Palestinian textbooks do incite racial hatred and violence. It is not clear why pointing this out would be an act of “colonialism”.

If detractors regard the EU contract clause against terrorism as a sort of blackmail that jeopardizes civil society’s action in the Palestinian territories, the fact that most CSOs lost access to funding lends plausibility to a quite opposite reading: 1) the majority of Palestinian NGOs have, or might have, direct connection with terrorist organizations and individuals present in the EU anti-terrorism blacklists; 2) the 2019 EU anti-terrorism contract clause is actually working; 3) the anti-terrorism clause was very much needed.

Indeed, the risk of EU funding ending up in the pockets of EU-designated terrorist organizations is sadly more tangible than what BADIL and the Palestinian National Campaign to Reject Conditional Funding claim. A detailed report by the Israeli watchdog NGO Monitor has shown that, between 2011 and 2019, “the EU authorized grants of at least €37 million to non-governmental organizations (NGOs) with ties to EU-designated terrorist groups”.¹³⁷ The report examines a series of projects financed by the EU, and it outlines in detail how individuals linked to terrorist organizations - such as the PFLP - benefitted from them.

Despite this, it remains unclear how effectively the

EU monitors the implementation of the new clause. The European Commission has so far avoided commenting on specific cases, even while responding to Parliamentary Questions – instead it has merely reaffirmed in broad terms the general framework of anti-terrorism measures.¹³⁸

The need for more detailed information, in order to ensure a better informed Parliament, is all the more pressing in light of a declaration made last year from the head of the EU Representative Office to the West Bank and Gaza. In a letter sent to the Palestinian NGO Network – an umbrella organization - the official provided reassurance that even individuals affiliated with terrorist entities would benefit from EU-funded programmes, so long as their names are not explicitly present in the EU anti-terrorism blacklists:

“It is understood that a natural person *affiliated to, sympathizing with, or supporting any of the groups or entities mentioned in the EU restrictive lists is not excluded from benefitting from EU-funded activities*, unless his/her exact name and surname (confirming his/her identity) corresponds to any of the natural persons on the EU restrictive lists. [...] As far as Palestine is concerned, there are no Palestinian natural persons on the restrictive measures list, pursuant to Council Regulation 2580/2001.”¹³⁹

This letter caused an uproar in the media and among pro-Israeli NGOs, and it also gave rise to diplomatic tensions. The Israeli Foreign Ministry summoned the EU Ambassador to Israel, and the Ministry of Strategic Affairs issued a study of the European-funded NGO Addameer showing that it employs “proven PFLP terrorists moonlighting as human-rights activists”.¹⁴⁰

135 BADIL, ‘Israel’s Apartheid-Colonial Education: Subjugating Palestinian Minds and Rights’, Working Paper No. 26, December 2020, <http://www.badil.org/phocadownloadpap/badil-new/publications/research/working-papers/WP26-right2education.pdf>.

136 Ibid., 28.

137 NGO Monitor, ‘EU Funding to Terror-Linked Palestinian NGOs since 2011’, June 2020, <https://www.ngo-monitor.org/nm/wp-content/uploads/2020/10/EU-Funding-to-terror-NGOs-since-2011.pdf>.

138 Lukas Mandl (EPP), ‘Parliamentary Question E-003573/2019: European Funding for Organisations with Ties to Terrorism’, European Parliament, 31 October 2019, https://www.europarl.europa.eu/doceo/document/E-9-2019-003573_EN.html. Bert-Jan Ruissen (ECR), Charlie Weimers (ECR), ‘Parliamentary Question E-003809/2020: Palestinian Authority’s Misuse of EU Funding’, European Parliament, 29 June 2020, https://www.europarl.europa.eu/doceo/document/E-9-2020-003809_EN.html.; Niclas Herbst EPP, ‘Parliamentary Question E-002929/2020: Eligibility for EU Funding for Persons Affiliated with EU-Listed Terror Organisation in the West Bank and Gaza’, European Parliament, accessed 1 May 2021, https://www.europarl.europa.eu/doceo/document/E-9-2020-002929_EN.html.; Bert-Jan Ruissen (ECR), ‘Parliamentary Question E-004291/2020: EU Funding for the Palestinian Centre for Human Rights (PCHR)’, European Parliament, 20 July 2020, https://www.europarl.europa.eu/doceo/document/E-9-2020-004291_EN.html.

139 Sven Kuehn von Burgsdorf, head of the EU Representative Office to the West Bank and Gaza, ‘Clarification Letter Regarding the EU-Funded Contracts’, 30 March 2020, <http://www.pngo.net/wp-content/uploads/2021/03/EU-Clarification-letter-regarding-the-EU-funded-contracts.pdf>. Emphasis added.

140 Orit Arfa, ‘Palestinian NGOs with Terrorists on the Payroll Eligible for EU Funding’, Jewish News Syndicate, 21 May 2020, <https://www.jns.org/palestinian-ngos-with-terrorists-on-the-payroll-eligible-for-eu-funding/>.

The European Commission thus rectified:

“These rules make the participation of *entities, individuals or groups affiliated, linked or supporting terrorist organisations incompatible with any EU funding*. If there is clear evidence that any organisation has made an inappropriate use of EU funds, the European Commission will take the appropriate measures such as recovery of the funds, exclusion of the entity from future EU financing”.¹⁴¹

In May 2020 European Commissioner for Neighbourhood and Enlargement Olivér Várhelyi announced an internal investigation into the possible misuse of EU funding in Palestine.¹⁴² As of 14 September 2021, the investigation was about to be finalized.¹⁴³

Palestinian NGOs and anti-Semitism

The phenomenon of indirect support to terrorism must be seen in conjunction with the fight against radicalization and anti-Semitism.

Indeed, the EU has published on the 5th of October, its first ever *Strategy on Combating Antisemitism and Fostering Jewish Life (2021-2030)*¹⁴⁴. The Strategy promotes a cross-cutting policy approach to fighting anti-Jewish prejudice, including a firm external action component meant to address anti-Semitism in the EU’s engagement with partner countries. The Strategy also ensures that the implementation process of policy measures and targeted actions will be supported via different funding programmes, most notably the new Citizens Equality Rights and Values programmes.

Commission Vice-President Margaritis Schinas was quoted as saying:

“For the next seven years, we will have a new set of standing Citizens Equality Rights and Values pro-

gram, which will seek to protect and promote open rights-based, democratic, equal and inclusive societies based on the rule of law.”¹⁴⁵

Spending this quantity of money on programmes of this type within the European Union whilst at the same time funding those with very different values outside of the EU is a fundamental contradiction. It is not possible to isolate those who declare support for anti-Semitism in the Middle East from those who possess similar views in Europe. The concept that poisonous ideas may be kept in a particular territory or region, in the modern era, is not only objectionable but also unrealistic. Via the new Strategy, the EU has an avenue to act against this discrepancy.

Unfortunately, precedent is not promising, judging from the EU Annual Action Programmes (AAP) in favour of Palestine. In 2017, a first draft of the AAP contained an explicit point against funding CSOs who incite hatred and violence against Israel and the Jews:

“Particular attention will [...] be paid to prevent that EU-supported Palestinian civil society organisations are also engaged in online and offline activities inciting to hatred and/or violence against the State of Israel, its citizens and/or Jews”.¹⁴⁶

However, for reasons that the Commission did not explain, the reference to “the state of Israel, its citizens and/or Jews” was removed from the final text, and it did not reappear in the subsequent AAPs.¹⁴⁷

This decision seems at odds with the fact that the European Commission, the European Council and the European Parliament have all officially endorsed the International Holocaust Remembrance Alliance (IHRA)’s working definition of anti-Semitism, which

141 NGO Monitor, ‘EU Funding to Terror-Linked Palestinian NGOs since 2011’. Emphasis added.

142 Carmen Avram (S&D), ‘Parliamentary Question E-006245/2020: Follow up to Questions and Answers E-003051/2020 and E-002978/2020 – EU Funding and the Fight against Terrorism and Incitement to Violence’, European Parliament, 17 November 2020, https://www.europarl.europa.eu/doceo/document/E-9-2020-006245_EN.html.

143 Commissioner Olivér Várhelyi on behalf of the European Commission, ‘Answer for Parliamentary Question E-002342/21’, European Parliament, 14 September 2021, https://www.europarl.europa.eu/doceo/document/E-9-2021-002342-ASW_EN.html.

144 https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-antisemitism/eu-strategy-combating-antisemitism-and-fostering-jewish-life-2021-2030_en

145 ‘EU to Present Action Plan for Combating Anti-Semitism’, Jewish News Syndicate, 23 April 2021, https://www.jns.org/eu-to-present-action-plan-for-combating-anti-semitism/?utm_source=Old+Daily+Syndicate&utm_campaign=5b75ecd457-Daily+Syndicate+4-21-21+%28new%29_COPY_01&utm_medium=email&utm_term=0_d8296d16d8-5b75ecd457-%5BLIST_EMAIL_ID%5D&ct=t%28Daily+Syndicate+4-18-21+%28new%29_COPY_01%29.

146 Anna-Michelle Asimakopoulou (EPP), ‘Parliamentary Question E-000425/2020: Removal of Text Referring to Activities Inciting Hatred and/or Violence from the 2017 Annual Action Programme’, European Parliament, 24 January 2020, https://www.europarl.europa.eu/doceo/document/E-9-2020-000425_EN.html.

147 Ibid.; European Commission, ‘Commission Implementing Decision of 1.9.2020’; European Commission, ‘Commission Implementing Decision of 19.11.2019 on the Annual Action Programme in Favour of Palestine for 2019’, 19 November 2019, C(2019) 8426.

has also been adopted by a majority of EU Member States.¹⁴⁸ IHRA's definition, *inter alia*, distinguishes between legitimate criticism of Israel on the one hand, and the radical rejection of its existence or holding Jews collectively responsible for actions of the State of Israel on the other, and qualifies the latter as an instance of anti-Semitism.¹⁴⁹

148 'Working Definition of Antisemitism', IHRA, accessed 30 April 2021, <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>.

149 Ibid.

V.

CONCLUSIONS

The EU is based on the principles of human rights, democracy and the rule of law. Driven by the commendable ideal of the universality of those values, the EU institutions have enshrined them in their external action. Unfortunately, the transition from the written word to concrete action is not easy, as normative goals are often in tension with a plethora of different interests that are legitimately part of a realistic foreign policy. The gulf between principles and practice should not, however, become too wide, otherwise principles end up being empty rhetoric; in other words, the EU institutions should never forget that the phrase “soft power” is made up of two components: without “power”, there is no foreign policy. Hence, the EU should forcefully deploy all the means at its disposal to foster human rights and democracy in its foreign relations. This is particularly important in the EU’s near neighbourhood.

Agreements are bilateral, and the EU should hold its partners accountable for the monies it gives them. The economic power of the EU offers it a potent instrument of leverage, and the EU should not be shy to use it by including concrete conditionality clauses in its agreements with neighbouring countries. Those clauses should be specific and entail quasi-automatic snapback consequences in case of both fulfilment and violation, with a clear system of incentives and disincentives subjected to scrupulous, impartial oversight.

In the case of the Palestinian Authority, a precondition for the promotion of human rights and the rule of law is separating these issues from the dispute with Israel in all cases where the Palestinian Authority has exclusive jurisdiction. The West Bank is ranked as “not free” by Freedom House, with a score as low as 25/100 in 2020. Elections have not been held since 2006; harsh regulations censor independent media and have caused the shutdown of 59 websites due to their criticism of President Abbas or their denunciation of rampant corruption; journalists have been assaulted and imprisoned; PA authorities have been accused of physically abusing detainees; a blasphemous

my law is in place; women are legally discriminated against in family matters; LGBT people “have been subject to harassment and abuse by PA authorities and members of society,” and the PA authorities have targeted the only LGBT activist organization with accusations of “sedition and an intent to ‘destroy’ Palestinian society.”¹⁵⁰

All these violations occur at the hand of the Palestinian authorities and are not the result of action or inaction (also duly acknowledged by Freedom House) perpetrated by the Israeli security forces, or with any hardship Palestinians endure due to the lack of full sovereignty and unresolved territorial issues. The EU should be careful not to accept the abuses of Palestinian authorities under the blanket excuse of “the Occupation”, thereby indirectly legitimizing their ongoing infringement of human rights and the rule of law against their own people.

For the very same principle, the EU must be steadfast in the implementation of the rules aimed at fighting terrorism, hatred and incitement to violence. Any indirect support to individuals and organisations promoting hateful and belligerent ideals would not only be illegal and immoral, but would also go against the goal, constantly reiterated by the EU, of achieving an enduring peace and stability in the Middle East. This also includes the need to prevent Hamas from rearming. The May 2021 firing of thousands of rockets at Israel, from territory controlled by Hamas, serves as a reminder of the nature of the organisation and where its money goes.¹⁵¹ Furthermore, Hamas is not only a terrorist actor itself, but it facilitates others, such as Islamic Jihad. The EU cannot accept this while it takes care of the humanitarian needs of Gaza’s inhabitants.

These caveats should be considered basic and essential components of a values-based foreign policy. Overlooking any of these issues out of negligence, ideology or political considerations would not render a good service to Europe’s much vaunted “normative power”.

150 ‘West Bank: Freedom in the World 2020 Country Report’, Freedom House, accessed 26 April 2021, <https://freedomhouse.org/country/west-bank/freedom-world/2020>.

151 Estimates of the number of rockets fired during the recent conflict vary, but figures of 4000 are common. See for example Al-Monitor Staff, ‘The Heavy Toll of Israel-Hamas War, by the Numbers’, Al-Monitor: The Pulse of the Middle East, 24 May 2021, <https://www.al-monitor.com/originals/2021/05/heavy-toll-israel-hamas-war-numbers>.

VI.

WHAT SHOULD HAPPEN NEXT: POLICY RECOMMENDATIONS

- The EU is the largest donor of development aid. This means leverage. EU institutions should therefore develop a system of effective conditionality, linked to clear demands for implementing individual rights and the rule of law.
- An independent system of monitoring and evaluation should be established to ensure that NDICI's parameters are applied in a fair and even way to all beneficiaries. It is also necessary to set in place clear mechanisms by which to measure the development of "deep democracy" indicators outlined in the *New Agenda for the Mediterranean*.
- The Palestinian Authority should not represent an exception to the rule: wherever the PA exerts its jurisdiction, it has also the duty and the effective power to respect individual rights and the rule of law. For this reason, the European Commission should stop subsuming the latter to a future statehood and enforce conditionality in conformity with the ENP principles now.
- The future Action Plan between the EU and the Palestinian Authority should contain quantitative and qualitative indicators meant to assess the implementation of human rights reforms, with a connected system of incentives and disincentives.
- Increased transparency in the adoption of the new Action Plan is needed. An open discussion of proposed revisions to the European Neighborhood Policy towards the Palestinians now, in the run up to adoption of a new policy at the beginning of 2022, is both timely and necessary in light of the many questions raised in this paper about EU funding to date.
- In considering the payments that are made to UNRWA, the issue of school textbooks needs to be resolved once and for all. UNRWA should also robustly vet its staff, to ensure they do not endorse terrorism and anti-Semitism by any means. If that implies withholding payments to UNRWA, that option must be considered.
- Aligned with the *EU Strategy on Combating Antisemitism and Fostering Jewish Life*, the EU must ensure that its external action with regard to the PA and Palestinian CSOs reflects the commitment by EU member states. This includes the promotion of the IHRA working definition of anti-Semitism as a useful guidance tool.
- For the same purpose, the EC should reintroduce the language on anti-Semitism and anti-Israeli hatred proposed in the initial draft of the 2017 AAP: "Particular attention will [...] be paid to prevent that EU-supported Palestinian civil society organisations are also engaged in online and offline activities inciting to hatred and/or violence against the State of Israel, its citizens and/or Jews."
- The risk of EU funding ending up in the hands of individuals convicted of terrorist acts or affiliated with terrorist organizations must be taken seriously. The EU should be consequent in the policy of strict control announced by Commissioner Várhegyi, make the results of the internal investigation publicly available and ensure publicity of its funded projects for a more transparent evaluation.
- The EU should consider approving its own version of the Taylor Force Act, namely establish a clear regulation making its support to the PA conditional on the dismantling of the "pay for slay" practice.
- The latest confrontation between Hamas and Israel has shown, once again, that a substantive share of international aid flowing to the Gaza Strip is not used to alleviate Palestinians' life conditions, but to stock weapons and dig tunnels with offensive purposes. While the EU has a policy of no-engagement with Hamas, it must also pay attention not to blindly cover the price of its terrorist activities. Passing the message that the EU will unconditionally take over Hamas' duties towards its subjects, and pay the bills of the destruction its terrorist policies provoke, will constitute an encouragement to perpetuate those policies. The EU and its member states must coordinate international efforts to prevent Hamas from rearming.



**B'NAI B'RITH
INTERNATIONAL**

**B'NAI B'RITH INTERNATIONAL
1120 20TH STREET NW, SUITE 300N, WASHINGTON, D.C. 20036**