

THE ONE-STATE REALITY IN ISRAEL/PALESTINE: A CHALLENGE FOR EUROPE AND OTHER PARTIES INTERESTED IN CONSTRUCTIVE CONFLICT TRANSFORMATION*

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Abstract Over the past three decades, a one-state reality with unequal rights has become entrenched in Israel/Palestine. It has thus become conspicuous that the approach agreed upon in Oslo in the mid-1990s has failed to resolve the Israeli-Palestinian conflict. This has accentuated the dilemmas of Europe's approach to advance Israeli-Palestinian peace. The EU and its member states have continued to entertain the mantras of a negotiated two-state solution and intra-Palestinian reconciliation – while remaining in the back seat when it comes to shaping dynamics on the ground and erecting hurdles for themselves to make progress towards reconciliation. As a consequence, the chasm between European rhetoric on conflict resolution and conflict realities on the ground has ever more widened. The article analyzes European policy objectives and instruments concerning Israel/Palestine and explains why the Europeans have not been able to assume a more prominent and effective role with regards to realizing their proclaimed objectives. It also discusses prospects for European policy making on Israel/Palestine as well as options for cooperative or complementary approaches with other international actors, such as Russia.

Keywords European Union (EU), Israel, Palestine, one-state approach, two-state solution, Palestinian Authority (PA), Hamas, de facto government, United States, Russia, Abraham Accords, Middle East Quartet

Название статьи **Реальность одного государства в Израиле/Палестине: вызов для Европы и других сторон, заинтересованных в конструктивной трансформации конфликта**

Аннотация В течение последних трех десятилетий в Израиле/Палестине сложилась реальность существования одного государства, в рамках которого израильтяне и палестинцы неравны в правах. Стало очевидным, что подход, выработанный в Осло в середине 1990-х годов, не смог разрешить израильско-палестинский конфликт. Это обострило дилеммы, стоящие перед Европой в разработке подходов к достижению мира между Израилем и Палестиной. ЕС и его государства-члены продолжают проповедовать

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мантры о создании двух государств путем переговоров и о внутриспалестинском примирении, но остаются в тени, когда необходимо регулировать кризисную динамику в зоне конфликта, и сами создают определенные препятствия для своего полноценного участия в процессе примирения сторон. Как следствие, разрыв между европейской риторикой о разрешении конфликта и реалиями растет. В статье анализируются цели и инструменты европейской политики по отношению к израильско-палестинской проблеме и предложено объяснение тому, почему европейская сторона неспособна взять на себя более заметную и эффективную роль в реализации провозглашенных ей целей. В статье также рассматриваются перспективы формирования европейской политики по израильско-палестинской проблеме, а также возможности сотрудничества и взаимодополняющих шагов в этой сфере совместно с другими международными акторами, включая Россию.

Ключевые слова Европейский Союз (ЕС), Израиль, Палестина, концепция «одного государства», подход, основанный на создании двух государств, Палестинская национальная администрация, ХАМАС, де-факто правительство, США, Россия, Соглашения Авраама, Ближневосточный квартет

I. Introduction

Over the last decades, a one-state reality with unequal rights has become entrenched in Israel/Palestine, a situation that has increasingly been described by Israeli, Palestinian, and international human rights organizations as conforming to the legal definition of apartheid.¹ In 2020, Israel's planned formal, unilateral annexation of up to 30% of West Bank territory (the ground for which had been prepared by the Trump administration's so-called Deal of the Century) unmasked beyond any doubt the failure of the Oslo approach to resolve the Israeli-Palestinian conflict² and threatened to destroy its cooperative conflict management component. While in the context of the so-called Abraham Accords that Israel signed with the United Arab Emirates (UAE) and Bahrain in the fall of 2020 formal annexation was taken off the table, and while the Israeli coalition government that took over in June 2021 reestablished working relations with the Palestinian Authority (PA) and adopted measures to improve living conditions in the Palestinian territories to alleviate the fiscal situation of the PA, it has not taken any action that would reverse the one-state trend. Rather, settlement building and displacement of Palestinians from strategic locations have continued unabatedly. Israeli Prime Minister Naftali Bennet has made it clear that under his watch, Palestinian sovereignty is not in the cards.³ At the same time, Bennet's colleague, Defense Minister Benny Gantz, escalated the strangling of Palestinian civil society when he designated six leading Palestinian civil society organizations (CSOs) terrorist entities in October 2021 under vague allegations, paving the way for closing their offices, confiscating their resources, and criminalizing cooperation with them.⁴

These policies, together with the entrenchment of the intra-Palestinian split and the breakdown of the social contract between the Palestinian leadership and the Palestinians, have accentuated the dilemmas of Europe's approach to Israel/Palestine. Over the last 40 years, Europe has been seeking ways to help advance Israeli-Palestinian peace. The Israeli-Palestinian conflict has been one of the few policy areas where the European Union (EU) and its member states have had a well-defined, detailed, and consistent stance. The Europeans have also played a key role in shaping international language on the conflict, for example in the 1980 Venice Declaration, and

have been the biggest donors to the Palestinian state and institution building exercise. At the same time, the Europeans have remained in the back seat when it comes to shaping dynamics on the ground, which have rendered not only a two-state settlement, but any peaceful settlement of the conflict ever more difficult to achieve. Yet, Europeans have clung to the mantra of a negotiated two-state solution and, after the intra-Palestinian division in 2007, to the mantra of intra-Palestinian reconciliation – while not following through on these objectives and themselves erecting hurdles to achieving these goals. As a consequence, not only have Europeans remained a payer rather than a player – they have also increasingly been at a strategic loss of how to deal with the conflict.

II. Europe: a champion of the two-state approach

Europe has been the champion of a two-state solution to the Israeli-Palestinian conflict for the last 40 years.⁵ In the 1980 Venice Declaration, the European Community (EC) and its member states acknowledged the Palestinian right to self-determination and the right of all countries (including Israel) to live in peace in secure and recognized borders. They also called for a comprehensive solution to the Arab-Israeli conflict and emphasized Europe's obligation to play a special and concrete role in peacemaking, including with the Palestine Liberation Organization (PLO).⁶ Henceforth, the EC (and, later, the EU) became the main supporter of a two-state approach to resolving the Israeli-Palestinian conflict, successfully anchoring the paradigm and corresponding parameters in international resolutions and approaches to conflict transformation, such as UN Security Council Resolution 2334 (December 2016).⁷

In their declaratory politics, the Europeans have stressed that there is no alternative to a two-state approach for resolving the Israeli-Palestinian conflict. Based on that paradigm, they have engaged diplomatically and signaled their willingness to support conflict management and peacemaking by cooperating, among others, with the United States, the UN, and Russia in the now largely defunct Quartet for the Middle East Peace Process, by endorsing the 2002 Arab Peace Initiative, and by appointing a series of Special Representatives for the Middle East Peace Process. Since Oslo Accords of the early-mid 1990s, and with the aim of state and institution building, the EU and its member states have also been by far the biggest and most reliable donor to the Palestinians, giving considerable financial support to the PA, Palestinian civil society, Israeli human rights, pro-peace and pro-democracy groups as well as to the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).⁸ In addition, the EU states have deployed two civilian missions to the Palestinian territories: one to support the Palestinian police and rule of law (EUPOL COPPS) and another to provide a third party presence at the Rafah Crossing Point (EUBAM Rafah), the latter being on standby since 2007. These missions have aimed at institution building and conflict management, respectively. During the Trump administration's term, the Europeans have further increased their support to the Palestinians as well as contributions to UNRWA and devised quick-impact projects in the Gaza Strip to compensate, at least partially, for the U.S. funding cuts.

Yet, the EU and its member states have not been able to prevent a two-state outcome from being further undermined by Israel's settlement, occupation and annexation policies in the territories occupied since 1967. Moreover, the two-state approach has been put in question by the intra-Palestinian split that followed the January 2006 elections and the breakdown of the short-lived national unity government in June 2007. And, while the EU and its member states continue to rhetorically adhere to a two-state arrangement "as the only realistic solution to the Middle East conflict,"⁹ this

commitment has long since degenerated into a mere mantra – an empty formula that has served to maintain the illusion of the occupation being temporary, rather than serving as a guideline that would provide direction for the European policy.

In particular, since the U.S.-mediated Israeli-Palestinian negotiations broke down in April 2014, the Europeans have scaled down their ambitions from contributing to a two-state settlement to merely maintaining the option on the table. Also, while for decades the Europeans considered a resolution of the Arab-Israeli conflict key to successfully addressing other challenges in the region, since the advent of the so-called Arab Spring in 2010–2011, this has no longer been the case. In the 2016 EU's Global Strategy the conflict was given much less attention than in the 2003 EU Security Strategy, and its resolution was no longer defined as a strategic priority for Europe or even seen as relevant for addressing the region's other challenges.¹⁰ In practice, the EU and its member states have not been able to prevent the fast erosion of the feasibility of a two-state settlement and the entrenchment of a one-state reality with unequal rights. At no point over the past 15 years have they even seriously considered to use their potential leverage – as the biggest trading partner of Israel and the largest donor to the Palestinians – to impact the cost-benefit calculation of the conflicting parties.

Rather, the European approach has become ever more inconsistent. Such inconsistencies have led to ambiguous signals from Europe. On the one hand, the Europeans have criticized Israeli settlement and annexation policies and the PA's increasingly authoritarian governance which has seriously undermined the Palestinian leadership's legitimacy. On the other hand, such criticism has not been linked to tangible costs that would have impacted any of the two actors' calculations and, thus, policies. For example, the Europeans suspended a formal upgrade of the EU-Israel relations in 2008 and halted the meetings of the EU-Israel Association Council since July 2012 to signal their dissatisfaction with Israeli policies, in particular the excessive use of violence in Gaza. Yet, at the same time, cooperation between Israel and the EU as well as between Israel and individual EU member states has deepened, for example in the framework of "Horizon 2020" and other EU programs that Israel has profited from, thus muddying the message. This expanded cooperation has also diminished the appeal of a formal upgrade of relations. Accordingly, the EU's December 2013 offer for a Special Privileged Partnership was hardly taken note of in the Israeli (as well as Palestinian) policy circles.¹¹

Similarly, despite dissatisfaction with an increasingly authoritarian Palestinian leadership, the EU has not conditioned or scaled back its aid to the PA significantly. Rather, and in contradiction to its self-proclaimed "more for more" principle, aid to the Palestinians has remained detached from their performance in the fields of governance and human rights. Even the systematic dismantling of checks and balances by the Palestinian president (above all, the dissolution of parliament, systematic interference with the judiciary, and curtailing of freedom of expression) has not prompted a principled review of the EU funding. Ultimately, Europe has allowed the PA to develop a sense of entitlement to its support rather than demanding from it a clear commitment to democratic, transparent, and accountable governance. Indeed, European support for the PA seems to have been lent first and foremost in view of maintaining the Oslo regime of joint Israeli-Palestinian conflict management rather than of building a democratic system of governance and effective state institutions.

Already in their 1999 Berlin Declaration, the EU member states announced that they looked forward to the early fulfillment of the Palestinians' right to self-determination, that that right must not be subject to any veto and that they would recognize a Palestinian State "in due course".¹² Yet, while they have repeatedly debated recognition,

to date, apart from Sweden, the European states have refused to follow through, arguing that a Palestinian State would have to emerge from bilateral negotiations with Israel.¹³ In doing so, they have granted Israel an effective right of veto on the realization of the Palestinian right to self-determination and missed an opportunity to reaffirm the 1967 borders. Similarly, the differentiation policies adopted by the Europeans since 2012, which oblige the EU and its member states to differentiate between their dealings with Israel and with Israeli entities in the occupied territories,¹⁴ have so far not been consistently implemented by member states. For example, member states have not correctly and consistently indicated the origin of settlement products and have not prevented European businesses to continue cooperation with Israeli entities in the settlements.¹⁵

In view of the EU's normative self-perception as a community of law and values and a champion of the international rules-based order, it is particularly disturbing that the EU and its member states have not been more consistent on the issue of accountability for suspected war crimes and crimes against humanity committed by parties to the conflict. Indeed, some member states have pressured the Palestinian leadership not to seek legal recourse for the denial of rights and violations of international humanitarian law. In this vein, the EU member states exerted pressure on the PA not to join the International Criminal Court (ICC). Furthermore, in their 2020 "amicus curiae" letters to the ICC, Austria, the Czech Republic, Germany, and Hungary argued that the ICC should not have jurisdiction to investigate war crimes in the Palestinian territories because Palestine were not a state.¹⁶ And while Europeans have been accused by the Israeli governments of "singling out Israel" in the UN bodies, the track record of European voting on the UN Commissions of Inquiry shows a different picture: Israel/Palestine has been the negative exception when it comes to the European support to investigations into and accountability for crimes committed.¹⁷

Last but not least, Europe has applied different standards to the conflict parties. For example, since the Hamas victory in the 2006 parliamentary elections, European contacts and cooperation with the Palestinian officials have been conditioned on their commitment to the so-called Quartet criteria, i. e., recognition of Israel, commitment to previous agreements signed by Israel and the PLO, and renunciation of violence.¹⁸ By contrast, contacts to and cooperation with the Israeli officials have been independent of their attitude to the recognition of the PLO, stance on violence, and commitment to the Oslo Accords or a negotiated conflict settlement. In particular, the EU and its member states have never conditioned cooperation with the Government of Israel on the latter's commitment to the pursuit of a two-state outcome.

III. How can inconsistencies in the European policies be explained?

Three main factors have been the source of these inconsistencies and/or have impeded the Europeans from being more effective in realizing their positions on the Israeli-Palestinian problem.¹⁹

Toeing the U.S. line

First, the EU and its member states have refrained from challenging the U.S. administration's position as the chief mediator or facilitator in the conflict. Only in rare cases have individual EU member states tried to push for alternative policies, for example, in view of the Trump administration's blatantly one-sided approach to the conflict. That was the case when France initiated a peace conference in January 2017 or

when Germany and France allied with Jordan and Egypt to stand up against Israel's annexation plans in the spring of 2020. But in general, there have been obvious reasons for the EU to cede the role of main facilitator to the U.S. administrations – as both Israel and the United States have made it clear that they would not accept Europe to be in the driving seat. Yet, in practice that has meant that the EU and its member states have shown little ambition to play an active role in shaping the course of developments, largely resorting to following the U.S. policy. It has also meant that European policies on Israel/Palestine have remained hostage to U.S. election cycles.

Hiding behind Brussels

Second, EU member states have hidden behind the European Union rather than actively promoting the EU stances and valued their bilateral relations with Israel more than sending unambiguous signals about the European positions on the conflict and its resolution. This trend has become even stronger in view of campaigns by the Government of Israel and supportive organizations to fend off any criticism of its policies and Israel's direct diplomatic attacks on the EU, for example by deliberately confusing between differentiation and boycott.²⁰ In 2015, the Simon Wiesenthal Center ranked the EU's decision to label settlements products as such (rather than as having been produced in Israel) as the third most anti-Semitic act committed that year.²¹ The Israeli Ministry of Strategic Affairs under Gilad Erdan in particular as well as allied organizations such as "NGO Monitor" aimed at delegitimizing Palestinian actors and their international supporters. In this context, the EU and its member states have also been massively attacked as allegedly supporting boycotts and terrorism against Israel.²²

As a consequence, EU member states' representatives have not pro-actively propagated EU stances, e. g. on differentiation, and have shied away from public diplomacy. As a result, while the EU-Israel relations have actually been thriving in terms of trade, the Israeli participation in EU-funded programs, such as "Horizon 2020", and deeper cooperation in a growing number of areas, such allegations have not only created an ever more toxic atmosphere around the Israeli-Palestinian conflict in Europe, disabling constructive dialogue on visions for Israel/Palestine and European policy options. In Israel, they have also fed the perception of the EU as an unfriendly, irresponsible actor that should not assume a more prominent role in conflict resolution.²³

Divisions among EU member states

Third, and most importantly, the Europeans have not agreed on what kind of diplomacy should push the peace process forward, how to nudge the parties to engage in constructive politics, and how to deal with the deteriorating situation on the ground. This lack of agreement among member states – that stems, inter alia, from different historical experiences, self-understanding, political cultures, closeness to the United States – has markedly increased over the last few years against the backdrop of the rise of right-wing politics in Europe, the 2015 so-called refugee crisis and the Trump administration's approach to the conflict. The Israeli government has also exploited disagreements among the EU member states on other foreign and domestic policy issues as well as grievances of some of them about EU policymaking to forge alliances with individual heads of state and government as well as sub-regional groups, thereby dividing the Union further and reducing the influence of Brussels and of those member states who are critical of the occupation.²⁴

As a consequence of these divisions, there has been a marked absence of pro-active European policies, especially for the last five years. Since June 2016, there have not been any substantial EU Council Conclusions on the Middle East Peace Process, nor have the EU member states voted as a bloc at the UN General Assembly, e. g. during the vote on the U.S. embassy's move to Jerusalem. The EU-28 (or, following the UK's withdrawal from the EU on 1 February 2020, the EU-27) have also not been able to agree on joint statements on important developments, such as the U.S. recognition of Jerusalem as Israel's capital in December 2017. Consequently, they have increasingly relied on statements by the High Representative or coalitions of member states, thus diminishing their potential impact. Even in the face of Israeli plans for formal annexation of considerable parts of the West Bank, a dramatic situation that threatened to forestall a two-state settlement and put at risk the continuation of the conflict management approach agreed in Oslo, the EU member states resorted to a flurry of activities and statements, but were unable to speak with one voice and throw their combined weight into the balance to prevent annexation. That only confirmed the attitude of many Israeli policymakers that joint European action was effectively blocked by veto actors allied with Israel (such as Hungary) and that while the annexation would arouse strong European condemnations, in the end it would not incur major costs for Israel in its relations with Europe. In the end, therefore, the EU and its member states played only a minor role in the formal annexation being postponed. Instead, it was the U.S.-mediated September 2020 Abraham Accords between Israel and the UAE that provided Prime Minister Benjamin Netanyahu with the opportunity to put formal annexation on hold and thus revert to his preferred "no solutionism" approach to the Israeli-Palestinian conflict.

IV. Outlook and policy options

In November 2020, Joe Biden's victory in the U.S. presidential election signaled a return of the United States to a two-state approach. Yet, the Biden administration emphasized from the start that it would not make Israeli-Palestinian peacemaking a foreign policy priority. It also had to spend considerable political capital on at least partially reversing the blatantly one-sided policies of Trump's Middle East team rather than being able to invest from the outset in forward-looking politics.²⁵ While Washington's return to a two-state approach with a focus on managing the conflict is in line with the Bennet government's approach of "shrinking the conflict",²⁶ and while it might speak to the self-interest of the PA elite and lead to an improvement of the socio-economic situation for some Palestinians, at least in the short term, it also risks further consolidating the one-state reality with unequal rights. It is also unlikely to stop the dramatic deterioration of governance in the West Bank, mitigate the risk of a breakdown of the PA, increase its popularity and legitimacy, or help overcome the intra-Palestinian split.

Still, the change in governments in the United States and Israel have led the EU and its member states to content themselves once more with lending support to the U.S. administration perceived as friendly, open to transatlantic cooperation and being in line with European values – and thus also stick to an increasingly meaningless two-state paradigm. As a consequence, the Europeans have missed the emperor-without-clothes moment of the previous Israeli government's annexation plan as an opportunity to review and fundamentally adapt their approach to the post-Oslo setting.

Towards a binational state?

In that sense, the new-old U.S. policy has contributed to forestalling a much-needed debate in Europe about approaches better geared towards dealing with the one-state / unequal rights reality that has been consolidating in Israel/Palestine. Contrary to the European mantra, there are alternatives to a two-state arrangement that would allow for the expression of national identities as well as the realization of individual and collective rights. The EU and its member states would therefore do well to explore the creative and constructive dimensions of alternative models which could contribute to conflict resolution. In this vein, an open and inclusive debate that embraces the younger generation of Israelis and Palestinians (including the Diaspora), about alternative futures for Israel/Palestine and paths to get there would be urgently needed – and should not be suppressed by taboos and delegitimization campaigns.

One counterargument often heard is that while a two-state arrangement hardly seems a realistic option any longer, other formats are by no means more promising. For example, a confederation would be based on divided sovereignty just as much as a two-state settlement, and a binational state would depend on both peoples renouncing their right to self-determination in their own, independent state – a concession that a majority in neither of the two societies is ready to make today and that is rejected outright by the majority of Jewish Israelis because it is incompatible with political Zionism. Popular support, however, is not set in stone but rather contingent. For example, majority support for a two-state approach only developed once that became a realistic approach – and waned over the last few years as a result of its decreasing probability and feasibility.

Yet, a European move to abandon the two-state mantra in favor of a demand for equal rights in a binational state faces major hurdles. Such a move is unlikely for two main reasons. First and foremost, it would bring Europe in direct contradiction with Israel's self-definition as a Jewish and democratic state and an exclusive safe haven for Jews. Against the backdrop of 20th century European history, including the Balfour Declaration and the prosecution and genocide of the European Jewry, such a step is unlikely unless it had significant Jewish Israeli support.²⁷ Second, abandoning the two-state paradigm would entail a complete overhaul of the European approach towards Israel/Palestine and necessitate a rethinking of objectives, values, strategies, and policy instruments. It is extremely unlikely that such a major revision would be successful or even feasible at a time when member states differ fundamentally on the relevance that the conflict should have for their relations with Israel and on the instruments that they should employ to pressure for the realization of Palestinian rights, if they should do so at all. The risk of losing the European "acquis" on Israel/Palestine has thus prevented – and is likely to continue to prevent – any substantial move towards support for equal rights in a binational state (or in any other format) or a major revision of the European approach.

More consistent engagement to promote a two-state outcome?

Are the EU and its member states likely to instead focus their energy on reversing trends on the ground and push more actively for the realization of a two-state settlement? Three lines of action – on how to deal with occupation/de facto annexation, the Palestinian state and institution building and conflict resolution – would be critical to making progress in that endeavor.

First, it would imply a consistent differentiation between Israel and the occupied Palestinian territories (by inserting respective territorial clauses in all agreements with Israel, correctly indicating the origin of goods imported to the EU, reporting regularly on

the implementation of differentiation measures on the basis of UN Security Council Resolution 2334, supporting a regular update of the UN Human Rights Council's database on entities doing business in the settlements, etc.).²⁸ As the Europeans consider Israeli settlements in the occupied territories a violation of international law, they would actually have to enact an import ban for settlement products.²⁹ At the same time, the Europeans would have to better explain and defend differentiation policies to their own – and to the Israeli – publics and adamantly reject the equation of differentiation measures with antisemitism or boycott. European recognition of a Palestinian State along the 1967 lines would, of course, be the clearest signal with regards to where the Europeans see the future borders, without foreclosing the possibility for limited land swaps.

Secondly, the Europeans would need to rethink their stance towards and support for the Palestinians. In particular, European actors will have to find out how support can be provided in the Palestinian territories in order to more sustainably improve living conditions,³⁰ and prevent forced displacement from strategic areas without at the same time cooperating with the occupation authorities in a way that legitimizes prolonged occupation and/or annexation. It would also demand that Europe contributes effectively to overcoming internal Palestinian divisions, supports a long-term cease fire and an end of the blockade for Gaza, and engages in favor of democratic renewal of the Palestinian representative institutions. This will force the Europeans to examine where they themselves stand in the way of achieving progress – for example, with their “no contact policy” towards Hamas, support for Mahmud Abbas’ “West Bank first” approach, and restraint when it comes to exercising pressure on the PA in view of its increasingly authoritarian governance. The latter point is all the more relevant after Abbas, in April 2021, indefinitely postponed the long overdue legislative elections that were scheduled for May, a prominent PA critic (Nizar Banat) was killed when taken into custody by PA security forces in June, and repression of demonstrations and criticism markedly increased in the aftermath. The EU could and should play an active role in the renewal of Palestinian institutions today. Beyond assistance for election processes, Europeans should contribute by clearly stating their readiness to work with whatever Palestinian government is formed on the basis of fair elections provided it commits to nonviolence.

Last but not least, the EU and its member states will need to upgrade their roles in promoting a settlement of the conflict based on the right of self-determination of both peoples that guarantees individual human rights and the security for all and resolves the refugee question in such a way that both the right of the Palestinian refugees to return and the interests of current and potential host states (including Israel) are taken into account. While Europe will not be in a position to replace the United States as the main mediator, it could still play a much more active role in a multilateral approach for dealing with Israel/Palestine. In this vein, Europe should, based on lessons learned from earlier mediation efforts, start working towards an appropriate multilateral framework for talks. This would include reasserting the parameters for a settlement, offering robust and impartial mediation, chaperoning the implementation of an agreement through an independent monitoring and conflict resolution mechanism, and providing substantial security guarantees.

Even more crucial than establishing the negotiations framework, however, will be to devise a strategy for nudging the parties to engage in negotiations in good faith and to be ready for genuine compromise. That is unlikely to succeed unless the costs of non-cooperation and continued breaches of international law are clearly spelled out. In this vein and in line with a rights-based and rights-centered approach, Europeans would also

need to support rather than try to prevent international investigations and court proceedings, including those undertaken by the ICC. If the EU and its member states want to be taken seriously in their commitment to a rules-based international order, they should not create the impression that they are giving Israel and armed Palestinian groups a free ride regarding the violation of international law. If consensus cannot be achieved among the EU-27 on aligning their policies with their values and stated objectives, a coalition of member states with sufficient weight would need to be formed that could take assertive steps and thus induce change.

EU-Russia cooperation?

Europe and Russia share the two-state rhetoric and largely agree on parameters for conflict resolution. Moscow could also bring considerable potential leverage over the parties to the fore, and it has the comparative advantage that it does not adhere to the “no contact policy” towards the de facto government in Gaza. Rather, it engages in dialogue with all Palestinian factions. Yet, as long as Russia treats Europe as an adversary and engages in aggressive military posturing, a dialogue between Brussels (and European capitals) and Moscow – in which participants could tease out potential areas of cooperation or complementarity and hedge against worst case developments that would once and for all forestall conflict resolution in the Israeli-Palestinian arena – is unlikely to occur. Against this backdrop, a coordinated approach to Israel/Palestine as well as transformation of the Middle East Quartet into a meaningful forum are, unfortunately, unrealistic.

ENDNOTES

¹ See, for example: A regime of Jewish supremacy from the Jordan river to the Mediterranean Sea: this is apartheid // B'Tselem. 12.01.2021. URL: <https://www.btselem.org/apartheid>; A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution. Human Rights Watch Report. 27 April 2021. – New York: Human Rights Watch, 2021. URL: https://www.hrw.org/sites/default/files/media_2021/04/israel_palestine0421_web_0.pdf (all sources accessed 28.11.2021).

² The Oslo Accords are a series of agreements between the Government of Israel and the Palestine Liberation Organization (PLO): the Oslo I Accord was signed in Washington, D.C., in 1993, and the Oslo II Accord was signed in Taba (Egypt), in 1995. Further agreements on specific policy areas, e. g. the economy, followed. The Oslo Accords marked the start of the Oslo process aimed at achieving a negotiated peace settlement between Israel and Palestinians.

³ Lis J. Bennett tells Merkel: “Palestinian state would likely mean terror state” // Haaretz. 10 October 2021.

⁴ For more detail, see: Boxermann A. Israeli “terror” designation of Palestinian NGOs sparks furious international backlash // The Times of Israel. 22 October 2021; Abraham Yu., Ziv O., Rapoport M. Secret Israeli dossier provides no proof for declaring Palestinian NGOs “terrorists” // +972 Magazine. 04.11.2021. URL: <https://www.972mag.com/shin-bet-dossier-palestinian-ngos> (accessed 28.11.2021).

⁵ This is not to discount earlier European concern with the Israeli-Palestinian conflict. But it is only since 1980 that the Europeans started to form a shared approach and publicize common positions on the conflict. This has been closely linked to the overall development of a common European foreign policy.

⁶ Resolution of the Heads of Government and Ministers of Foreign Affairs of the European Council (Venice Declaration). 13 June 1980. URL: http://eeas.europa.eu/archives/docs/mepp/docs/venice_

declaration_1980_en.pdf (accessed 28.11.2021). Of course, the notion of a two-state settlement was not invented in 1980, but draws on earlier attempts at conflict resolution, in particular the 1937 Peel Commission's plan and the 1947 UN General Assembly partition resolution.

⁷ The resolution reaffirms the vision of a two-state settlement, condemns Israeli settlement policy as a flagrant violation of international law and calls on all states to distinguish in their relevant dealings between the territory of the State of Israel and the territories occupied in 1967. Resolution 2334 (2016) adopted by the Security Council at its 7853rd meeting, on 23 December 2016. UN Doc. S/RES/2334 (2016). URL: <https://www.un.org/webcast/pdfs/SRES2334-2016.pdf> (accessed 28.11.2021).

⁸ PASSIA Fact Sheet 2019: Economy. Report by Palestine Academic Society for the Study of International Affairs (PASSIA). – Jerusalem: PASSIA, 2019. P. 21, 25–27. URL: http://passia.org/media/filer_public/b8/f4/b8f44cbe-0906-4050-8475-f6d52bc7e163/factsheet_economy_2019.pdf (accessed 28.11.2021).

⁹ Declaration by the High Representative Josep Borrell on behalf of the EU on the Middle East Peace Process. Brussels, 28 January 2020 // Delegation of the European Union to Israel web-site. URL: https://eeas.europa.eu/delegations/israel_en/73633/Declaration%20by%20the%20High%20Representative%20Josep%20Borrell%20on%20behalf%20of%20the%20EU%20on%20the%20Middle%20East%20Peace%20Process (accessed 20.11.2021).

¹⁰ Persson A. EU Diplomacy and the Israeli-Arab Conflict, 1967–2019. – Edinburgh: Edinburgh University Press, 2020. P. 121, 144, 171.

¹¹ Council Conclusions on the Middle East Peace Process. Council of the European Union. Brussels, 16 December 2013. URL: https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/140097.pdf (accessed 28.11.2021); Oliveira Martins B. Interpreting EU–Israel relations: a contextual analysis of the EU's special privileged partnership proposal // Cambridge Review of International Affairs. 2016. V. 29. № 1. P. 151–170; Nikolov K.Y. Partnership after peace? An optimist's view on the EU's future special and privileged relations with the states of Israel and Palestine // Journal of the Bulgarian Diplomatic Institute. 2017. № 19. P. 228–267.

¹² Presidency Conclusions: Middle East Peace Process. Berlin European Council. 24 and 25 March 1999 // United Nations web-site: The Question of Palestine. URL: <https://www.un.org/unispal/document/auto-insert-205180> (accessed 28.11.2021).

¹³ Eastern European countries (Bulgaria, Czechoslovakia, Hungary, Poland, and Romania) as well as Cyprus and Malta recognized the 1988 Palestinian Declaration of Independence without establishing full-fledged state-to-state relations with the PLO at the time. Sweden recognized the State of Palestine in October 2014.

¹⁴ Council Conclusions on the Middle East Peace Process. 3209th Foreign Affairs Council Meeting. Brussels, 10 December 2012. URL: https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/134140.pdf. These decisions were operationalized by: Interpretative Notice on Indication of Origin of Goods from the Territories Occupied by Israel since June 1967. European Commission. 11 November 2015. URL: http://www.eeas.europa.eu/archives/delegations/israel/documents/news/20151111_interpretative_notice_indication_of_origin_of_goods_en.pdf. See also the EU Court of Justice ruling: Foodstuffs Originating in the Territories Occupied by the State of Israel Must Bear the Indication of Their Territory of Origin, Accompanied, Where Those Foodstuffs Come from an Israeli Settlement Within That Territory, by the Indication of That Provenance. Court of Justice of the European Union. Press Release no. 140/19. Luxembourg, 12 November 2019. URL: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2019-11/cp190140en.pdf> (all sources accessed 28.12.2021).

¹⁵ On the status of the implementation of differentiation measures, see: Lovatt H. Differentiation Tracker // European Council on Foreign Relations web-site. 2021. URL: <https://www.ecfr.eu/specials/differentiation-tracker>. For financial dealings of European businesses and financial institutions with settlements, see: Don't Buy into Occupation: Exposing the Financial Flows into Illegal Israeli Settlements. The "Don't Buy Into Occupation" (DBIO) Coalition Report. October 2021. URL: https://dontbuyintooccupation.org/wp-content/uploads/2021/10/DBIO-report-DEF_aangepast.pdf (sources accessed 28.11.2021).

¹⁶ See, for example: Situation in the State of Palestine: Observation by the Federal Republic of Germany. International Criminal Court (ICC) Pre-Trial Chamber I. No. ICC 01/18. 16 March 2020. URL: https://www.icc-cpi.int/CourtRecords/CR2020_01075.pdf (accessed 28.11.2021).

¹⁷ At the UN Human Rights Council, since 2009, the EU states have unanimously voted for all resolutions establishing investigations into violent conflict situations except for those on Israel/Palestine, where they mostly abstained. See: EU support for UN investigations at the Human Rights Council: the Israel/Palestine exception. European Middle East Project Press-Release. 26 May 2021. URL: <https://eumep.org/wp-content/uploads/EuMEP-EU-voting-on-UNHRC-investigations-Israel-Palestine-exception-21-05.pdf> (accessed 28.11.2021).

¹⁸ Quartet Statement. New York, 9 May 2006. URL: https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/declarations/89495.pdf (accessed 28.11.2021). While based on these criteria, the EU and its member states as well as the United States have applied a no-contact policy towards Hamas, the other members of the Quartet (the UN and Russia) have not.

¹⁹ Asseburg M. Political paralysis: The impact of divisions among EU member states on the European role in the Israeli-Palestinian conflict // *Divided and Divisive: Europeans, Israel and Israeli-Palestinian Peace-Making*. Eds. M.Asseburg and N.Goren. – Berlin; Ramat Gan; Utrecht: Mitvim; Stiftung Wissenschaft und Politik; PAX, 2019. P. 36–51. URL: <https://paxforpeace.nl/media/download/paxreportdivideddivisivefinalweb.pdf> (accessed 28.11.2021).

²⁰ PM Netanyahu's response to EU decision regarding product labeling. Israel Ministry of Foreign Affairs Press-Release. 11 November 2015. URL: <https://mfa.gov.il/MFA/PressRoom/2015/Pages/PM-Netanyahu-responds-to-EU-decision-regarding-product-labeling-11-November-2015.aspx>; Behind the headlines: EU Labeling Guidelines. Israel Ministry of Foreign Affairs Press-Release. 10 November 2015. URL: <https://mfa.gov.il/MFA/ForeignPolicy/Issues/Pages/EU-labeling-guidelines-10-Nov-2015.aspx> (both sources accessed 28.11.2021).

²¹ Top Ten Worst Global Anti-Semitic Anti/Israel Incidents 2015. Simon Wiesenthal Center Brief. 3 December 2015. – Los Angeles: Simon Wiesenthal Center, 2015. URL: <https://www.wiesenthal.com/about/news/top-10/top-ten-2015-pdf.pdf> (accessed 28.11.2021).

²² See, for example: The Money Trail: The Millions Given by EU Institutions to NGOs with Ties to Terror and Boycotts against Israel. An In-Depth Analysis. 27 May 2018. – Jerusalem: State of Israel Ministry of Strategic Affairs and Public Diplomacy, 2018. URL: <https://www.jewishvirtuallibrary.org/jsource/images/bdsmoneytrail.pdf>; The Money Trail: European Union Financing of Organizations Promoting Boycotts against the State of Israel. 2nd ed. January 2019. – Jerusalem: Ministry of Strategic Affairs and Public Diplomacy, 2019. <https://bit.ly/36yXCK4>; Rettman A. Israeli propaganda attacks EU funds for NGOs // *EU Observer*. 28 May 2018. URL: <https://euobserver.com/foreign/141915> (all sources accessed 28.11.2021).

²³ A recent poll found that “46% of Israelis think that the EU is currently more of a foe to Israel than a friend. 24% see the EU as more of a friend”. See: The Israeli Foreign Policy Index for 2021. Mitvim (The Israeli Institute for Regional Foreign Policies) Report. – Ramat Gan: Mitvim, 2021. URL: <https://mitvim.org.il/wp-content/uploads/2021/10/English-Full-Report-2021-Israeli-Foreign-Policy-Index-of-the-Mitvim-Institute-October-2021.pdf> (accessed 28.11.2021).

²⁴ Ronen E., Goren N. Divisive policies: Israel's foreign policy towards the EU and its member states // *Divided and Divisive: Europeans, Israel and Israeli-Palestinian Peace-Making*. Eds. M.Asseburg and N.Goren. – Berlin; Ramat Gan; Utrecht: Mitvim; Stiftung Wissenschaft und Politik; PAX, 2019. P. 21–35.

²⁵ For example, the Government of Israel and pro-Israel members of the U.S. Congress blocked efforts to reopen a U.S. Consulate for Palestinians in Jerusalem. Bennett, Lapid in united front: “No place for US consulate in Jerusalem” // *The Times of Israel*. 6 November 2021.

²⁶ Zilber N. Israel's new plan is to “shrink”, not solve, the Palestinian conflict. Here's what that looks like // CNN. 16.09.2021. URL: <https://edition.cnn.com/2021/09/16/middleeast/israel-palestinian-conflict-cmd-intl/index.html> (accessed 28.11.2021).

²⁷ The hurdle is particularly high in Germany given the country's Nazi past, the dominant interpretation of its historical responsibility and the role Germany's political elite has allowed Israel to play as an arbiter of Germany's rehabilitation as a civilized nation.

²⁸ Lovatt H. EU Differentiation and the Push for Peace in Israel-Palestine. European Council on Foreign Relations (ECFR) Report. 31 October 2016. – London: ECFR, 2016. URL: https://ecfr.eu/wp-content/uploads/ECFR_194_-_EU_DIFFERENTIATION_AND_THE_PUSH_FOR_PEACE_IN_ISRAEL-PALESTINE_1.pdf (accessed 28.11.2021). In November 2021, the government of Belgium announced measures for more consistent differentiation and encouraged like-minded EU member states to follow suit.

²⁹ In September 2021, the European Commission recognised that it has the authority to make a proposal for banning trade with illegal settlements as an EU trade measure rather than considering it a sanction which would have to be initiated by the European Council. Commission Implementing Decision (EU) 2021/1484 of 8 September 2021 on the request for registration of the European citizens' initiative entitled 'Ensuring Common Commercial Policy conformity with EU Treaties and compliance with international law' pursuant to Regulation (EU) 2019/788 of the European Parliament and of the Council. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32021D1484&from=EN> (accessed 28.11.2021).

³⁰ A November 2021 United Nations Conference on Trade and Development (UNCTAD) report stresses that since 2000 the Palestinian economy in the West Bank has lost more than 57 billion USD due to restrictions related to the occupation. Arrested development and poverty take a \$57 billion economic toll in Palestine // UN News. 24.11.2021. URL: <https://news.un.org/en/story/2021/11/1106502> (accessed 28.11.2021). According to the Organization for Economic Cooperation and Development, international donors have provided around 37 billion USD to the Palestinians in the same period.

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