

Political Labelling: The EU's Legal Stance on Goods from Israel's Illegal Settlements

By [Dr. Binoy Kampmark](#)

Global Research, October 25, 2024

Region: [Europe, Middle East & North Africa](#)

Theme: [Global Economy](#), [Law and Justice](#)

*Never let it be said that the European Union, whose officials self-advertise as staunch defenders of international law, that some bending can take place. Take, for instance, the [recent revelations](#) in The Intercept about legal advice sent to the EU foreign policy chief **Josep Borrell** on July 22 on how to respond to the International Court of Justice's advisory opinion on Israel's illegal settlements in the Palestinian territories. The salient question: What would constitute the rendering of aid or assistance to Israel in maintaining those settlements?*

EU policy towards Israel and its settlements has been one of schizophrenic “differentiation”, notably on the subject of trade. A 2015 [policy brief](#) from the European Council on Foreign Relations describes it as “a de facto policy of differentiating between Israel and settlement activities in the Occupied Territories within its bilateral relations.” This enables the EU to pursue a non-recognition platform regarding Israeli settlement activity while still formally engaging Israel proper. Like any policy that is neither here nor there, it had not “been sufficiently acknowledged or implemented in a consistent way” on the basis that it might impair the already stuttering and stalled Middle East peace process.

Whatever its merits – hypocritical, convenient, pragmatic, or a mixture of all three – the policy did give the EU some latitude to conduct standard trade and diplomatic relations with Israel while still adopting a different stance on its activities in the West Bank and Gaza. In terms of trade, the issue of accurate labelling on goods from the Occupied Territories became an ongoing source of discussion. While the European Commission [issued relevant notices](#) on how Union legislation applied, it was a matter for Member States as to how far they would go to enforce them.

A 2015 [interpretative notice](#) from the Commission, for instance, makes the following remark:

“Since the Golan Heights, and the West Bank (including East Jerusalem), are not part of the Israeli territory according to international law, the indication ‘product from Israel’ is considered to be incorrect and misleading in the sense of the referenced legislation.”

For the next few years, however, enforcement in terms of accurate labelling proved lax. A February 2020 [study](#) by the European Middle East Project proved illuminating in this regard. In a survey of 189 stores across the union in November 2019, the researchers focused on wines produced in Israeli settlements in the Golan Heights and the West Bank.

“Only 10% of the settlement wines on sale in the EU have a correct or partially correct origin indication online in accordance with EU rules, i.e. ‘Product of West Bank/Golan

Heights (Israeli Settlement).”

On November 12, 2019, the Court of Justice of the EU found in the [Psagot case](#) that the provisions of EU consumer law should be read broadly to require not only labelling indicating both the place or country of provenance but also the indication of that provenance (for instance, that the product came from an “Israeli settlement”).

In July, the International Court of Justice jolted the trading frameworks of many countries by handing down an [advisory opinion](#) on the status of the Israeli settlements in the Occupied Territories after its views were [sought](#) by the UN General Assembly. It lacked all startling force and was almost banal in stating the obvious: that Israeli settlements in the West Bank and East Jerusalem, along with “the regime associated with them, have been established and are being maintained in violation of international law.” The regime had been chokingly administrative, restrictive, altering in demographic composition, and discriminatory in targeting the Palestinians and favouring Israeli settlers.

It was therefore imperative, the Court advised, that international bodies – the UN Security Council and the General Assembly – along with members of the international community, not recognise the status of Israel’s occupation of the territories, nor supply aid or support in maintaining it. Israel was also “under an obligation to end its unlawful presence in the Occupied Palestinian Territory as rapidly as possible.” All further settlement activities were to cease, and all current settlers in the OPT areas evacuated.

Most significantly of all – at least for trade watchers – was the Court’s evident sinking of any tip-toeing policy on differentiation regarding trade connected with the Occupied Territories. Any sale of products from the OPT areas in, for instance, the EU, would surely constitute some form of aid and support for their continued illegal existence.

The official response from the United States was standard fare: alarm that an international institution was doing its work. The US State Department [expressed](#) consternation that the opinion had gone beyond what it needed to do. “We are concerned that the breadth of the court’s opinion will complicate efforts to resolve the conflict and bring about an urgently needed just and lasting peace with two states living side by side in peace and security.”

The EU preferred a less candid, and inherently more flexible approach. And why would it otherwise? Between 2020 and August 2023, [an estimated](#) US\$164 billion in loans and guarantees from European investors were advanced to businesses linked to Israeli settlements, with approximately \$144.7 billion worth of shares and bonds being held in those same companies.

With such matters in mind, the director of the EU Foreign Service’s legal department, **Frank Hoffmeister**, penned a seven-age [memorandum](#) on July 22 for Borrell’s eyes. The memorandum suggests that the ICJ opinion lacks clarity on duties not to enter economic or trade dealings with Israel concerning the OPT “which may entrench its unlawful presence in the territory” and taking steps to prevent trade or investments relations that aid in maintaining “the illegal situation created by Israel in the Occupied Palestinian Territory”.

Having confected a false conundrum in terms of interpretation, Hoffmeister goes on to call the EU labelling of foodstuffs from the settlements “a matter of political appreciation of whether further measures are needed in this respect.” The Union’s “policy vis-à-vis the import of goods from the settlements” might need to be revisited, but only as a matter of

political consideration.

He also broods about such “legal consequences” arising from the opinion, including further litigation in national courts over “arms sales or other form of assistance to Israel” based on the nexus with the OPTs and the exacerbation of “the already existing boycotts and citizens petitions for a total ban on trade with products originating in the settlements.”

Legal analysts have been unimpressed by Hoffmeister’s analysis, seeing it as a confusion of aims. Susan Akram of the Boston University School of Law’s International Human Rights clinic [put it simply](#): “Current [EU] policy is non-compliant with the ICJ opinion, and that is not a matter, as the EU opinion states, ‘of further political appreciation whether to revisit EU policy.’” The ICJ’s opinion was hard to mistake or misinterpret: all aid and assistance of any kind by the international community had to cease. For Akram, this meant a revision of EU policy “to end any and all trade, funding or other assistance that in any way supports the Israeli occupation.”

The United Nations special rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, [also takes strong issue](#) with such “bending of rules for political convenience” thereby creating a precedent by treating obligations under ICJ advisory opinions “as optional, especially amid ongoing atrocities.” The approach was “legally flawed, politically damaging, and morally compromised.” Not an inaccurate assessment, and most applicable to the bloc’s approach to other areas of international law, most strikingly that of refugees. On such matters, a visible political latitude arises in defiance of legal obligations. Just don’t publicly mention it.

*

Click the share button below to email/forward this article to your friends and colleagues. Follow us on [Instagram](#) and [Twitter](#) and subscribe to our [Telegram Channel](#). Feel free to repost and share widely Global Research articles.

[Birds Not Bombs: Let’s Fight for a World of Peace, Not War](#)

Dr. Binoy Kampmark was a Commonwealth Scholar at Selwyn College, Cambridge. He currently lectures at RMIT University. He is a Research Associate of the Centre for Research on Globalization (CRG). Email: bkampmark@gmail.com

Featured image [source](#)

The original source of this article is Global Research
Copyright © [Dr. Binoy Kampmark](#), Global Research, 2024

[Comment on Global Research Articles on our Facebook page](#)

[Become a Member of Global Research](#)

Articles by: **[Dr. Binoy
Kampmark](#)**

Disclaimer: The contents of this article are of sole responsibility of the author(s). The Centre for Research on Globalization will not be responsible for any inaccurate or incorrect statement in this article. The Centre of Research on Globalization grants permission to cross-post Global Research articles on community internet sites as long the source and copyright are acknowledged together with a hyperlink to the original Global Research article. For publication of Global Research articles in print or other forms including commercial internet sites, contact: publications@globalresearch.ca

www.globalresearch.ca contains copyrighted material the use of which has not always been specifically authorized by the copyright owner. We are making such material available to our readers under the provisions of "fair use" in an effort to advance a better understanding of political, economic and social issues. The material on this site is distributed without profit to those who have expressed a prior interest in receiving it for research and educational purposes. If you wish to use copyrighted material for purposes other than "fair use" you must request permission from the copyright owner.

For media inquiries: publications@globalresearch.ca