

C O M M I S S I O N N O T I C E

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

Section A. GENERAL ISSUES

1. These guidelines set out the conditions under which the Commission will implement key requirements for the award of EU support to Israeli entities or to their activities in the territories occupied by Israel since June 1967. Their aim is 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. These guidelines are without prejudice to other requirements established by EU legislation.
2. The territories occupied by Israel since June 1967 comprise the Golan Heights, the Gaza Strip and the West Bank, including East Jerusalem.
3. The EU does not recognise Israel's sovereignty over any of the territories referred to in point 2 and does not consider them to be part of Israel's territory¹, irrespective of their legal status under domestic Israeli law². The EU has made it clear that it will not recognise any changes to pre-1967 borders, other than those agreed by the parties to the Middle East Peace Process (MEPP).³ The EU's Foreign Affairs Council has underlined the importance of limiting the application of agreements with Israel to the territory of Israel as recognised by the EU.⁴
4. These guidelines do not cover EU support in the form of grants, prizes or financial instruments awarded to Palestinian entities or to their activities in the territories referred to in point 2, nor any eligibility conditions set up for this purpose. In particular, they do not cover any agreements between the EU, on the one hand, and the Palestinian Liberation Organisation or the Palestinian Authority, on the other hand.

Section B. SCOPE OF APPLICATION

5. These guidelines apply to EU support in the form of grants, prizes or financial instruments within the meaning of Titles VI, VII and VIII of the Financial Regulation⁵ which may be awarded to Israeli entities or to their activities in the territories occupied by Israel since June 1967. Their application is without prejudice to specific eligibility conditions which may be laid down in the relevant basic act.

¹ On the territorial application of the EU-Israel Association Agreement see Case C-386/08 *Brita* [2010] ECR I-1289, paragraphs 47 and 53.

² Under Israeli law, East Jerusalem and the Golan Heights are annexed to the State of Israel, whereas the Gaza Strip and the rest of the West Bank are referred to as 'the territories'.

³ See *inter alia* the Foreign Affairs Council conclusions on the MEPP adopted in December 2009, December 2010, April 2011, May and December 2012.

⁴ The Foreign Affairs Council conclusions on the MEPP adopted on 10 December 2012 state that 'all agreements between the State of Israel and the EU must unequivocally and explicitly indicate their inapplicability to the territories occupied by Israel in 1967'.

⁵ Regulation (EU, Euratom) No. 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No. 1605/2002, Official Journal of the EU L-298 of 26 October 2012.

6. These guidelines apply:
- (a) for grants – to all applicants and beneficiaries, irrespective of their role (sole beneficiary, coordinator or co-beneficiary). This includes entities participating in the action on a no-cost basis⁶ and affiliated entities within the meaning of Article 122(2) of the Financial Regulation. This does not include contractors or sub-contractors selected by grant beneficiaries in conformity with procurement rules. As regards third parties referred to in Article 137 of the Financial Regulation, in the cases where the costs of financial support to such third parties are eligible under a call for proposals the authorising officer responsible may, where appropriate, specify in the call for proposals and in the grant agreements or decisions that the eligibility criteria set out in these guidelines also apply to the persons that may receive financial support by the beneficiaries.
 - (b) for prizes – to all participants and winners in contests;
 - (c) for financial instruments – to dedicated investment vehicles, financial intermediaries and sub-intermediaries and to final recipients.
7. These guidelines apply to grants, prizes and financial instruments managed, as the case may be, by the Commission, by executive agencies (direct management) or by bodies entrusted with budget implementation tasks in accordance with Article 58(1)(c) of the Financial Regulation (indirect management).
8. These guidelines apply to grants, prizes and financial instruments funded from appropriations of the 2014 financial year and subsequent years and authorised by financing decisions adopted after the adoption of the guidelines.

Section C. CONDITIONS OF ELIGIBILITY OF ISRAELI ENTITIES

9. As regards the place of establishment of Israeli entities:
- (a) In the case of grants and prizes, only Israeli entities having their place of establishment within Israel's pre-1967 borders will be considered eligible.
 - (b) In the case of financial instruments, only Israeli entities having their place of establishment within Israel's pre-1967 borders will be considered eligible as final recipients.
10. The place of establishment is understood to be the legal address where the entity is registered, as confirmed by a precise postal address corresponding to a concrete physical location. The use of a post office box is not allowed.
11. The requirements set out in section C:
- (a) apply to the following types of legal persons: Israeli regional or local authorities and other public bodies, public or private companies or corporations and other private legal persons, including non-governmental not-for-profit organisations;
 - (b) do not apply to Israeli public authorities at national level (ministries and government agencies or authorities);
 - (c) do not apply to natural persons.

⁶ In which case the Israeli entity will finance its participation with funding from other sources, but will nonetheless be treated as a beneficiary and may therefore have access to know-how, services, networking and other opportunities developed by the other beneficiaries as a result of the EU grant.

Section D. CONDITIONS OF ELIGIBILITY OF ACTIVITIES IN THE TERRITORIES OCCUPIED BY ISRAEL

- 12.** As regards the activities/operations of Israeli entities:
- (a) In the case of grants and prizes, the activities of Israeli entities carried out in the framework of EU-funded grants and prizes will be considered eligible if they do not take place in the territories referred to in point 2, either partially or entirely.
 - (b) In the case of financial instruments, Israeli entities will be considered eligible as final recipients if they do not operate in the territories referred to in point 2, either in the framework of EU-funded financial instruments or otherwise.
- 13.** Any activity or part thereof⁷ included in an application for an EU grant or prize which does not meet the requirements set out in point 12(a) will be considered as ineligible and will not be considered as part of the application for the purpose of its further evaluation.
- 14.** The requirements set out in section D:
- (a) apply to activities under point 12 carried out by the following types of legal persons: Israeli regional or local authorities and other public bodies, public or private companies or corporations and other private legal persons, including non-governmental not-for-profit organisations;
 - (b) apply also to activities under point 12 carried out by Israeli public authorities at national level (ministries and government agencies or authorities);
 - (c) do not apply to activities under point 12 carried out by natural persons.
- 15.** Notwithstanding points 12-14 above, the requirements set out in section D do not apply to activities which, although carried out in the territories referred to in point 2, aim at benefiting protected persons under the terms of international humanitarian law who live in these territories and/or at promoting the Middle East peace process in line with EU policy.⁸

Section E. IMPLEMENTATION ARRANGEMENTS

- 16.** Each Israeli entity referred to in points 11(a)&(b) and 14(a)&(b), which applies for an EU grant, prize or financial instrument, shall submit a declaration on honour as follows:
- (a) In the case of grants and prizes, the declaration will state that the application of the Israeli entity is in accordance with the requirements under points 9(a) and 12(a) of these guidelines, while also taking into account the applicability of point 15 thereof.⁹ For grants, this declaration will be drafted in accordance with Article 131(3) of the Financial Regulation.
 - (b) In the case of financial instruments, the declaration will state that the application of the Israeli entity as a final recipient is in accordance with the requirements under points 9(b) and 12(b) of these guidelines.

⁷ For example, these could be nation-wide projects to be implemented in Israel, which involve both activities within pre-1967 borders and activities beyond pre-1967 borders (e.g. in settlements).

⁸ For example, these could be activities under the European Instrument for Democracy and Human Rights, the Neighbourhood Civil Society Facility and/or the Partnership for Peace programme.

⁹ In the case of Israeli public authorities at national level (ministries and government agencies/authorities), the declaration will contain an address for communication purposes that is within Israel's pre-1967 borders and that complies with point 10.

- 17.** The declarations under point 16 are without prejudice to any other supporting documents required in the calls for proposals, rules of contests or calls for the selection of financial intermediaries or dedicated investment vehicles. They will be included in the package of application documents for each concerned call for proposals, rules of contests and call for the selection of financial intermediaries or dedicated investment vehicles. Their text will be adapted to the requirements relevant for each EU grant, prize or financial instrument.
- 18.** The submission of a declaration under point 16 that contains incorrect information may be considered as a case of misrepresentation or a serious irregularity and may lead:
- (a)** for grants – to the measures set out in Article 131(5) and 135 of the Financial Regulation,
 - (b)** for prizes – to the measures set out in Article 212(1)(viii) of the Rules of Application of the Financial Regulation¹⁰ and,
 - (c)** for financial instruments – to the measures set out in Article 221(3) of the Rules of Application of the Financial Regulation.
- 19.** The Commission will implement these guidelines in their entirety, and in a clear and accessible manner. It will notably announce the eligibility conditions set out in Sections C and D in the work programmes¹¹ and/or financing decisions, calls for proposals, rules of contests and calls for the selection of financial intermediaries or dedicated investment vehicles.
- 20.** The Commission will ensure that the work programmes and calls for proposals, rules of contests and calls for the selection of financial intermediaries or dedicated investment vehicles published by the bodies entrusted with budget implementation tasks under indirect management contain the eligibility conditions set out in Sections C and D.
- 21.** In order to clearly articulate EU commitments under international law, taking into account relevant EU policies and positions, the Commission will also endeavour to have the content of these guidelines reflected in international agreements or protocols thereto or Memoranda of Understanding with Israeli counterparts or with other parties.
- 22.** The award of EU support to Israeli entities or to their activities in the form of grants, prizes or financial instruments requires engagement with Israeli entities referred to in points 11 and 14, for example, by organising meetings, visits or events. Such engagement will not take place in the territories referred to in point 2, unless it is related to the activities referred to in point 15.

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¹⁰ Commission Delegated Regulation (EU) No. 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No. 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union, Official Journal of the EU L-362 of 31 December 2012.

¹¹ Subject to the outcome of the comitology procedures that may be required by the relevant basic act.