

**COMPLAINTS MECHANISM**

SG/G/2025/01

# **EIB FINANCING TO ISRAELI COMPANIES (ISRAEL)**

**CONCLUSIONS REPORT**

**13 APRIL 2026**



# SG/G/2025/01

## EIB financing to Israeli companies (Israel)

### Conclusions Report

**Complaint confidential:** No

**External distribution**

Complainant

**Internal distribution**

Management Committee  
Secretary General  
Inspector General  
Relevant EIB services

**Disclaimer**

The conclusions presented in this report are based on the information available to the EIB Group Complaints Mechanism Division up to 26 November 2025 representing the report's cut-off date. The conclusions are addressed solely to the EIB.

## The EIB Group Complaints Mechanism

The EIB Group Complaints Mechanism Division is a tool enabling the resolution of disputes if any member of the public feels that the European Investment Bank (EIB or Bank) might have done something wrong, that is, if it has committed an act of maladministration. The Complaints Mechanism is not a legal enforcement mechanism and will not substitute the judgment of competent judicial authorities.

Maladministration means poor or failed administration. It occurs when the EIB fails to act in accordance with a rule or principle that is binding upon it, including its own policies, standards and procedures. The concept of maladministration includes failure by the EIB to comply with human rights, applicable law or the principles of good administration. Maladministration may relate to the EIB Group's decisions, actions or omissions and this may include the environmental or social impact of the EIB's projects and operations.

One of the main objectives of the EIB Group Complaints Mechanism Division is to ensure the right to be heard and the right to complain. For more information on the Complaints Mechanism please visit: <https://www.eib.org/en/about/accountability/complaints/index.htm>.

**Please note:** Complainants that are not satisfied with the EIB reply to their complaint may file a complaint of maladministration against the EIB with the European Ombudsman<sup>1</sup>.

---

<sup>1</sup> Available at: <https://www.ombudsman.europa.eu/en/home>. For more information see [EIB Group Complaints Mechanism policy dated November 2018](#), Section 4.5.

## Contents

Executive summary .....	1
1 Background .....	2
1.1 The operations concerned by the complaint.....	2
1.2 The complaint .....	3
1.3 Work performed .....	5
2 REGULATORY FRAMEWORK.....	6
2.1 The EIB Group Complaints Mechanism .....	6
2.2 The EU Treaties and the EIB Statute .....	6
2.3 The EIB Group Environmental and Social Sustainability Framework and the EIB's approach to human rights .....	7
3 FINDINGS .....	8
3.1 Allegation 1: EIB's failure to comply with its obligations under international law .....	8
i. The UN database of business enterprises involved in specified activities in the OPT.....	8
ii. The ICJ's advisory opinion of 19 July 2024 .....	10
iii. The relationship between the European Union and the United Nations .....	11
iv. The EC Guidelines on the eligibility of Israeli entities for EU support .....	12
v. Assessment of Allegation 1 .....	14
3.2 Allegation 2: EIB's failure to adopt adequate safeguards to prevent the misuse of its funds for activities in the OPT .....	14
i. The EIB's due diligence at appraisal on the four operations in Israel.....	15
ii. The EIB's due diligence during the implementation of the four operations in Israel .....	19
4 Conclusions and outcome.....	23

## GLOSSARY

BoD	EIB Board of Directors
BoG	EIB Board of Governors
CFSP	Common Foreign and Security Policy
CJEU	Court of Justice of the European Union
DG TAXUD	Directorate General for Taxation and Customs Union of the European Commission
E&S	Environmental and Social
EC	European Commission
ECS	Environmental, Climate and Social
EFSD	European Fund for Sustainable Development
EIB or Bank	European Investment Bank
EIB-CM	EIB Group Complaints Mechanism Division
ESSF	EIB Group Environmental and Social Sustainability Framework
EU	European Union
EUR	Euro
GFS	Global Freedom Score
HRC	Human Rights Council
HRF	Hind Rajab Foundation
ICJ	International Court of Justice
MBIL	Multiple Beneficiary Intermediated Loan
MC	EIB Management Committee
MFF	Multi-annual financial framework
Mid-caps	Medium capitalisation companies
MSMEs	Micro, small, and medium-sized enterprises
NACE	<i>Nomenclature statistique des activités économiques dans la Communauté Européenne</i>
NTA	NTA Metropolitan Mass Transit System
OHCHR	Office of the High Commissioner for Human Rights
OPT	Occupied Palestinian Territory

PPG	Partial Portfolio Guarantee
SMEs	Small and medium-sized enterprises
SPV	Special Purpose Vehicle
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TMT	TMT-TLV Metropolitan Tramway Ltd
UN	United Nations

## EXECUTIVE SUMMARY

On 12 August 2025, the EIB-CM received a complaint from the Hind Rajab Foundation (HRF) in relation to four operations financed by the EIB in Israel: three are intermediated lending operations (*Israel Loan for SMEs and Mid-Caps and Green Transition*; *Financial Inclusion and Green Transition Facility* and *Financial Inclusion Guarantee Facility*) and one is a loan for an infrastructure project (*Tel Aviv Light Rail Transit Green Line*).

In its complaint, the HRF pointed out that the four operations involve companies that are included in a database created by the United Nations (UN), which lists all business enterprises carrying out certain specified activities in the Palestinian territories occupied by Israel (UN database). The complainant alleges that, by continuing its financial support to those companies, the EIB is violating its obligations under international law, especially those stemming from the advisory opinion of the International Court of Justice (ICJ) dated 19 July 2024. The complainant requested that the EIB immediately suspend its financial support to the four operations.

Taking into account the scope of its remit in accordance with the EIB Group Complaints Mechanism Policy, the EIB-CM has identified the complainant's allegations as follows:

- i. EIB's failure to comply with its obligations under international law;
- ii. EIB's failure to adopt adequate safeguards to prevent the misuse of its funds for activities in the OPT.

After reviewing the available information, the EIB-CM found that the first allegation is ungrounded, as the UN database and the ICJ's advisory opinion do not give rise to any obligation that is legally binding on the EIB. In any case, the EIB has structured the contracts relating to the four operations in Israel in a manner that ensures its alignment with the European Union's position not to recognise Israel's unlawful occupation of Palestinian territories and to differentiate, in all financial dealings with Israel, between the territory within Israel's pre-1967 borders and the territory unlawfully occupied by Israel in Palestine.

Regarding the second allegation, the EIB-CM found that the EIB, as part of its due diligence on the four operations in Israel, had properly identified the compliance risks that the operations entailed for the EIB. Moreover, the EIB-CM found that the EIB had put in place adequate contractual safeguards to prevent the misuse of its funds for activities related to unlawful settlements in the Palestinian territory occupied by Israel. However, the EIB-CM found that, at the time of registration of the complaint, there was room to strengthen the EIB's system of checks in the context of the implementation of the *Israel Loan for SMEs and Mid-Caps and Green Transition* (the only operation with allocations approved by then). In the course of the EIB-CM's inquiry, the EIB strengthened its system of checks of the allocations proposed for the EIB's approval. Therefore, at the time the complaint was submitted, the second allegation was partially grounded. Considering that appropriate measures have been taken to strengthen the EIB's system of checks, the EIB-CM does not issue any recommendation, but strongly encourages the EIB to continue applying the enhanced system of checks to all future allocations and transactions proposed by Bank Leumi, and in general to any operation involving entities listed in the UN database.

# 1 BACKGROUND

## 1.1 The operations concerned by the complaint

1.1.1 The complaint refers to four operations financed by the EIB in Israel (hereafter: the four operations in Israel).

1.1.2 Three of them are operations of intermediated lending, a financial instrument by which the EIB provides loans or guarantees to a financial institution, that is, the financial intermediary that undertakes to intermediate and on-lend the EIB's funds or guarantees to eligible entities, namely the final beneficiaries, to support the implementation of eligible sub-projects. Intermediated lending operations focus on specific policy goals, which underpin the definition of the eligibility criteria for the allocation of EIB financing. Specifically, the complaint refers to the three following intermediated lending operations (hereafter: the intermediated lending operations):

- i. ***Israel Loan for SMEs and Mid-Caps and Green Transition*** (Reference: 2022-0476)<sup>2</sup>:  
This is a Multiple Beneficiary Intermediated Loan (MBIL) to the financial intermediary Bank Leumi Le-Israel B.M. (hereafter: Bank Leumi). The aim of the operation is to finance investments undertaken by small and medium-sized enterprises (SMEs) and by medium capitalisation companies (mid-caps) in Israel, focusing on climate change mitigation and adaptation, environmental sustainability, as well as on economic resilience and generation of employment in the aftermath of the COVID-19 pandemic. The operation was approved on 14 December 2022, for a loan amount of €500m, extended from the EIB's own resources. The finance contract with Bank Leumi was signed on 31 December 2022. A side letter to the contract set out the eligibility criteria and the allocation procedures for the financing of sub-projects promoted by the final beneficiaries.
- ii. ***Financial Inclusion and Green Transition Facility*** (Reference: 2023-0550)<sup>3</sup>:  
This operation is another MBIL to the financial intermediary Bank Leumi. The objective of the operation is to increase access to long-term financing for SMEs and mid-caps owned or led by the Arab-Israeli minority in underserved areas in Israel, with at least 30% of the loan focusing on businesses owned or led by women. Moreover, at least 20% of the loan shall finance sub-projects contributing to climate action and environmental sustainability objectives.  
The operation was approved on 28 November 2023 for a loan amount of €250m, extended from the EIB's own resources. The finance contract with Bank Leumi was signed on 31 December 2023 and a side letter set out the eligibility criteria and the allocation procedures.
- iii. ***Financial Inclusion Guarantee Facility*** (Reference: 2023-0888)<sup>4</sup>:  
This operation consists of a Partial Portfolio Guarantee (PPG), by which the EIB shares the risk with respect to a portfolio of debt financing granted by Bank Leumi to micro, small and medium-sized enterprises (MSMEs) in Israel. The portfolio of Bank Leumi included under the PPG will target businesses owned or led by women and by young entrepreneurs, as well as startups. The EIB's PPG is covered by the European Fund for Sustainable Development (EFSD) Guarantee<sup>5</sup>, which requires that the EIB implement the guarantee facility at hand

<sup>2</sup> Project summary on the EIB website: [Israel Loan for SMEs and Mid-Caps and Green Transition](#).

<sup>3</sup> Project summary on the EIB website: [Financial Inclusion and Green Transition Facility](#).

<sup>4</sup> Project summary on the EIB website: [Financial Inclusion Guarantee Facility](#).

<sup>5</sup> The creation of the EFSD was provided for by the EU External Investment Plan, a programme to foster investments in Africa and the European Neighbourhood. [Regulation \(EU\) 2017/1601](#) of 26 September 2017 (EFSD Regulation) established the EFSD, the EFSD Guarantee and the EFSD Guarantee Fund. According to the EFSD Regulation, the EFSD is managed by the European Commission, which shall work in close cooperation with the EIB, supported by other eligible counterparts, as regards the operational management of the EFSD Guarantee. Such guarantee is meant to back financing and investment operations in EU partner countries in Africa and the European Neighbourhood.

## EIB Group Complaints Mechanism — Conclusions Report

complying with the rules and conditions provided for in the Financial Regulation<sup>6</sup> of the European Union (EU) in relation to the implementation of the EU budget via indirect management.

The operation was approved on 8 January 2024 for an amount of €11m and the guarantee agreement with Bank Leumi was signed on 17 June 2024.

### 1.1.3 The fourth operation concerns the design, finance, construction and maintenance of the **Tel Aviv Light Rail Transit Green Line** (Reference: 2019-0281)<sup>7</sup>.

The project aims to improve the quality and attractiveness of public transport in Tel Aviv and its highly populous metropolitan area. The Green Line is part of the Tel Aviv Mass Transit Strategic Plan of 2016, which provides for an extensive mass transit network consisting of three Light Rail Transit lines and three metro lines and supports the shift of traffic to a more sustainable transport mode.<sup>8</sup>

The promoter of the project is the State of Israel and the borrower of the EIB's loan is TMT-TLV Metropolitan Tramway Ltd (TMT)<sup>9</sup>. TMT is a Special Purpose Vehicle (SPV) specifically created for the project, whose shareholders are Dan Public Transportation Company Ltd (40.05%), Electra Ltd (40.05%), and Alstom Transport SA<sup>10</sup> (19.90%).

The EIB's loan for this project was approved on 15 November 2023, for an amount of €250m. The finance contract with the borrower TMT was signed on 14 December 2023.

## 1.2 The complaint

### 1.2.1 On 12 August 2025, the EIB-CM received a complaint on the four operations described above, submitted by the civil society organisation Hind Rajab Foundation.<sup>11</sup>

### 1.2.2 The complainant alleges that, by continuing to provide its financial support to those operations, the EIB is disregarding the 'ruling' of the International Court of Justice of 19 July 2024<sup>12</sup>, which, among others, imposes that all steps be taken *"to prevent trade or investment relations that assist in the maintenance of the illegal situation created by Israel in the Occupied Palestinian Territory."* The complainant considers that said obligation applies to all States and international organisations formed by these States, including the European Union. According to the complainant, the obligation applies to the EIB too, given that *"[The EIB] as the lending arm of the European Union, is responsible to uphold the legal duties of the European Union that follow from the international obligations of the European Union and its Member States."* The complainant puts forward that the obligation set out by the ICJ has implications for all persons

---

In January 2020, the European Commission and the EIB signed an agreement for the granting to the EIB of an EFSD Guarantee for the programme "SME Access to Finance Initiative", targeting SMEs, underserved entrepreneurs with a particular focus on young entrepreneurs, female entrepreneurs, startups and certain other groups in specific target countries. In June 2020, the EIB approved a Global Authorisation [COVID-19 SME Access to Finance Initiative](#), to provide Partial Portfolio Guarantees (PPGs) to local banks and other financial intermediaries under the EFSD Guarantee "SME Access to Finance Initiative". The *Financial Inclusion Guarantee Facility* operation is a PPG falling under the mentioned Global Authorisation.

<sup>6</sup> Article 11 of the EFSD [Regulation \(EU\) 2017/1601](#) prescribes that the EIB, and other eligible counterparts of the European Commission in the operational management of the EFSD Guarantee, have to comply with the rules and conditions provided for in Article 60 of Regulation (EU, Euratom) No 966/2012 (the old Financial Regulation). This reference – which should now be read as a reference to Article 62(1)(c) of the current Financial Regulation No [2024/2509](#) – lists the bodies on which the European Commission relies for the implementation of the EU budget via indirect management, including the EIB.

<sup>7</sup> Project summary on the EIB website: [Tel Aviv Light Rail Transit Green Line](#).

<sup>8</sup> In the financing proposal submitted to the EIB's governing bodies, the project was described as follows: *"The Green Line is designed to link the western areas of Herzliya and the north-eastern areas of Tel Aviv with Holon and the eastern area of Rishon LeZion through Tel Aviv city centre. [...] The line will connect the southern and northern parts of the metropolis with the Tel Aviv centre, supporting the future development of the main business district in northwest Tel Aviv and western Herzliya and allowing access to business centres in Ramat HaHayal, Tel Aviv University, Holon, Rishon LeZion, and Herzliya Pituah."*

<sup>9</sup> The project's implementation is assigned to the NTA Metropolitan Mass Transit System (NTA), established in 1997 by the Israeli government to find a solution to the growing problem of traffic congestion in the Tel Aviv metropolitan area. NTA is a limited company entirely owned by the State of Israel. NTA is in charge of the design and construction of the mass transit system for the Tel Aviv metropolitan area. In 2022, NTA signed with TMT the project agreement for the design, build, finance and maintenance of the Light Rail Transit Green Line.

<sup>10</sup> Alstom Transport SA is a wholly-owned subsidiary of Alstom SA.

<sup>11</sup> [Hind Rajab Foundation](#). The complaint is dated 20 June 2025.

<sup>12</sup> [ICJ's advisory opinion](#) of 19 July 2024.

and entities doing business with companies that are engaged in activities that assist Israel in maintaining its unlawful presence in the Occupied Palestinian Territory (OPT). The complainant refers to the UN database, produced by the UN Office of the High Commissioner for Human Rights (OHCHR), which lists all business enterprises involved in certain specified activities related to the Israeli settlements in the OPT.<sup>13</sup>

- 1.2.3 The complainant highlights that the operations described above and financed by the EIB involve business enterprises listed in the UN database<sup>14</sup> and that, by continuing its financial involvement with said enterprises, the EIB is breaching its obligations under international law, as established by the ICJ and by the UN database, and is incurring severe reputational and legal risks.
- 1.2.4 Additional specific allegations are raised in the complaint for each EIB-financed operation.
- 1.2.5 With regard to the operation *Israel Loans for SMEs and Mid-Caps and Green Transition*, the complainant underlines that the EIB's financial intermediary Bank Leumi is listed in the UN database due to its role in facilitating the expansion and maintenance of the Israeli settlements in the OPT. The complainant puts forward that, since receiving EIB funding under the referenced operation, Bank Leumi would have financed multiple SMEs and green transition projects in the illegal settlements in the OPT<sup>15</sup>; According to the complainant, by providing financial support to Bank Leumi's activities in the illegal settlements, the EIB is facilitating Israel's systematic campaign of territorial fragmentation and control over the OPT.
- 1.2.6 With regard to the operation *Financial Inclusion and Green Transition Facility*, the complainant raises the same allegation as for the previous operation, that is, that the EIB is providing a substantial amount of public funds to Bank Leumi, despite the latter's inclusion in the UN database. Specifically, the complainant criticises the EIB for not having put in place adequate safeguards to prevent the misuse of its funds for unlawful and unethical development activities in the OPT. According to the complainant, the references to financial inclusion and green transition would distort the fact that, in reality, the EIB's funds indirectly sustain Israel's settlement expansion.
- 1.2.7 Concerning the operation *Financial Inclusion Guarantee Facility*, the complainant alleges that the EIB's guarantee to Bank Leumi supports a company that is listed in the UN database and that continues to fund housing and infrastructure projects in Israeli settlements in the OPT. The complainant quotes other non-governmental organisations, who have found that the EIB's due diligence relies heavily on self-reporting by the EIB's clients, rather than on a proper, independent verification by the EIB itself.
- 1.2.8 With regard to the infrastructure project of the *Tel Aviv Light Rail Transit Green Line*, the complainant alleges that parts of the Tel Aviv Light Rail network, particularly the Red and Green lines, pass through or connect settlements considered illegal under international law. By financing the Green Line, the EIB would therefore contribute to the maintenance and expansion of Israel's illegal settlements by means of essential infrastructure. The complainant also raises concerns about the involvement in the project financed by the EIB of Electra, a company listed in the UN database for activities in the OPT.

---

<sup>13</sup> [UN database](#).

<sup>14</sup> The complainant's exact wording is "UN blacklisted entities"

<sup>15</sup> Such reported investments by Bank Leumi, of which the complainant provides a detailed list, mostly concern loans for projects in the Israeli settlements in the OPT, relating to the construction of housing units, industrial sites, hotels, residential complexes and public buildings. In addition, the complainant refers to investments made by Bank Leumi with regional and local councils of the Israeli settlements in order to develop infrastructure and public facilities and provide municipal services to the residents of such settlements. Lastly, the complainant flags that Bank Leumi is financing the construction of the Blue Line Project of the Jerusalem Light Rail network, which connects Israeli settlements in occupied East Jerusalem, the centre of the city and its western side.

## EIB Group Complaints Mechanism — Conclusions Report

- 1.2.9 In the light of the above arguments, the complainant urges the EIB to immediately suspend further financial cooperation with the entities listed in the UN database and to conduct a full compliance review of its partners in the operations in Israel, in view of aligning its investments with the European Union's commitments to international law and human rights.
- 1.2.10 Taking into account the scope of the EIB-CM's remit pursuant to the EIB Group Complaints Mechanism Policy (hereafter: the EIB-CM Policy)<sup>16</sup>, and based on the text of the complaint, the EIB-CM has identified the following two allegations as falling within the scope of the present compliance review:
- i. EIB's failure to comply with its obligations under international law, with particular reference to the ICJ advisory opinion of July 2024 and the UN database;
  - ii. EIB's failure to adopt adequate safeguards to prevent the misuse of its funds for activities in the OPT.

## 1.3 Work performed

- 1.3.1 On 13 August 2025, the EIB-CM acknowledged receipt of the complainant's email of 12 August 2025. By its email of 10 September 2025, the EIB-CM informed the HRF that, following an assessment of admissibility, its complaint had been registered under the reference number SG/G/2025/01. By the same email, the EIB-CM informed the HRF of the limitations to the scope of its mandate deriving from Article 4.3.4 of the EIB-CM Policy, which states that assessing the financing decisions of the EIB does not fall within the EIB-CM's remit.<sup>17</sup>
- 1.3.2 Following the preliminary assessment of the complaint, the EIB-CM conducted an initial meeting with the EIB services concerned by the case SG/G/2025/01, to explain the scope of the allegations (see paragraph 1.2.10) and gather background information. Subsequently, the EIB-CM engaged bilaterally with each of the EIB services concerned, in order to collect more detailed information and documentation. The EIB-CM continued to engage with key EIB services throughout the investigation to discuss its emerging findings and the way forward.
- 1.3.3 For each of the four operations in Israel, the EIB-CM reviewed the relevant internal documents, including those related to the EIB's due diligence and to the contractual obligations, the disbursement records and system of checks. The EIB-CM also analysed the framework applicable to the ICJ and the UN database, as well as relevant provisions adopted by the European Union for its financial dealings with Israeli entities.
- 1.3.4 Based on the review of all available information and documents, the EIB-CM prepared this Conclusions Report on the complaint.
- 1.3.5 For the sake of completeness, the EIB-CM notes that another inquiry is pending on the EIB's operations involving Israeli entities listed in the UN database. The inquiry was opened on 2 October 2025 by the European Ombudsman and is currently ongoing.<sup>18</sup>

---

<sup>16</sup> The EIB Group Complaints Mechanism Policy, available [here](#). See in particular Article 4.3.4 thereof.

<sup>17</sup> Article 4.3.4 of the EIB Group Complaints Mechanism Policy, available [here](#). In accordance with this provision, the EIB's decisions to finance the four operations in Israel and to engage with Bank Leumi as financial intermediary for its intermediated lending in Israel cannot be subject to the EIB-CM's compliance review.

<sup>18</sup> European Ombudsman's Case [1462/2025/VB](#) "How the European Investment Bank (EIB) dealt with concerns about EIB-financed projects involving Israeli entities involved in activities in the occupied territories"

## 2 REGULATORY FRAMEWORK

### 2.1 The EIB Group Complaints Mechanism

- 2.1.1 The EIB-CM Policy tasks the EIB-CM with handling complaints concerning alleged maladministration by the EIB<sup>19</sup>. Maladministration means poor or failed administration, and it occurs when the EIB fails to act in accordance with a rule or principle that is binding upon it, including its own policies, standards, and procedures.
- 2.1.2 An example of maladministration indicated in the EIB-CM Policy is the failure by the EIB to comply with its own obligations in the appraisal and monitoring of the projects it finances.<sup>20</sup> The EIB-CM Policy also specifies that the concept of maladministration includes failure by the EIB to comply with human rights<sup>21</sup>, with applicable law or with the principles of good administration.<sup>22</sup>
- 2.1.3 According to the EIB-CM Policy, the EIB-CM reviews the EIB's activities with a view to determining whether maladministration attributable to the EIB has taken place<sup>23</sup>. Article 4.3.4 of the EIB-CM Policy, however, provides for the following limitation to the scope of the EIB-CM's review: *“Complaints concerning the investment mandate of the EIB Group, its financing or investment decisions per se, its credit policy, or other related, purely commercial or banking discretionary decisions are not handled by the EIB-CM.”*
- 2.1.4 Lastly, it is important to recall Article 6.1.4 of the EIB-CM Policy, according to which *“Complaints submitted to the EIB-CM do not have a suspensive effect on the actions/omissions and decisions challenged. Nevertheless, during the handling of the complaint, if deemed necessary, the EIB-CM may address the EIB Management Committee or the EIF Chief Executive, with specific recommendations if applicable.”*

### 2.2 The EU Treaties and the EIB Statute

- 2.2.1 The EIB is a body of the European Union established by Article 308 of the Treaty on the Functioning of the European Union (TFEU)<sup>24</sup>. The EIB has legal personality, separate from that of the European Union, and it is administered and managed by its own governing bodies. The EIB has financial autonomy, having its own budget and resources. The members and shareholders of the EIB are the Member States of the European Union. The Statute of the EIB (EIB's Statute)<sup>25</sup> is annexed as a Protocol (No 5) to the EU Treaties and it forms an integral part of such treaties.
- 2.2.2 The task of the EIB, as set out in Article 309 TFEU, is to contribute to achieving the European Union's objectives.<sup>26</sup> The EIB's Board of Governors (EIB's BoG) lays down the general directives of the EIB's credit policy in accordance with such objectives and that determines the

<sup>19</sup> Article 5.1.3 of the EIB Group Complaints Mechanism Policy, available [here](#).

<sup>20</sup> Article 3.1 of the EIB Group Complaints Mechanism Policy, available [here](#).

<sup>21</sup> For the projects it finances, the EIB Group follows a rights-based approach reflecting the principles of the Charter of Fundamental Rights of the European Union and the UN Universal Declaration of Human Rights.

<sup>22</sup> Article 3.2 of the EIB Group Complaints Mechanism Policy, available [here](#).

<sup>23</sup> Article 5.3.3 of the EIB Group Complaints Mechanism Policy, available [here](#).

<sup>24</sup> Treaty on the Functioning of the European Union (consolidated version), available [here](#).

<sup>25</sup> EIB's Statute, available [here](#).

<sup>26</sup> Under Article 309 TFEU, the task of the EIB is to contribute, by having recourse to capital markets and utilising its own resources, to the balanced and steady development of the internal market in the interest of the European Union. For this purpose, the EIB, operating on a non-profit-making basis, finances various projects, in all sectors of the economy, in particular projects of common interest to several Member States which are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States.

Article 7(2) of the EIB's Statute provides that *“The [EIB's] Board of Governors shall lay down general directives for the credit policy of the Bank, in accordance with the Union's objectives. The Board of Governors shall ensure that these directives are implemented.”*

## EIB Group Complaints Mechanism — Conclusions Report

principles applicable to the EIB's financing operations.<sup>27</sup> The decisions in respect of the granting of finance for specific investment operations, in the form of loans and guarantees, are taken by the EIB's Board of Directors (EIB's BoD) upon proposal by the EIB's Management Committee (EIB's MC).<sup>28</sup> Before approval, the proposals for the EIB's financing of an investment require a positive opinion from the European Commission and from the Member State in whose territory the investment will be carried out.<sup>29</sup>

- 2.2.3 The EIB mostly grants finance for investments to be carried out in the territories of the Member States. However, by decision of the EIB's BoG, the EIB may also grant financing for investments to be carried out outside such EU territories.<sup>30</sup>

## 2.3 The EIB Group Environmental and Social Sustainability Framework and the EIB's approach to human rights

- 2.3.1 In February 2022, the EIB BoD adopted the EIB Group Environmental and Social Sustainability Framework (ESSF), consisting of the EIB Group Environmental and Social Policy (EIB E&S Policy)<sup>31</sup> and of the EIB Environmental and Social Standards (E&S Standards)<sup>32</sup>.

- 2.3.2 The ESSF guides how the EIB integrates environmental and social considerations in all its financing activities. In particular, the E&S Standards outline the requirements that all EIB-financed operations must meet.

- 2.3.3 Regarding human rights, the preamble of the EIB E&S Policy clarifies that the policy is guided by the Charter of Fundamental Rights of the European Union and by the fundamental rights and freedoms recognised by the European Convention on Human Rights, as well as the principles of the Universal Declaration of Human Rights and the EU Global Human Rights Sanctions Regime.<sup>33</sup>

- 2.3.4 Article 4.15 of the EIB E&S Policy provides that: *"The EIB pursues an integrated human rights-based approach to its ECS [Environmental, Climate and Social] due diligence and monitoring. It conducts a human rights-responsive due diligence process whereby impacts and risks are screened and assessed against its E&S Standards, which in turn are grounded in human rights principles. The process is guided by considerations of likelihood, frequency, and severity of human rights impacts, thereby ordering the prioritisation of mitigation measures."*

- 2.3.5 In February 2023, the EIB issued an information note on "The European Investment Bank's approach to human rights"<sup>34</sup>, with the purpose of informing stakeholders about the EIB's commitment to respecting and promoting human rights in its lending operations and of describing the EIB's approach to avoiding and addressing the human rights impacts and risks of its investments.

- 2.3.6 The information note clarifies that the EIB does not have a standalone human rights policy, but has embedded its obligations and commitments to respect and promote human rights into its

<sup>27</sup> Articles 7(2) and 7(3)(b) of the EIB's Statute, available [here](#).

<sup>28</sup> Articles 9(1), 11(3) and 19(3) of the EIB's Statute, available [here](#). In 2018, the EIB adopted a Lending Delegation Framework whereby the financing of certain operations, identified according to specific criteria, are approved by the EIB's Management Committee acting upon delegation of the EIB's BoD.

<sup>29</sup> Article 19, paragraphs (2), (6) and (7) of the EIB's Statute, available [here](#).

<sup>30</sup> Articles 7(3)(d) and 16(1) of the EIB's Statute, available [here](#).

<sup>31</sup> The EIB Group Environmental and Social Policy, available [here](#).

<sup>32</sup> The EIB Group Environmental and Social Standards, available [here](#).

<sup>33</sup> The EIB Group Environmental and Social Policy, available [here](#). See point 15 of the Preamble and references quoted therein.

<sup>34</sup> [EIB's approach to human rights](#).

existing policies. Among them, the already mentioned EIB E&S Policy and E&S Standards and the EIB Group excluded activities list are noteworthy for the present inquiry.<sup>35</sup>

- 2.3.7 In line with the UN Guiding Principles on Business and Human Rights (hereafter: the UN Guiding Principles)<sup>36</sup>, the EIB's approach to human rights states that the EIB seeks to identify and understand the risks to human rights in the projects it finances, to avoid and address them and, where necessary, adopt the appropriate remediation measures. The EIB is committed to undertaking a human rights-responsive E&S due diligence, and to monitoring its operations for the timely identification, prevention and mitigation of adverse impacts on human rights.

## 3 FINDINGS

### 3.1 Allegation 1: EIB's failure to comply with its obligations under international law

- 3.1.1 In the first allegation, the complainant questions the EIB's compliance with international law on the grounds that, with the four operations in Israel, the EIB is providing financial support to companies that are listed in the UN database due to their activities in the OPT. By continuing to finance the four operations in Israel, the EIB would be disregarding the recommendation by the ICJ to prevent trade or investment relations that assist Israel in maintaining its unlawful presence in the OPT.

- 3.1.2 Assessment of the present allegation requires first examining the scope and legal effects of the UN database of business enterprises involved in specified activities in the OPT and of the ICJ's advisory opinion of 19 July 2024, relied on by the complainant. Moreover, it appears important to describe the relationship between the EU legal system and the United Nations, as well as the special provisions adopted by the European Union for its financial dealings with Israeli entities.

#### **i. The UN database of business enterprises involved in specified activities in the OPT**

- 3.1.3 The creation in 2020 of the UN database<sup>37</sup> was the outcome of a process that started in 2012, when the UN Human Rights Council (HRC)<sup>38</sup> decided to establish an independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the OPT, including East Jerusalem.<sup>39</sup> In 2013, the mission issued its report<sup>40</sup> which, among other aspects, assessed the impact of business enterprises on the rights of Palestinian people in the OPT and identified a number of business activities that raise particular human rights violations concerns (hereafter: specified activities).<sup>41</sup> As part of its recommendations, the mission called upon the

<sup>35</sup> [EIB Group excluded activities](#).

<sup>36</sup> [UN Guiding Principles on Business and Human Rights](#).

<sup>37</sup> [UN database](#).

<sup>38</sup> The HRC, established by [Resolution 60/251](#) adopted on 3 April 2006 by the UN General Assembly, is an intergovernmental body within the UN system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and making recommendations on them.

<sup>39</sup> [Resolution 19/17](#) adopted on 10 April 2012 by the HRC "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan", see in particular paragraph 9 thereof.

<sup>40</sup> [Report of the independent international fact-finding mission](#) to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, issued on 7 February 2013.

<sup>41</sup> The business activities identified as problematic for their human rights implications on Palestinian people in the OPT are listed in paragraph 96 of the [Report of the independent international fact-finding mission](#) and they include:

- *The supply of equipment and materials facilitating the construction and the expansion of settlements and the wall, and associated infrastructures*
- *The supply of surveillance and identification equipment for settlements, the wall and checkpoints directly linked with settlements*

## EIB Group Complaints Mechanism — Conclusions Report

UN Member States to take appropriate measures to ensure that business enterprises domiciled in their territory or under their jurisdiction, that conduct activities in the settlements, respect human rights throughout their operations.<sup>42</sup>

- 3.1.4 In 2016, in a follow-up to the mission's report, and considering it as a necessary step for the implementation of the mission's recommendation regarding the impact of business enterprises on the rights of Palestinians in the OPT, the HRC requested the UN OHCHR<sup>43</sup> to produce a database of all business enterprises involved in specified activities in the OPT and to update it annually.<sup>44</sup> The OHCHR produced the first version of the UN database in 2020, with a list of 112 business enterprises involved in the specified activities in the OPT.<sup>45</sup> The UN database was updated in 2023<sup>46</sup>, and in 2024 the OHCHR reviewed the methodology for updating the UN database.<sup>47</sup> The OHCHR issued the latest update of the UN database on 26 September 2025, with a list of 158 business enterprises involved in specified activities in the OPT.<sup>48</sup>
- 3.1.5 In the report accompanying the 2025 update of the UN database, the OHCHR recalls that the primary normative framework for assessing the potential involvement of business enterprises in the specified activities in the OPT is provided by the UN Guiding Principles.<sup>49</sup> In addition, the OHCHR makes reference to the ICJ's ruling of July 2024<sup>50</sup>, on which more is said below (see from paragraph 3.1.7 onwards).
- 3.1.6 The OHCHR clarifies that a business enterprise is included in the UN database where there are reasonable grounds to believe, on the basis of the totality of the reviewed information, that such enterprise is involved in one or more of the specified activities in the OPT (see footnote 41). The same standard of proof applies for the removal of a business enterprise from the UN database.<sup>51</sup> In addition, the OHCHR explains that the inclusion of a business enterprise in the UN database does not have any legal implication per se and that the database is meant to serve as an information tool that can assist States, business enterprises and other stakeholders

- 
- *The supply of equipment for the demolition of housing and property, the destruction of agricultural farms, greenhouses, olives groves and crops*
  - *The supply of security services, equipment and materials to enterprises operating in settlements*
  - *The provision of services and utilities supporting the maintenance and existence of settlements, including transport*
  - *Banking and financial operations helping to develop, expand or maintain settlements and their activities, including loans for housing and the development of businesses*
  - *The use of natural resources, in particular water and land, for business purposes*
  - *Pollution, and the dumping of waste in or its transfer to Palestinian villages*
  - *Captivity of the Palestinian financial and economic markets, as well as practices that disadvantage Palestinian enterprises, including through restrictions on movement, administrative and legal constraints*
  - *Use of benefits and reinvestments of enterprises owned totally or partially by settlers for developing, expanding and maintaining the settlements"*

<sup>42</sup> [Report of the independent international fact-finding mission](#), paragraph 117.

<sup>43</sup> The OHCHR was established by [Resolution 48/141](#) adopted on 7 January 1994 by the UN General Assembly. The High Commissioner for Human Rights is the UN official with principal responsibility for UN human rights activities.

<sup>44</sup> [Resolution 31/36](#) adopted on 24 March 2016 by the HRC "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan", paragraph 17.

<sup>45</sup> [Report 43/71](#) issued on 28 February 2020 by the OHCHR, laying down the 2020 UN database of business enterprises involved in specified activities in the OPT.

<sup>46</sup> [2023 update of the UN database](#) of business enterprises involved in specified activities in the OPT.

<sup>47</sup> [Report 57/21](#) issued on 2 August 2024 by the OHCHR.

<sup>48</sup> [Report 60/19](#) issued on 26 September 2025 by the OHCHR, with the 2025 update of the UN database of business enterprises involved in specified activities in the OPT.

<sup>49</sup> [UN Guiding Principles on Business and Human Rights](#). The UN Guiding Principles were developed by the Special Representative of the UN Secretary General on the issue of human rights and transnational corporations and other business enterprises and presented to the HRC in the Special Representative's [Report 17/31](#) of 21 March 2011. The HRC endorsed the Guiding Principles in its [Resolution 17/4](#) of 6 July 2011. Paragraph 31 of the Special Representative's [Report 60/19](#), on the 2025 update of the UN database, clarifies that the UN database relies in particular on the part of the Guiding Principles stating that the corporate responsibility to respect human rights requires that business enterprises (a) avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; and (b) seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

<sup>50</sup> [Report 60/19](#) on the 2025 update of the UN database, paragraph 13.

<sup>51</sup> [Report 60/19](#) on the 2025 update of the UN database, paragraphs 25-26.

in complying with their obligations under international law, notably concerning the respect of internationally recognised human rights.<sup>52</sup>

## ii. The ICJ's advisory opinion of 19 July 2024

- 3.1.7 The ICJ, established by Article 92 of the Charter of the United Nations (UN Charter)<sup>53</sup>, serves as the principal judicial organ of the United Nations. According to its Statute<sup>54</sup>, the ICJ performs two main functions: on the one hand, it has contentious jurisdiction on any dispute referred to it by UN Member States, which the ICJ shall adjudicate in accordance with international law<sup>55</sup>. On the other hand, the ICJ has jurisdiction to give advisory opinions on any legal questions at the request of a body authorised to do so by the UN Charter, primarily by the General Assembly or the Security Council<sup>56</sup>. Unlike the ICJ's decisions adjudicating legal disputes, the ICJ's advisory opinions are not binding and do not produce any legal effect per se, leaving the requesting body free to decide what consequences to draw from such opinions.<sup>57</sup>
- 3.1.8 On 19 July 2024, the ICJ issued an advisory opinion on the "Legal consequences arising from the policies and practices of Israel in the occupied Palestinian territory, including East Jerusalem" (hereafter: the ICJ's advisory opinion).<sup>58</sup> The ICJ's advisory opinion was rendered on two questions addressed by the UN General Assembly and related to the legal consequences of Israel's presence in the OPT<sup>59</sup>. The ICJ found that the continued presence of Israel in the OPT is illegal and that Israel's policies and practices in the OPT are in breach of international law, which entails Israel's international responsibility. Subsequently, the ICJ outlines the legal consequences deriving from its findings for Israel, for the other Member States of the United Nations and for the United Nations.<sup>60</sup>
- 3.1.9 The statement from the ICJ's advisory opinion that is quoted in the complaint is part of the legal consequences that the Court has identified for the other Member States of the United Nations (that is, other than Israel). The statement can be read in paragraph 278: "[...] *the Court is of the view that Member States are under an obligation [...] to distinguish in their dealings with Israel between the territory of the State of Israel and the Palestinian territory occupied since 1967. The Court considers that [such duty] encompasses, inter alia, the obligation [...] to take steps to prevent trade or investment relations that assist in the maintenance of the illegal situation*

<sup>52</sup> [Report 60/19](#) on the 2025 update of the UN database, paragraph 16: "The work on the present update does not purport to constitute a judicial or quasi-judicial process of any kind, nor does it provide any legal characterization of the listed activities or business enterprises' involvement therein. It is designed to serve as a tool to inform States, business enterprises and other stakeholders of where there are reasonable grounds to believe that a company is involved in one or more of the listed activities and to assist them in complying with their respective legal obligations and responsibilities under international law."

<sup>53</sup> The Charter of the United Nations or [UN Charter](#) is the founding document of the United Nations. It was signed in San Francisco on 26 June 1945 and came into force on 24 October 1945.

<sup>54</sup> The [Statute of the International Court of Justice](#) is annexed to and forms an integral part of the UN Charter.

<sup>55</sup> Statute of the ICJ, Articles 36-38.

<sup>56</sup> Statute of the ICJ, Articles 65-68. Charter of the United Nations, Article 96, paragraph 1. With regard to the ICJ's advisory jurisdiction, the requesting authority shall address to the Court an exact statement of the legal question, together with any relevant supporting documents. All States and international organisations considered by the ICJ are notified of the request and can submit written or oral statements. It is at the Court's discretion to assess whether the legal question falls within its advisory jurisdiction or whether there are reasons to decline to answer the question.

<sup>57</sup> More information on the ICJ's advisory jurisdiction is available on the [ICJ's website](#).

<sup>58</sup> [ICJ's advisory opinion](#) of 19 July 2024.

<sup>59</sup> [Resolution 77/247](#) adopted by the UN General Assembly on 30 December 2022. The two questions submitted to the advisory jurisdiction of the ICJ are laid down in paragraph 18 of the resolution:

*"(a) What are the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem, and from its adoption of related discriminatory legislation and measures?"*

*"(b) How do the policies and practices of Israel referred to in paragraph 18 (a) above affect the legal status of the occupation, and what are the legal consequences that arise for all States and the United Nations from this status?"*

The statement of the two questions makes reference to the need to consider the rules and principles of international law, including the UN Charter, international humanitarian law, international human rights law, relevant resolutions of the Security Council, the General Assembly and the Human Rights Council, and the [ICJ's advisory opinion of 9 July 2004](#) (concerning the "Legal consequences of the construction of a wall in the Occupied Palestinian Territory").

<sup>60</sup> [ICJ's advisory opinion](#) of 19 July 2024, paragraphs 265-266.

## EIB Group Complaints Mechanism — Conclusions Report

*created by Israel in the Occupied Palestinian Territory [...]”.* An additional statement made by the ICJ with regard to the States of the United Nations is contained in paragraph 279: “[...] [Member States] are also under an obligation not to render aid or assistance in maintaining the situation created by Israel’s illegal presence in the Occupied Palestinian Territory.” The ICJ concludes its advisory opinion by declaring in paragraph 282 that the precise modalities to bring to an end Israel’s unlawful presence in the OPT are a matter to be dealt with by the UN General Assembly and the UN Security Council, taking into account the Court’s advisory opinion.

- 3.1.10 On 19 September 2024, the UN General Assembly adopted a resolution endorsing the findings and recommendations laid down in the ICJ’s advisory opinion<sup>61</sup>. The UN General Assembly, among other things, calls upon all States to comply with their obligations under international law, as reflected in the ICJ’s advisory opinion, such as: the obligation not to recognise as legal the situation arising from the unlawful presence of Israel in the OPT, the obligation not to render aid or assistance in maintaining such situation and the obligation to distinguish, in their dealings with Israel, between Israel and the Palestinian territory occupied since 1967. Furthermore, the UN General Assembly calls upon international organisations, including the United Nations, and regional organisations not to recognise as legal the situation arising from the unlawful presence of Israel in the OPT, and to distinguish, in their relevant dealings, between Israel and the OPT.
- 3.1.11 According to the UN Charter, the UN General Assembly’s resolutions can address recommendations to the UN Member States, but such recommendations do not have legally binding effects.<sup>62</sup> Only the UN Security Council has the power to decide what measures and actions shall be taken to restore international peace and security in the presence of a threat, and the UN Member States are bound to carry out such measures and actions.<sup>63</sup> Following the ICJ’s advisory opinion of July 2024, the UN Security Council has not adopted any resolution on the Court’s findings and recommendations. Therefore, as of end 2025, the findings and recommendations in the ICJ’s advisory opinion have not been translated into legal acts producing direct binding effects on Israel, on other States of the United Nations, and on the United Nations.

### iii. The relationship between the European Union and the United Nations

- 3.1.12 The European Union is not a party to the United Nations. In the international context, the European Union is a regional organisation of 27 members, which cooperates closely with the United Nations and enjoys enhanced observer status.<sup>64</sup> This relationship means that resolutions or decisions adopted within the system of the United Nations do not produce any direct legal effect on the European Union, which is subject to its own legal system.
- 3.1.13 The European Union has a Common Foreign and Security Policy (CFSP), the rules of which are laid down in Title V of the Treaty on EU (TEU)<sup>65</sup>. The TEU provides that, among other things, the European Union’s action on the international scene shall be guided by respect of the principles of the UN Charter and international law. In addition, the TEU prescribes that the European Union shall develop relations and build partnerships with third countries and

<sup>61</sup> [Resolution 10/24](#) adopted by the UN General Assembly on 19 September 2024 “Advisory opinion of the International Court of Justice on the legal consequences arising from Israel’s policies and practices in the Occupied Palestinian Territory, including East Jerusalem, and from the illegality of Israel’s continued presence in the Occupied Palestinian Territory.”

<sup>62</sup> [UN Charter](#), Article 10.

<sup>63</sup> [UN Charter](#), Articles 39-42.

<sup>64</sup> Already in 1974, the European Economic Community was invited to participate in the sessions and work of the UN General Assembly in the capacity of observer (see [Resolution 3208 \(XXIX\)](#) of 11 October 1974 by the UN General Assembly “Status of the European Economic Community in the General Assembly”). In 2011, the European Union was granted enhanced observer status, which enables it to make interventions at sessions of the UN General Assembly in order to present the positions of the European Union and its Member States. The representatives of the European Union do not have the right to vote on or co-sponsor draft resolutions or decisions (see [Resolution 65/276](#) of 10 May 2011 by the UN General Assembly “Participation of the European Union in the work of the United Nations”).

<sup>65</sup> TEU, consolidated version available [here](#), Article 21 *et seq.*

international organisations, and shall promote multilateral solutions to common problems, particularly in the framework of the United Nations.

- 3.1.14 The European Union conducts its CFSP within the Council of the European Union, which defines the general guidelines and adopts decisions on joint actions and common positions of the European Union in this area. In the presence of resolutions by the UN Security Council, the Council of the European Union can consider necessary to implement such resolutions at EU level by adopting a common position and indicating any further actions and measures that the European Union should take.<sup>66</sup>
- 3.1.15 The case-law of the Court of Justice of the European Union (CJEU)<sup>67</sup> has clarified that UN Security Council resolutions and common positions of the Council of the European Union originate from distinct legal orders and are adopted by organs with autonomous powers, granted to them by their founding treaties. The European Union recognises the primacy of UN Security Council resolutions at the international level and will align with their wording and purpose, but such resolutions cannot produce legal effects within the EU legal system unless the European Union autonomously legislates on them in accordance with EU law.
- 3.1.16 With regard to the ICJ's advisory opinion of 19 July 2024, the High Representative of the Union for Foreign Affairs and Security Policy<sup>68</sup> released a statement on 20 July 2024, declaring that the ICJ's conclusions "*are largely consistent with EU positions, which are themselves fully aligned on UN resolutions regarding the status of the Occupied Palestinian Territory. [...] The ICJ Advisory Opinion will need to be analysed more thoroughly, including in view of its implications for EU policy.*"<sup>69</sup>
- 3.1.17 As already mentioned (see paragraph 3.1.11), the UN Security Council has not adopted any resolution following the ICJ's advisory opinion of 19 July 2024, with which the European Union would have to align in view of its implementation in the EU legal system.

#### iv. The EC Guidelines on the eligibility of Israeli entities for EU support

- 3.1.18 The European Union has a long-standing position of non-recognition of Israel's post-1967 presence in Palestine, of rejection of the legitimacy of Israeli settlements in the OPT and of support for the right of Palestinian people to self-determination. Such position has been expressed in a number of formal statements, Council conclusions and declarations.<sup>70</sup>
- 3.1.19 In July 2013, ahead of the launch of the European Union's multi-annual financial framework (MFF) 2014-2020<sup>71</sup>, the European Commission adopted a set of guidelines laying down the eligibility requirements for the award of EU support to Israeli entities or to their activities<sup>72</sup> (hereafter: the EC Guidelines). The EC Guidelines have the declared purpose "*to ensure the respect of EU positions and commitments in conformity with international law on the non-recognition by the EU of Israel's sovereignty over the territories occupied by Israel since June 1967.*" Additionally, the EC Guidelines state that "[...] *The EU's Foreign Affairs Council has*

<sup>66</sup> Under the CFSP, the European Union could decide for instance to interrupt or reduce economic and financial relations with a third country, or to adopt restrictive measures against natural or legal persons and groups or non-State entities. Such decision would be implemented in accordance with Article 215 TFEU (consolidated version available [here](#)).

<sup>67</sup> Judgment of the CJEU of 16 November 2011 in case C-548/09 P, *Bank Mellat v Council*, ECLI:EU:C:2011:735, paragraphs 100-106.

<sup>68</sup> The High Representative of the Union for Foreign Affairs and Security Policy was established by Article 27 of the Treaty on European Union (TEU, consolidated version available [here](#)).

<sup>69</sup> Statement of 20 July 2024 by the High Representative of the Union for Foreign Affairs and Security Policy available [here](#).

<sup>70</sup> [Venice declaration](#) of 13 June 1980, [Madrid conclusions](#) of 26-27 June 1989, [Berlin declaration](#) of 24-25 March 1999, [Council conclusions on the Middle East peace process](#) of 8 December 2009.

<sup>71</sup> The EU MFF is the European Union's long-term financial planning tool, that defines the European Union's spending priorities, limits and rules over a period of seven years. The MFF 2014-2020 included major funding programmes like *Horizon 2000*.

<sup>72</sup> Notice from the European Commission 2013/C 205/05 of 19 July 2013 "Guidelines on the eligibility of Israeli entities and their activities in the territories occupied by Israel since June 1967 for grants, prizes and financial instruments funded by the EU from 2014 onwards" (available [here](#)).

## EIB Group Complaints Mechanism — Conclusions Report

*underlined the importance of limiting the application of agreements with Israel to the territory of Israel as recognised by the EU.*<sup>73</sup>

- 3.1.20 The EC Guidelines apply to EU support in the form of grants, prizes or financial instruments which may be awarded to Israeli entities or to their activities in the OPT.<sup>74</sup> With regard to EU financial instruments, Israeli entities are considered eligible **as final recipients** (1) if their place of establishment is within Israel's pre-1967 borders<sup>75</sup> and, concerning their activities and operations, (2) if they do not operate in the OPT.<sup>76</sup> An Israeli entity, which applies for an EU financial instrument, shall submit a declaration on honour that its application as a final recipient of such instrument complies with the described conditions of eligibility.<sup>77</sup> Among other things, the European Commission undertakes to ensure the described eligibility conditions of Israeli entities are included in the calls for selection of financial intermediaries or dedicated investment vehicles published by the bodies entrusted with budget implementation tasks under indirect management.<sup>78</sup>
- 3.1.21 It appears from the above that, by adopting the EC Guidelines, the European Union ensured that its financial instruments and practical funding rules vis-à-vis Israeli entities are consistent with its foreign policy commitments and with international law. In particular, the eligibility conditions for Israeli entities set by the EC Guidelines are aligned with the legal consequences outlined by the ICJ in its advisory opinion of 19 July 2024, that is, the duty not to recognise as legal the situation arising from the unlawful presence of Israel in the OPT, the duty not to render aid or assistance in maintaining such situation and the duty to distinguish, in dealings with Israel, between Israel and the Palestinian territory occupied since 1967. Actually, the EC Guidelines adopt a comprehensive approach to such findings, in that the eligibility of Israeli entities and their activities for EU financial instruments is subject not only to the formal requirement of being established within Israel's pre-1967 borders, but also to the substantial requirement of not operating in the OPT.
- 3.1.22 For the purposes of the present compliance review, it is worth noting that the European Commission has issued a list of answers to the most frequently asked questions regarding the EC Guidelines, and among them one point refers specifically to the EIB and its intermediated lending to an Israeli bank having branches in the OPT: the European Commission clarifies that such operation is permitted provided that the Israeli bank is not the final recipient of the EIB's financing and that the actual final recipients declare that they do not operate in the OPT.<sup>79</sup>

<sup>73</sup> EC Guidelines, available [here](#), Articles 1 and 3.

<sup>74</sup> Concerning financial instruments, the EC Guidelines specify in Article 6(c) that they apply to dedicated investment vehicles, financial intermediaries and sub-intermediaries, and to final recipients. In addition, Article 7 states that the EC Guidelines apply also to financial instruments managed by bodies entrusted with budget implementation tasks in accordance with Article 58(1)(c) of the Financial Regulation. This reference – which should now be read as a reference to Article 62(1)(c) of the current Financial Regulation [2024/2509](#) – lists the bodies on which the European Commission relies for the implementation of the EU budget via indirect management, including the EIB.

<sup>75</sup> EC Guidelines, available [here](#), Articles 9 and 10. It is clarified that the place of establishment is the legal address where the entity is registered, as confirmed by a precise postal address corresponding to a concrete physical location, and excluding the use of a post office box.

<sup>76</sup> EC Guidelines, available [here](#), Article 12(b).

<sup>77</sup> EC Guidelines, available [here](#), Article 16(b).

<sup>78</sup> EC Guidelines, available [here](#), Article 20.

<sup>79</sup> [FAQs on EC Guidelines](#). See in particular question no 4:

*“Q. A big Israeli bank with branches in the territories wishes to receive a loan from the European Investment Bank but this loan is not intended for the use of the bank as the final recipient but rather to be passed on to Israeli companies. Does the fact that the bank has branches in the territories make it ineligible to receive such a loan?”*

*A. No. Provided that the bank is not the final recipient of the loan it will still be eligible to receive it from the European Investment Bank. However, the Israeli companies that will be the final recipient of the loan will need to declare that they do not operate in the territories either in the framework of the EU-funded activity or in any other way.”*

## v. Assessment of Allegation 1

- 3.1.23 In assessing the complainant's first allegation, the EIB-CM has taken into account the above considerations on the various legal instruments invoked by the complainant.
- 3.1.24 Concerning the EIB's financing decisions related to the four operations in Israel, the EIB-CM reiterates that it is outside the scope of its mandate, as defined by the EIB-CM Policy<sup>80</sup>, to review the merits of such decisions. The aspects of the EIB's financing that the EIB-CM investigates concern the way in which the EIB carried out its due diligence in the appraisal of the operations concerned and the EIB's due diligence during the implementation of said operations. For the four operations in Israel, these aspects will be reviewed as part of the assessment of the second allegation (see next section).
- 3.1.25 Regarding the complainant's first allegation, the EIB-CM is of the view that it is incorrect to conclude that, by continuing its financial involvement with certain Israeli companies listed in the UN database, the EIB would be violating international law applicable to it and disregarding the ICJ's advisory opinion. As analysed above (see paragraphs 3.1.6 and 3.1.7), the UN database and the ICJ's advisory opinion are instruments without legally binding effects and therefore they do not create an obligation for the EIB to suspend its financing for the four operations in Israel.
- 3.1.26 Notwithstanding this conclusion, it is important to note that the EIB has structured the four operations in Israel in a manner that is aligned with international law and with the European Union's position on Israel's presence in the OPT. Regarding the three intermediated lending operations, the EIB has integrated in the contracts with Bank Leumi the requirements set by the EC Guidelines for the territorial eligibility of final recipients (on this, more will be explained below, see from paragraph 3.2.9 onwards). Concerning the infrastructure project of the Green Line in Tel Aviv, the project is entirely located within Israel's pre-1967 borders.

## 3.2 Allegation 2: EIB's failure to adopt adequate safeguards to prevent the misuse of its funds for activities in the OPT

- 3.2.1 The EIB-CM notes that, in several statements made throughout the complaint (see paragraphs 1.2.5, 1.2.6, 1.2.7, 1.2.8 above and references cited therein), the complainant is alleging that the EIB's financing for the four operations in Israel is used or risks being used for settlement-related activities in the OPT, which would indirectly facilitate Israel's strategy of territorial fragmentation and control over the OPT. In order to capture the complainant's concern, it seems therefore appropriate to formulate a second allegation that refers to the presumed failure by the EIB, in the context of the four operations in Israel, to adequately prevent the misuse of its funds for activities in the OPT.
- 3.2.2 In reviewing the second allegation, the EIB-CM's approach will be to examine, firstly, the due diligence carried out by the EIB's services on the four operations in Israel before the approval of their financing by the EIB's governing bodies, looking also at the safeguards put in place to prevent any identified compliance risks in those operations. Secondly, the EIB-CM will verify whether the EIB performs adequate checks on the implementation of the four operations in Israel.

---

<sup>80</sup> Article 4.3.4 of the EIB Group Complaints Mechanism Policy, available [here](#).

### i. The EIB's due diligence at appraisal on the four operations in Israel

3.2.3 As per standard EIB procedures, the EIB's services carried out their due diligence on the four operations in Israel in view of the submission of the relevant financing proposals to the EIB's governing bodies. The EIB's due diligence focuses on various aspects (economic, financial, technical, environmental and social, procurement, etc.), including the operations' objectives and their expected results in terms of contribution to the achievement of specific public policy goals. For the intermediated lending operations, the EIB's due diligence assesses, among others, Bank Leumi's financial soundness, governance quality and capacity to on-lend the EIB's financing to eligible final beneficiaries and sub-projects. For the purposes of the present compliance review, the EIB-CM will limit its review to the aspects of the EIB's due diligence that are directly relevant to the assessment of the complainant's second allegation.

#### a) Due diligence for the intermediated lending operations

3.2.4 The outcomes of the due diligence carried out by the EIB's services for the three intermediated lending operations are very similar, at least for the aspects that matter for this compliance review. The EIB-CM will therefore present the common features and highlight differences, where relevant.

3.2.5 The due diligence on the operation *Israel Loan for SMEs and Mid-Caps and Green Transition* took place between May and November 2022, the one on the operation *Financial Inclusion and Green Transition Facility* took place between May and November 2023, and the due diligence on the operation *Financial Inclusion Guarantee Facility* took place between November 2023 and December 2024. Following the attacks by Hamas of 7 October 2023 and the ensuing war in Gaza, the EIB's competent services flagged to the EIB's governing bodies an increased geopolitical risk for the operations with Bank Leumi.

3.2.6 In connection with the **country-related aspects** of the assessment, the due diligence on the operation *Israel Loan for SMEs and Mid-Caps and Green Transition* highlighted from a **human rights** perspective that, according to the Freedom House 2021 Global Freedom Score (GFS)<sup>81</sup>, Israel is rated as 'free', but that there are issues of discrimination against Arab-Israeli citizens within the territory of Israel. It was reported that, according to international non-governmental organisations, a matter of concern is the particularly severe repression of Palestinians in the West Bank and East Jerusalem, as well as sporadic episodes of intercommunal violence in mixed Israeli cities. Later, the due diligence on the operation *Financial Inclusion and Green Transition Facility* added, among other things, that the humanitarian situation in Gaza was deteriorating. Finally, the due diligence on the operation *Financial Inclusion Guarantee Facility* reported that the European Union had restated its support for humanitarian corridors and for the substantial expansion of humanitarian assistance to Gaza, that it had qualified as concerning the extent of aerial bombing in Gaza, that it would continue to endorse a political solution to the conflict through a two-state solution and that it would continue to work for a peace conference and a post-war Gaza not ruled by Hamas or reoccupied by the Israeli Defence Force. The EIB's services underlined that the proposed operations were based within the internationally recognised territory of Israel and its pre-1967 borders.

3.2.7 Regarding the assessment of the **compliance risks of the financial intermediary**, the due diligence highlighted that Bank Leumi was not exposed to EU or UN sanctions, did not involve Politically Exposed Persons nor had any involvement in the commission of serious crimes within the meaning of the 4<sup>th</sup> Anti-Money Laundering Directive<sup>82</sup>. The competent EIB services

<sup>81</sup> [Freedom House](#) is a US-based non-profit organisation focusing on democracy, political freedom and human rights worldwide. It releases annual reports, among which is the "Freedom in the World" report where countries are rated as *free*, *partly free* or *not free* based on political rights and civil liberties. The rating of Israel is available here: [Countries and Territories | Freedom House](#).

<sup>82</sup> This verification complies with the [EIB Group Anti-Money Laundering \(AML\) and Combatting the Financing of Terrorism \(CFT\) Policy](#), which is based, among others, on the European Union's AML/CFT framework. The 4<sup>th</sup> AML Directive, or Directive (EU) 2015/849, has in the meantime been replaced by [Directive \(EU\) 2024/1640](#).

considered that the information that Bank Leumi had provided upon EIB's request did not raise particular concerns regarding Anti-Money Laundering and Combating the Financing of Terrorism.

- 3.2.8 In the due diligence for each intermediated lending operation, the EIB's competent services highlighted that Bank Leumi was listed in the **UN database** in relation to certain activities it conducts in the OPT (such as, among others, providing financing to local authorities in the settlements; providing financing to Israeli construction companies building infrastructure and housing in the settlements in the OPT; operating branches in several settlements in the OPT). They specified that Bank Leumi was first listed in 2020 and was included again in the 2023 update of the database. The services clarified that, while the settlements in the OPT are regarded by the European Union and by the United Nations as illegal under international law, the UN database does not provide a legal characterisation of the specified activities in the OPT or the business entities involved in them. Therefore, any impact would remain mostly reputational. The services also reported that several pension funds decided to divest from Bank Leumi in recent years due to the described involvement in the OPT. The recommendation following this compliance due diligence was that the competent EIB services should monitor any developments in relation to Bank Leumi's involvement in the settlements in the OPT, in view of a potential new compliance assessment.<sup>83</sup>
- 3.2.9 It appears from the due diligence documentation that the EIB's services did consider the issue of how to prevent the EIB funds, lent to Bank Leumi as financial intermediary of these operations, from being used to finance settlement-related activities in the OPT. This topic was addressed also in the context of the consultations between the competent EIB services and the European Commission pursuant to Article 19 of the EIB Statute<sup>84</sup>. When submitting the two MBIL operations to the EIB's governing bodies for financing approval, the EIB's services announced that *"Adequate provisions will be inserted in the relevant agreements so as to ensure compliance with the EU Guidelines with regard to the eligibility of Israeli entities and their activities in the territories occupied by Israel since June 1967, notably that the final beneficiaries of this operation are Israeli entities located within Israel's pre-1967 borders and that proceeds under the loan are not used to finance economic activities in Israeli settlements within the Occupied Palestinian Territory."*
- 3.2.10 The EIB-CM verified the finance contracts between the EIB and Bank Leumi for the operations *Israel Loan for SMEs and Mid-Caps and Green Transition* and *Financial Inclusion and Green Transition Facility*, which both prescribe that the EIB's loans can be used by Bank Leumi for the financing of sub-projects which comply with a **number of eligibility criteria**. Among them, the EIB-CM considers that the most relevant in the context of the present compliance review are the eligibility criteria requiring that:
- i. the final beneficiaries of the EIB's financing are registered within Israel's pre-1967 borders;
  - ii. the final beneficiaries comply with the EC Guidelines;
  - iii. the sub-projects are located within Israel's pre-1967 borders.
- 3.2.11 The contractual documentation prescribes the rules for the submission and validation of allocation proposals, that is the procedure according to which a certain sub-project, carried out by a certain final beneficiary and financed by Bank Leumi, can be proposed by the latter to the EIB and be considered eligible for EIB financing in the context of the operation at hand. Following the submission by Bank Leumi of an allocation proposal, the contract provides that the EIB verifies the proposal's compliance with the eligibility criteria specified in the finance contract and retains the right to check the consistency of the data provided and to ask Bank

<sup>83</sup> In the due diligence documentation on the operation *Financial Inclusion Guarantee Facility*, the EIB's services added that, since the attacks of 7 October 2023, there was a marked increase in violent actions carried out by Israeli settlers in the West Bank and that, in November 2023, the EU High Representative denounced these attacks and warned that they take place many times under protection from the Israeli police and military.

<sup>84</sup> Article 19 of the EIB's Statute, available [here](#).

## EIB Group Complaints Mechanism — Conclusions Report

Leumi for additional information for clarification purposes. The EIB shall then validate the allocation proposal submitted by Bank Leumi by way of a “Letter of Allocation”, but it reserves the right to reject sub-projects which do not comply with the EIB’s requirements and is not obliged to provide a written justification for rejection.

- 3.2.12 Concerning the other intermediated lending operation *Financial Inclusion Guarantee Facility*, fully financed by the EU budget, the due diligence documentation does not mention the need to insert contractual provisions ensuring compliance with the EC Guidelines, since they are already directly applicable to this operation. As mentioned above (see paragraph 1.1.2iii), the guarantee facility at hand benefits from an EFSD Guarantee granted by the European Union in accordance with the EFSD Regulation<sup>85</sup>, which means that the EIB must implement such guarantee facility complying with the rules and conditions provided for in the EU Financial Regulation<sup>86</sup> for the implementation of the EU budget via indirect management. All financial instruments managed by bodies entrusted with budget implementation tasks such as the EIB must comply with the EC Guidelines.<sup>87</sup> Notwithstanding the described direct applicability of the EC Guidelines, in the contractual documentation of the EIB’s Guarantee Agreement with Bank Leumi, the final recipients’ compliance with the EC Guidelines is included among the eligibility criteria that a transaction must meet in order to benefit from the EIB’s guarantee under the operation at hand.
- 3.2.13 Additional eligibility criteria in the finance contracts require that Bank Leumi’s final beneficiaries are active in an eligible sector, identified by reference to a list of NACE codes<sup>88</sup> provided by the EIB to the financial intermediary; and that the final beneficiaries are not involved in any of the EIB’s excluded activities<sup>89</sup>.

#### b) Due diligence for Tel Aviv Light Rail Transit Green Line

- 3.2.14 The EIB’s due diligence for the infrastructure project *Tel Aviv Light Rail Transit Green Line* took place between August and November 2023<sup>90</sup>.
- 3.2.15 Concerning the **compliance risks** assessment of the project, the EIB’s competent services referred to the **war in Gaza**, which at the time of the completion of the EIB’s due diligence on the project had been ongoing for a month. It was reported that the European Union, in an official statement released on 15 October 2023<sup>91</sup>, had strongly emphasised Israel’s right to defend itself in line with humanitarian and international law and reiterated the importance to ensure the protection of all civilians at all times. The EIB’s services underlined that the proposed project was based within the internationally recognised territory of Israel and its pre-1967 borders (see map in Annex).

<sup>85</sup> EFSD [Regulation \(EU\) 2017/1601](#).

<sup>86</sup> Article 11 of EFSD [Regulation \(EU\) 2017/1601](#) refers to Article 60 of Regulation (EU, Euratom) No 966/2012 (the old Financial Regulation), which should now be read as a reference to Article 62(1)(c) of the current Financial Regulation No [2024/2509](#).

<sup>87</sup> EC Guidelines, available [here](#), Article 7.

<sup>88</sup> NACE stands for *Nomenclature statistique des activités économiques dans la Communauté Européenne*, (Statistical Classification of economic activities in the European Community). NACE codes are the European Union’s official classification system for economic activities. They are defined by Eurostat and they provide a standardised way to classify businesses and industries across the European Union.

<sup>89</sup> [EIB Group excluded activities](#). The contractual documentation contains a list of the activities ineligible for financing under the three intermediated lending operations, which is very much aligned with the list of the EIB Group excluded activities, adding certain details.

<sup>90</sup> At that time, the construction of the new Green Line of the LRT network in Tel Aviv had already begun, notably with Phase 1 consisting of early works for clearing the swept path of the LRT lines of utilities and constructing key elements such as bridges and tunnels. The EIB’s financing was requested for Phase 2, concerning the completion of the Green Line, with the construction of the remaining civil and structural works, the installation of mechanical, electrical and plumbing works, railway systems and the provision of rolling stock.

<sup>91</sup> [Statement](#) of 15 October 2023 by the Members of the European Council on the situation in the Middle East.

- 3.2.16 The other considerations on the **human rights** situation in Israel were similar to those made in the due diligence documentation of the three intermediated lending operations (see paragraph 3.2.6 above).
- 3.2.17 As part of the compliance risks assessment, the competent EIB services examined the profile of the SPV TMT. They found that it was not exposed to EU or UN sanctions and that there was one Politically Exposed Person involved in it, for whom however there was no information giving rise to specific integrity concerns. Certain integrity concerns were raised in relation to the SPV's shareholder Alstom Transport.
- 3.2.18 The due diligence documentation also flagged that two of the SPV's shareholders, Electra Limited and Alstom Transport SA, were included in the **UN database** due to their activities in the OPT. The EIB's competent services explained that Electra Limited had been listed because of the following activities in the OPT: construction of housing units, trains and road networks; operation of bus lines servicing Israeli settlements and a water treatment plant in the West Bank. Such involvement in the OPT reportedly led to several funds deciding to divest from Electra Limited in recent years. They added that Electra Limited reportedly has close links with the Israeli military, being part of a consortium awarded the construction of an army training base in the Negev region. Regarding Alstom Transport SA, the EIB's services clarified that it was included in the UN database because of the following activities in the OPT: several types of involvement in the Jerusalem Light Rail system, such as the construction and equipment of the Red Line and the bidding for the construction of the planned Blue Line; the supply of equipment to the Tel Aviv-Jerusalem railway. Like in the due diligence documentation for the intermediated lending operations (see paragraph 3.2.8 above), the competent EIB services explained that being on the UN database does not entail any legal characterisation for a company or for the activities it carries out in the OPT, and that the impact for the EIB in dealing with companies included in the UN database remains mostly reputational.
- 3.2.19 In light of the described compliance risks, it was recommended that adequate provisions be inserted in the relevant contractual documentation to ensure that the promoter and the borrower comply with all UN, EU, US and UK sanctions laws and regulations. The EIB-CM was able to ascertain that such provisions have actually been inserted in the EIB's finance contract with the SPV TMT. It was also recommended that the competent EIB services monitor any further developments concerning the involvement of the SPV's shareholders in the OPT.
- 3.2.20 In the course of its inquiry, the EIB-CM gathered additional information on the measures adopted following the outcome of the due diligence on the project. The EIB's services involved in the negotiation and drafting of the finance contract between the EIB and TMT have highlighted the presence of a number of contractual clauses – that the EIB-CM has verified – ensuring that the proceeds of the EIB loan will be used for the sole purpose of financing the execution of the project, that is for the design, finance, construction, maintenance and transfer of the Green Line in Tel Aviv. In addition, the contractual documentation includes an undertaking on TMT to implement and operate the project in line with the EIB's E&S Standards which, as mentioned above (see paragraphs 2.3.3 and 2.3.4), are human rights-based.

### **c) Assessment of the EIB's due diligence at appraisal on the four operations in Israel**

- 3.2.21 The overall assessment by the EIB-CM of the EIB's due diligence on the four operations in Israel (for the aspects that are directly relevant to the second allegation) is that the EIB's competent services adequately identified the compliance risks connected with the situation in Israel, the involvement of companies listed on the UN database, and the need to comply with the EC Guidelines in order to meet the criterion of territorial differentiation in commercial dealings with Israeli entities.

## EIB Group Complaints Mechanism — Conclusions Report

- 3.2.22 Concerning the three intermediated lending operations, it appears that the EIB has put in place reasonably adequate safeguards to prevent all or part of its funds from being used to support activities in the OPT related to the unlawful Israeli settlements. In particular, the described risk has been addressed by including compliance with the EC Guidelines among the criteria for eligibility for the EIB's support of the allocations and transactions submitted by Bank Leumi (see paragraphs 3.2.10 and 3.2.12 above). On the scope and meaning of the EC Guidelines, see paragraphs 3.1.20 to 3.1.22 above.
- 3.2.23 Regarding the *Tel Aviv Light Rail Transit Green Line* project, it is necessary to point out its geographical location, as that rail line does not “*pass through or connect*” illegal Israeli settlements in the OPT. It appears from the project documentation that the Green Line serves only the metropolitan area of Tel Aviv and is entirely located within the territory of Israel as it is recognised by the international community (see map in Annex).-The detailed information in the project's due diligence documentation about the location of the project and its impacts on daily mobility in the Tel Aviv metropolitan area, as verified by the EIB's competent services, leads the EIB-CM to exclude any connection of the project with the settlements in the OPT. It cannot therefore be concluded that, by financing the Tel Aviv tram line, the EIB would be assisting or favouring Israel's illegal presence in the OPT.
- 3.2.24 Moreover, the EIB-CM finds that the clauses inserted in the EIB's finance contract with the SPV TMT adequately prevent the EIB funds from being redirected to purposes that are not strictly related to the project in question, which helps avoid the risk that the EIB's financing is used for activities in the OPT involving the illegal Israeli settlements.

### **ii. The EIB's due diligence during the implementation of the four operations in Israel**

#### **Preliminary remark**

- 3.2.25 The EIB-CM reiterates its findings in relation to the first allegation that, by continuing its financial involvement in the four operations in Israel, the EIB does not violate international law applicable to it (see paragraph 3.1.25 above). Also, as presented above, the EIB-CM found that the due diligence carried out by the EIB's services before the financing approvals of the four operations in Israel allowed the identification of the main compliance risks and that sufficient safeguards were put in place in the contractual documentation to ensure that the EIB's financing could not be used for activities in the OPT related to Israel's illegal settlements (see paragraphs 3.2.21 to 3.2.24 above).
- 3.2.26 At the same time, however, receiving HRF's complaint made the EIB even more aware that, in the existing critical geopolitical context, very strict checks were needed to ensure that the EIB is at all times accountable and in control about the use of its financing by Israeli entities.
- 3.2.27 As announced (see paragraph 3.2.2 above), the second part of the EIB-CM's review of the second allegation will therefore focus on whether the EIB, in the implementation of the four operations in Israel, performs adequate checks on the safeguards that it put in place to prevent the identified risk that EIB funds are used to support settlement-related activities in the OPT.
- 3.2.28 It is noted incidentally that, due to the relevance and timeliness of the HRF's complaint, the EIB-CM shared at an early stage with the EIB's services the emerging findings of its investigation into the complainant's allegations, so that, where necessary, appropriate measures could be identified and implemented without delay, to increase even more the rigour of the EIB's checks on the use of its funds by the concerned Israeli entities.

**The EIB's checks on the implementation of the intermediated lending operations**

3.2.29 With regard to the three intermediated lending operations, the EIB-CM has reviewed (i) the actual allocations approved by the EIB in the context of the three operations at hand; (ii) the system of checks originally put in place by the competent EIB services to verify the compliance of the allocations proposed by Bank Leumi with the eligibility criteria set by the EIB; and (iii) the enhancements made to the system of checks on the allocations by Bank Leumi that the EIB's competent services have adopted following the complaint by the HRF.

**a) Bank Leumi's allocations approved by the EIB**

3.2.30 From the documentation that the EIB-CM could review in the first stages of its inquiry, it results that the EIB approved the first two allocations submitted by Bank Leumi on 13 December 2024, and two additional allocations on 28 May 2025. All four allocations fall under the operation *Israel Loan for SMEs and Mid-Caps and Green Transition* and their cumulative amount is €16.5m. The four allocations involve three final beneficiaries.

3.2.31 On 24 November 2025, the EIB approved additional 35 allocations submitted by Bank Leumi under the same intermediated lending operation, for a cumulative amount of €107.5m. These allocations involve 35 final beneficiaries.

3.2.32 As of 26 November 2025, the cut-off date for this report, the total amount allocated by Bank Leumi and approved by the EIB in the context of the intermediated lending operation *Israel Loan for SMEs and Mid-Caps and Green Transition* is therefore of €124m, against a total loan amount disbursed by the EIB to Bank Leumi of €500m.

3.2.33 As of 26 November 2025, Bank Leumi has not submitted any allocation for the operation *Financial Inclusion and Green Transition Facility*, nor any transaction in relation to the operation *Financial Inclusion and Guarantee Facility*.

**b) The original system of checks**

3.2.34 The EIB's competent services explained that, when the EIB enters into intermediated lending operations, it sets up an automated system of checks making it possible to verify whether the allocations proposed by the financial intermediary comply with the eligibility criteria prescribed in the relevant finance contract. The financial intermediary receives by email from the EIB an electronic tool, the so-called Allocation Tool, that it shall use for transmitting to the EIB the information about the allocations submitted for approval.

3.2.35 As already explained (see paragraph 3.2.10 above), for the two intermediated lending operations with Bank Leumi *Israel Loan for SMEs and Mid-Caps and Green Transition* and *Financial Inclusion and Green Transition Facility*, the contractual documentation prescribed special eligibility criteria, the purpose of which was to ensure that the EIB's financing did not benefit business entities and/or activities in the OPT. For the record, to be eligible under the two operations at hand, the allocations proposed by Bank Leumi must concern final beneficiaries (i) that are registered within Israel's pre-1967 borders and (ii) that comply with the EC Guidelines. In addition, (iii) sub-projects must be located within Israel's pre-1967 borders.

3.2.36 With regard to the eligibility criterion (i), the EIB-CM could verify that the EIB's competent services use a postal code verification system to check whether the final beneficiaries' registered address is within Israel's pre-1967 borders.

3.2.37 It emerged during the EIB-CM's inquiry that the EIB adopted the postal code verification system following exchanges with the European Commission in the context of the consultations ex Article 19 of the EIB Statute. The European Commission faces the same need as the EIB when it comes to verifying the eligibility of Israeli entities for EU support in accordance with the EC

## EIB Group Complaints Mechanism — Conclusions Report

Guidelines, notably to ensure compliance with Articles 9 and 10 thereof. In order to identify whether an entity is registered or not within Israel's pre-1967 borders, the European Commission relies on the list of non-eligible locations published by the Directorate General for Taxation and Customs Union of the European Commission (DG TAXUD).<sup>92</sup> The list of non-eligible locations initially made public in August 2012 was subject to several updates in 2013, 2015, 2018, 2019, 2020, 2022, 2023, 2024 and 2025 to take account of a number of changes in the postal codes of the non-eligible locations.

- 3.2.38 At the end of 2022, when the EIB's competent services had to set up the system of checks for allocations submitted by Bank Leumi, the European Commission provided to the EIB the then applicable list of non-eligible locations in Israel, identified by the relevant postal codes. The EIB's competent services added a specific feature to an IT tool already in use, making it possible to insert all postal codes of non-eligible locations in Israel. When Bank Leumi submits a list of proposed allocations using the Allocation Tool received by the EIB, the relevant data are uploaded to the specifically adapted IT tool. If one of the proposed final beneficiaries has its registered address in a non-eligible location, the corresponding postal code will be flagged by the system as erroneous, and the relevant allocation will be blocked. The EIB's competent services gave to the EIB-CM a demonstration of the functioning of such feature.
- 3.2.39 Furthermore, the EIB's competent services were verifying the compliance of the allocations proposed by Bank Leumi with the eligibility requirement (iii) by requesting Bank Leumi to confirm by email that both the final beneficiaries and the sub-projects of the proposed allocations are located within Israel's pre-1967 borders. The EIB-CM was provided with evidence of such confirmatory email for the two allocations approved on 28 May 2025.

### ***c) The enhanced system of checks***

- 3.2.40 Following receipt of the HRF's complaint, the EIB-CM started examining the system of checks set up by the EIB's competent services to verify the compliance of the allocations proposed by Bank Leumi with the special eligibility requirements prescribed in the finance contracts, and specifically those designed to ensure that the EIB's funds were not used for activities in the OPT. It was therefore possible to detect at a very early stage, when only four allocations by Bank Leumi had been approved by the EIB (see paragraph 3.2.30 above), that such system of checks could be strengthened to further minimise the risk of misuse of EIB funds in the OPT.
- 3.2.41 The EIB-CM identified three aspects that could be enhanced: first, the EIB's postal code verification system (see paragraph 3.2.38 above) was still relying on the 2022 list of postal codes initially provided by the European Commission, without taking into account the updates of such list adopted in the meantime by DG TAXUD.
- 3.2.42 Following exchanges with the EIB-CM during the inquiry, the competent EIB services have taken the necessary steps to insert the most up-to-date list of postal codes in the relevant IT tool. As the technical update of the IT tool requires time, they have also run a manual check of all approved allocations by Bank Leumi against the latest list of postal codes. The EIB's services have confirmed, and the EIB-CM has verified on its own, that all 38 final beneficiaries of the approved allocations, up to the cut-off date of this report, are registered within Israel's pre-1967 borders and thus satisfy the eligibility criterion (i).
- 3.2.43 The second and third enhancements suggested by the EIB-CM to take into account the emerging findings of its inquiry are connected: on the one hand, the EIB-CM highlighted that

<sup>92</sup> The list of non-eligible locations has been created by DG TAXUD of the European Commission following a [Technical Arrangement between the European Union and Israel](#), to deal with certain technical issues concerning the implementation of the [EU-Israel Association Agreement](#). Products produced in the Israeli settlements located within the territories brought under Israeli administration since June 1967 are not entitled to benefit from preferential tariff treatment under the EU-Israel Association Agreement, hence the need to be able to identify with certainty the place of production of the products imported into the European Union.

the original system of checks did not allow the EIB to adequately verify Bank Leumi's compliance with the allocation eligibility requirement (ii) concerning the final beneficiaries' compliance with the EC Guidelines. Such requirement is very important because the EC Guidelines have made the eligibility of Israeli entities conditional not only on the place of their registration within Israel's pre-1967 borders, but also on the fact that they do not operate in the OPT. On the other hand, the EIB-CM found that the standard email communication to Bank Leumi for the verification of the allocation eligibility requirement (iii) about the location of the sub-projects within Israel's pre-1967 borders, did not appear to be sufficiently detailed and formal to prompt a fully informed, committing declaration on honour by Bank Leumi and thus ensure an adequate level of check.

- 3.2.44 Following the exchanges with the EIB-CM during the inquiry, the EIB's competent services prepared the text of a declaration that Bank Leumi would be asked to sign and submit to the EIB with each proposal of allocations under the intermediated lending operations. By that declaration, Bank Leumi formally confirms to the EIB that, based on the information it holds, the final beneficiaries are registered within Israel's pre-1967 borders [eligibility requirement (i)] and the sub-projects are located within Israel's pre-1967 borders [eligibility requirement (iii)]. Furthermore, in the same declaration Bank Leumi confirms having received from the final beneficiaries a declaration that they comply with the EC Guidelines [eligibility requirement (ii)], which implies, among others, that they do not operate in the OPT.<sup>93</sup>
- 3.2.45 Bank Leumi has already signed and submitted the new declaration for the allocations that the EIB approved on 24 November 2025 (see paragraph 3.2.31 above), and it has issued an ex post declaration also for the four allocations that the EIB had already approved on 13 December 2024 and 28 May 2025 respectively (see paragraph 3.2.30 above), that is, the EIB received the signed declaration from Bank Leumi for all allocations done up to the cut-off date of this report. Also, Bank Leumi has provided to the EIB's competent services samples of the declarations received from the final beneficiaries of those allocations, which confirm that they comply with the EC Guidelines. The EIB-CM has reviewed such declarations from the final beneficiaries and, overall, their wording appears satisfactory, with the exception of specific terminology that, for the sake of clarity, the EIB-CM suggested to replace for future allocations.
- 3.2.46 As an additional check, that is not strictly related to the allocation eligibility criteria defined in the finance contracts with Bank Leumi, both the EIB's competent services and the EIB-CM verified that none of the final beneficiaries of Bank Leumi's allocations is listed in the UN database, which gives further comfort that the EIB's funds are not used for settlement-related activities in the OPT.

### **The EIB's checks on the implementation of the Tel Aviv Light Rail Transit Green Line project**

- 3.2.47 With regard to the *Tel Aviv Light Rail Transit Green Line* project, the EIB's competent services have not reported to date any failure by the SPV TMT to comply with the contractual clauses that have the aim of preventing the use of the EIB's funds for purposes that are not strictly related to the project's implementation (see paragraph 3.2.20 above).
- 3.2.48 It results in particular that, before each disbursement to the SPV TMT and as envisaged in the contractual documentation, the EIB's competent services received from an independent technical advisor a certificate stating that the amounts to be disbursed by the EIB would be used for payments of works done under the contract for the construction of the Green Line.

---

<sup>93</sup> EC Guidelines, available [here](#), Article 12(b).

### **Assessment of the EIB's due diligence during the implementation of the four operations in Israel**

- 3.2.49 Overall, the EIB-CM considers that, based on the enhanced system of checks described in paragraphs 3.2.40 to 3.2.46 above, the EIB has now in place a reliable and comprehensive system to check that the allocations submitted by Bank Leumi in the context of the three intermediated lending operations comply with the eligibility criteria designed to prevent the misuse of EIB funds for settlement-related activities in the OPT (see paragraph 3.2.10 above).
- 3.2.50 Such system allows to check in a direct manner if the place of registration of the final beneficiaries is located within Israel's pre-1967 borders (eligibility criterion (i)), by means of the postal code verification tool. Importantly, the EIB has committed to use from now on the most up-to-date list of postal codes when checking future allocations submitted by Bank Leumi for approval.
- 3.2.51 Concerning the requirement that the sub-projects are located within the same pre-1967 borders (eligibility criterion (iii)), the EIB relies on a declaration on honour by Bank Leumi. By means of the same declaration, Bank Leumi confirms to the EIB having received from the final beneficiaries a declaration on honour that they comply with the EC Guidelines (eligibility criterion (ii)), and this mechanism indirectly reassures the EIB that the final beneficiaries do not operate in the OPT. It should be noted that the EC Guidelines allow to have recourse to declarations on honour by the final recipients of EU support to satisfy the European Commission that certain eligibility criteria are met, for instance those that would otherwise be very difficult to verify directly.<sup>94</sup>
- 3.2.52 The wording of both the declaration that Bank Leumi will have to submit to the EIB with each future proposal of allocations and the declaration that the final beneficiaries must submit to Bank Leumi has been enhanced, and the EIB has committed to use the enhanced declarations for all future allocations proposed by Bank Leumi. The EIB will perform sample checks on the information and documentation submitted by Bank Leumi regarding the proposed allocations. This includes sample checks of declarations received by Bank Leumi from the final beneficiaries, which the EIB may request if deemed necessary. Lastly, and although this is not part of the contractual eligibility criteria for the approval of the allocations, the EIB will consistently check whether the final beneficiaries of the allocations proposed by Bank Leumi are included in the UN database.
- 3.2.53 Following these improvements and commitments, the EIB-CM considers that the EIB's checks on the implementation of the intermediated lending operations have been brought to an acceptable standard of rigour to satisfy the EIB that its funds are not used improperly to finance settlement-related activities in the OPT.
- 3.2.54 Regarding the EIB's monitoring on the implementation of the *Tel Aviv Light Rail Transit Green Line* project, the EIB-CM is satisfied with the checks performed by the EIB before each disbursement, as they are described in paragraph 3.2.48. The EIB's checks help minimise the risk that the EIB's funds end up financing settlement-related activities in the OPT.

## **4 CONCLUSIONS AND OUTCOME**

- 4.1.1 After carrying out its compliance review on the complaint, the EIB-CM draws the following conclusions.
- 4.1.2 The main concern raised by the HRF in its complaint is that the EIB did not withdraw its financial support for the four operations in Israel, despite the fact that they involve certain Israeli

<sup>94</sup> EC Guidelines, available [here](#), Article 16(b).

companies that are listed in the UN database due to their activities in the OPT, and in spite of the ICJ's advisory opinion of July 2024 demanding that all States and international organisations avoid trade or investment relations that assist Israel in maintaining its illegal presence in the OPT. Moreover, the HRF put forward that the EIB did not put in place adequate safeguards to avoid that its funds are used to support activities in the OPT.

- 4.1.3 Recalling that it is not in the remit of the EIB-CM's mandate to review the EIB's financing decisions as such, it was considered that the most useful way to carry out the present compliance review was to extract from the HRF's complaint two distinct allegations, making it possible to scrutinise the manner in which the EIB has appraised the four operations in Israel and is checking their implementation.
- 4.1.4 The first allegation concerns the complainant's view that, by continuing to support the four operations in Israel, the EIB would be breaching its obligations under international law, stemming from the UN database and from the ICJ's advisory opinion of July 2024.
- 4.1.5 The EIB-CM's findings on the first allegation are as follows: the inclusion of a company in the UN database does not, as such, have any legal consequence, neither for the company concerned nor for third parties who establish business relationships with that company. Therefore, by signing finance or guarantee agreements with Bank Leumi and by maintaining indirect business relationships with other companies listed in the UN database, (as is the case for the *Tel Aviv Light Rail Transit Green Line* project), the EIB did not breach any of its international legal obligations.
- 4.1.6 Similarly, the ICJ's advisory opinion of July 2024 surely has an authoritative weight on the interpretation of international law, which is respected and taken into account also by the European Union. At the same time, however, it does not have any directly binding effects on the United Nations and its States, and even less on the European Union and on the EIB, which are not party to the United Nations.
- 4.1.7 This means that, by continuing its financial involvement in the four operations in Israel, the EIB is not breaching international law applicable to it. The first allegation appears to be ungrounded.
- 4.1.8 The second allegation identified by the EIB-CM as a general concern throughout the complaint refers to the manner in which the EIB handled its operations in Israel and in particular how, according to the HRF, it did not put in place adequate safeguards to prevent the misuse of its funds for activities in the OPT.
- 4.1.9 The EIB-CM has analysed, firstly, the due diligence carried out by the EIB's competent services on the four operations in Israel before the submission to the EIB's governing bodies of the relevant financing proposals. The EIB-CM's analysis of the EIB's due diligence at appraisal was limited to those aspects that were directly relevant to the allegation. The outcome of such analysis is that the EIB's due diligence enabled the identification of the main compliance risks of the operations, including the fact that they involved companies listed in the UN database. The EIB-CM considers appropriate also the manner in which the EIB decided to mitigate such compliance risks and to abide by the criterion of territorial differentiation enshrined in the EC Guidelines as the proper way to engage in business relations with Israeli entities.
- 4.1.10 As explained above for the first allegation, it appears that, to date, all resolutions and judicial acts adopted by the United Nations about Israel's unlawful presence in the OPT have no legally binding effects in the EU legal order. This does not mean, however, that the European Union has not equipped itself with autonomous legal instruments that are aligned with the United Nations' position on the matter and that reflect the European Union's commitments on the non-recognition of Israel's sovereignty over the territories it has occupied since 1967. The key instrument to that effect is the EC Guidelines on the eligibility of Israeli entities for EU support.

## EIB Group Complaints Mechanism — Conclusions Report

Significantly, the eligibility criteria laid down by the EC Guidelines aim to exclude from EU support entities that have their place of establishment in the territories occupied by Israel since June 1967 and/or that operate in such territories. This appears to perfectly mirror one of the key recommendations made by the ICJ in its advisory opinion of July 2024, according to which “Member States are under an obligation [...] to distinguish in their dealings with Israel between the territory of the State of Israel and the Palestinian territory occupied since 1967.”

- 4.1.11 The EIB has inserted in its contracts with Bank Leumi for the three intermediated lending operations the obligation to comply with the EC Guidelines when it comes to the identification of the allocations and transactions to submit to the EIB. (It should be noted incidentally that Bank Leumi is not the final recipient of the EIB’s financing). The EIB has therefore structured its contracts with Bank Leumi in a manner that aligns with the non-recognition by the United Nations and the European Union of Israel’s presence in the OPT and with the ICJ’s findings that all financial dealings with Israel should be confined to the territory within Israel’s pre-1967 borders. The same is true for the EIB’s financing of the Green Line of the Tel Aviv Light Rail Transit network, since the EIB has inserted in the finance contract a number of clauses ensuring that the EIB’s funds can only be used to finance this infrastructure project located in and benefiting a territory within Israel’s pre-1967 borders.
- 4.1.12 As a second step of its inquiry on the second allegation, the EIB-CM has reviewed the system of checks put in place by the EIB to ensure Bank Leumi’s compliance with the eligibility requirements inserted in the contractual documentation, and specifically those designed to apply the already mentioned criterion of territorial differentiation in business dealings with Israeli entities.
- 4.1.13 The EIB-CM found that, with regard to the operation *Israel Loan for SMEs and Mid-Caps and Green Transition* (the only intermediated lending operation for which allocations had been approved so far), the system of checks initially put in place by the EIB could be strengthened (although, upon an ex post verification, this did not lead to any non-compliance nor misuse of the EIB’s funds in the context of the four allocations approved by the EIB in December 2024 and in May 2025 under that operation; in particular, no final beneficiaries of that operation are listed in the UN database). Following receipt of the complaint and in the course of the inquiry, the EIB’s competent services implemented without delay measures to strengthen the system of checks on Bank Leumi’s allocations: they used the most updated postal codes to verify that the final beneficiaries have their place of registration within Israel’s pre-1967 borders [eligibility requirement (i)]; they requested Bank Leumi to sign an enhanced formal declaration certifying that the sub-projects are located within Israel’s pre-1967 borders [eligibility requirement (iii)] and that the final beneficiaries have declared to Bank Leumi that they do not operate in the OPT [eligibility requirement (ii)]. In addition, the EIB’s competent services verified that the final beneficiaries are not listed in the UN database.
- 4.1.14 The EIB-CM can therefore conclude that the EIB has currently in place adequate safeguards and has, at present, an appropriate system of checks to prevent the funds allocated by Bank Leumi in the context of the intermediated lending operations from being used to finance final beneficiaries and/or activities in the OPT. As stated, an ex post verification also confirms that the funds allocated by the EIB under the operation *Israel Loan for SMEs and Mid-Caps and Green Transition* were not used to finance final beneficiaries and/or activities in the OPT.
- 4.1.15 The structure, implementation and monitoring of the finance contract concerning the Tel Aviv Light Rail Transit Green Line appear to offer similar assurances.
- 4.1.16 The second allegation should therefore be regarded as partially grounded at the time the complaint was submitted, since the EIB’s system of checks of the allocations called for certain enhancements. Considering that such enhancements have been implemented to a satisfactory degree, the EIB-CM does not issue any recommendation, but strongly encourages the EIB to

continue applying the strengthened system of checks to all future allocations and transactions proposed by Bank Leumi under the three intermediated lending operations. The same should be done for any future operation involving entities listed in the UN database, especially intermediated lending operations.

EIB Complaints Mechanism  
13.04.2026

ANNEX

Map of Tel Aviv Light Rail Transit Green Line



