

# The EU and Jerusalem: Countering Policies That Will Prevent Peace

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In a peaceful settlement of the Middle East conflict, Jerusalem should be an open city with access for Israelis and Palestinians, first and foremost, but also with access for the rest of the world — for believers as well as others who want to visit Jerusalem and its holy sites. Also, Jerusalem should be the capital of the two states, Israel and Palestine.

It is obvious that what we are witnessing today in terms of Israeli settlement-building and infrastructure development in the city does not serve this purpose. Indeed, East Jerusalem is crucial — first, because it is developing into a major point of friction with enormous potential to escalate; and second, because Israeli policies aimed at changing demography, space and infrastructure in East Jerusalem, if continued, will not only prevent an Israeli-Palestinian agreement on Jerusalem, but they will also stand in the way of *any* peace settlement. Therefore, the international community should act swiftly to address this issue. So far, the controversy surrounding Jerusalem has not been met with the urgency it deserves.

## The EU: 1967 Borders Should Apply to Jerusalem as Well

In its December 2009 Council Conclusions, the European Union (EU) clarified its stance on Jerusalem by stating:

The European Union will not recognise any changes to the pre-1967 borders including with regard to Jerusalem, other than those agreed by the parties.... Developments on the ground play a crucial part in creating the context for successful negotiations. The Council reiterates that settlements, the separation barrier where built on occupied land, demolition of homes and evictions are illegal under international

law, constitute an obstacle to peace and threaten to make a two-state solution impossible. The Council urges the government of Israel to immediately end all settlement activities, in East Jerusalem and the rest of the West Bank and including natural growth, and to dismantle all outposts erected since March 2001.

What is needed now is that such conclusions and statements be reflected in practical policies and measures.

## Practical Measures

With regard to Jerusalem this would include four major elements: Europeans should, first, closely monitor all activities aimed at changing the status quo in East Jerusalem and regularly inform the European Council, EU member states, the European Parliament, etc. Second, they should consistently abstain from meeting Israeli officials in East Jerusalem and from cooperating with Israeli institutions in East Jerusalem. Third, they should systematically support Palestinian state- and institution-building in East Jerusalem. Fourth, they should insist on a complete settlement stop that includes East Jerusalem.

In its February 2010 Brita Ruling, the European Court of Justice confirmed that settlements in the Occupied Palestinian Territories (OPT) are not part of Israel's territory and, therefore, are not covered by the EU-Israel Association Agreement. It is high time that Europeans come up with a mechanism that would effectively prevent exports originating from Israeli settlements in the OPT, including in East Jerusalem, from benefitting from preferential treatment under the EU-Israel Association Agreement, so as to stop the breach of European law and to send a clear political signal to Israel. This would, above



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all, necessitate placing the onus for clarifying the origin of all Israeli products on the exporter and banning all products which lack a clear and credible indication that their source of origin is indeed within Israel proper from entering the European market. In addition, a code of conduct for European companies should be devised. Such a code would request that European companies not invest or do business in Israeli settlements and not engage in joint ventures with Israeli companies based in these settlements. In this context, it would be important to point out that such measures do not aim at delegitimizing Israel, but rather at delegitimizing the occupation.

### Stronger Engagement in the Peace Process

A peace settlement that includes Jerusalem can only be achieved through a comprehensive peace process. However, there is no use in pursuing a process in the absence of strong international intervention that would include consistent mediation, impartial arbitration, effective monitoring and credible security guarantees as well as sustained support for the implementation of an agreement. Mediation would need to include a bridging proposal which presents a package deal addressing all open final status issues. In this context, and especially in light of the rapidly changing realities on the ground, Jerusalem must not be left to a later stage.

So far, Europeans have taken, more or less, a wait-and-see attitude vis-à-vis the Obama Administration's efforts in reviving final status talks. However, Europeans have a strong interest in preventing talks from failing once more and, thus, they should assume a much more active role. This engaged approach would imply addressing trouble spots such as Jerusalem in order to prevent the outbreak of renewed large-scale violence (which also carries the risk of regional escalation) and to prevent further fragmentation of the territory of the future Palestinian state. This would also imply offering contributions that could help bridge the gap between the negotiating positions of the Israelis and the Palestinians — for example, with regard to security and a resolution of the refugee issue — and assisting in the implementation of a future peace agreement. In the end, the U.S. president will need strong European (and Arab) support to produce effective initiatives in the Middle East.

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