

Introduction

ECFR's Differentiation Tracker provides a detailed snapshot of European relations with Israel – and the extent to which these comply with UNSCR 2334 and the European Union's policy of differentiation.

To comply with UN Security Council Resolution 2334, every bilateral agreement signed with Israel should contain a 'differentiation' clause defining the territorial scope of its application to Israel's pre-June 1967 borders (the Green Line).

But, as this project shows, despite noticeable progress in advancing differentiation measures at the level of EU relations, member state practices have often lagged behind.

The absence of differentiation clauses compromises bilateral agreements with Israel, exposing third states to the internationally unlawful situation the settlement project has created in the West Bank and East Jerusalem. Allowing Israeli settlements and their residents to benefit from these agreements undermines the norms of international law and the integrity of the domestic legal order of these states. In such situations, there is a clear risk that European states are directly supporting Israeli settlements, their residents, and businesses – in contravention of European policy positions.

The EU has been closely associated with this process of differentiation between Israel and the settlements – located in East Jerusalem, the West Bank, and the Golan Heights. And, in many ways, it has acted as an important trailblazer over the last decade, with many European measures predating the adoption of Resolution 2334 by the UN Security Council in December 2016. The EU has already set down important markers for others to follow. But its job is by no means finished. The EU still needs to consistently apply its differentiation principle to all areas of its relations with Israel. And it needs to do much more at the levels of member states and private businesses.

This regularly updated project aims to provide a springboard towards corrective action – with a view to ensuring the full and effective implementation of EU rules and international law in Europe's relations with Israel. There is a particular need for more work at the state level to assess the extent to which some agreements may have been compromised by Israel's settlement project and, if so, elaborate appropriate fixes. It is also hoped that this project can support work to advance third state responsibilities and the concept of differentiation in other situations of occupation and annexation.