

## EU HEADS OF MISSION

### Cover Note

Considering the EU's commitment to the two-state solution with an independent, democratic, contiguous and viable Palestinian state, comprising the West Bank, including East Jerusalem, and Gaza, living side by side in peace and security with the State of Israel;

Considering that the developments in East Jerusalem, in particular the systematic increase in settlement activity as demonstrated by the Jerusalem report, increasingly undermine the two-state solution;

Considering the urgent need to address the situation in conformity with the EU position, in accordance with international law, that the acquisition of territory by force or the threat of the use of force is inadmissible;

Considering the EU Council Conclusions of 8 December 2009;

**The Heads of Mission in Jerusalem and Ramallah herewith submit to the PSC the Jerusalem Report 2011 (Annex 1) and for discussion a series of recommendations to reinforce EU policy on East Jerusalem (Annex 2):**

**The Heads of Mission in Jerusalem and Ramallah recommend:**

- A more active and visible implementation of EU policy on East Jerusalem.
- Using meetings with Israeli authorities to call for urgent policy change on East Jerusalem.
- Appropriate follow-up to the submissions.
- In view of the deteriorating situation on the ground, mandating HoMs in Jerusalem and Ramallah to continue the work to reinforce the EU policy on East Jerusalem.

## EU HEADS OF MISSION REPORT ON EAST JERUSALEM

### JERUSALEM AND THE PEACE PROCESS

1. Without Jerusalem as the future capital of two states, a sustainable peace agreement between Israel and the Palestinians will not be possible. If current trends continue, the prospect of Jerusalem as the future capital of two states becomes increasingly unlikely and unworkable, undermining the two-state solution.
2. Jerusalem is a strongly emotive subject for both Palestinians and Israelis and incorporates both national and religious interests. It will be amongst the most complex final status issues to resolve in the peace process. Since the occupation and illegal annexation of East Jerusalem by Israel, the Palestinian part of the city has become ever more detached, both in terms of physical links as well as political and cultural ties, from the rest of the West Bank.
3. Israel is actively perpetuating its annexation by systematically undermining the Palestinian presence in the city through the continued expansion of settlements, restrictive zoning and planning, ongoing demolitions and evictions, an inequitable education policy, difficult access to health care, the inadequate provision of resources and investment and the precarious residency issue. The interlinked Israeli policies and measures continue to negatively affect East Jerusalem's crucial role in Palestinian political, economic, social and cultural life. In 2011 a surge in settlement planning has taken place especially at the southern flank of Jerusalem. This is increasingly undermining the feasibility of Jerusalem as the future capital of two states.
4. Over the past few years, Israel's actions in East Jerusalem have run counter to its stated commitment to a sustainable peace with the Palestinians through the two-state solution. Attempts to emphasize the Jewish identity of the city, at the expense of its Muslim and Christian residents, threaten its religious diversity and provide fuel to those who want to further radicalise the conflict, with potential regional and global repercussions.

### EU POLICY

5. EU policy regarding East Jerusalem is based on the principles set out in UN Security Council Resolution 242, notably the inadmissibility of acquisition of territory by force. In accordance with international law, the EU regards East Jerusalem as occupied territory and has never recognised the Israeli 1980 Basic Law (Jerusalem, Capital of Israel) which annexed Jerusalem as Israel's "complete and united" capital and modified the city's municipal borders. This is in line with UNSC Resolution 478 in which the Security Council decided "not to recognize this basic law and such other actions by Israel that, as a result of this law, seek to alter the character and status of Jerusalem". The EU considers Jerusalem as a final status issue in the Israeli-

Palestinian conflict and therefore opposes any measures that prejudice the outcome of peace negotiations.

6. In conferences held in 1999 and 2001, the High Contracting Parties to the Fourth Geneva Convention reaffirmed the applicability of the Convention to the occupied Palestinian territory (oPt), including East Jerusalem, and reiterated the need for full respect of the provisions of the Convention in that territory.

7. In 2004, the EU acknowledged the Advisory Opinion of the International Court of Justice on the "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory". While the EU recognises Israel's security concerns and its right to act in self-defence, it considers the construction of the separation barrier illegal under international law where it is built on occupied territory, including East Jerusalem.

8. The Council conclusions of 8 December 2009 (reiterated in December 2010) reaffirm the longstanding EU policy. According to the Conclusions, the EU will not recognise any changes to the pre-1967 borders including with regard to Jerusalem, other than those agreed by the parties. The EU has never recognised the annexation of East Jerusalem and states that "if there is to be a genuine peace, a way must be found through negotiations to resolve the status of Jerusalem as the future capital of two states". The EU has repeatedly urged the Government of Israel (GoI) to immediately end all settlement activities in East Jerusalem which the EU considers illegal under international law and calls on the GoI to cease all discriminatory treatment of Palestinians in East Jerusalem.

9. Under the terms of the Oslo Accords, the Palestinian Authority is not permitted to operate in East Jerusalem and so the Palestinian leadership can only work there under the political umbrella of the PLO. In an effort to support the official Palestinian presence in East-Jerusalem, the EU funded the "Strategic Multisector Development Plan for East Jerusalem 2011-13".

## SETTLEMENTS

10. The demographic factor is a central element in Israeli policy. In 1967, Israel annexed East Jerusalem. Moreover, by adding some 70 km<sup>2</sup> it redefined the municipal boundaries of Jerusalem. Today, some 790, 000 people live within these municipal boundaries, of which around 37 percent are Palestinian. It has been a stated aim in official planning documents to prevent the Palestinian population from becoming more than 30 percent of the municipality's total population. Successive Israeli governments have pursued a policy of transferring Jewish population into the oPt in violation of the Fourth Geneva Convention and international humanitarian law. In East Jerusalem 35 percent of the land has been expropriated, thus facilitating settlement construction. Out of a total of 507,000 Israeli settlers living in the oPt , 196, 000 now live in settlements inside East Jerusalem.

11. In 2003, Israel committed under the Roadmap to reach a permanent agreement that would include a negotiated solution on the status of Jerusalem and to freeze all settlement activity, including "natural growth". The GoI reaffirmed its Roadmap commitment to a settlement freeze at the Annapolis conference in 2007. In November 2009, the GoI announced a 10-month settlement moratorium. Although the GoI did not interpret the commitment to stop settlement activity as pertaining to East Jerusalem (based on claims that the Jerusalem municipality constitutes Israeli territory), a de facto settlement freeze occurred in East Jerusalem after the visit of US Vice President Joe Biden in March 2010 until the end of the moratorium in September 2010. Since then, however, systematic settlement activity has resumed. In 2011 a surge in settlement planning has taken place especially at the southern flank of Jerusalem.

12. There are two kinds of settlements in Jerusalem:

a) Settlement enclaves within Palestinian neighbourhoods established by ideologically motivated settlers predominantly in the Old City and the Historic Basin. These settlers aim at creating facts on the ground that prevent the division of the city by establishing settlements within Palestinian neighbourhoods, transforming the Old City and its environs into an area dominated by their historical narrative. Although formally being private initiatives these settlements could not take place without government support.

b) GoI initiated Jewish "neighbourhoods" built on land occupied by Israel in 1967. These settlements can be divided into an outer and an inner ring, isolating East Jerusalem.

### *Settlements in the Old City - Historic Basin*

13. The Old City and its immediate environs to the south and east are commonly referred to collectively as the Historic Basin. This area includes the Palestinian neighbourhoods of Silwan, Ras al-Amud, At-Tur, Wadi al-Joz and Sheikh Jarrah and contains the majority of the historical and holy sites of Jerusalem. With the exception of the Jewish Quarter of the Old City, these are Palestinian residential areas, but since the occupation of East Jerusalem in 1967, parts of the land have progressively been transferred to the control of various pro-settlement Jewish organisations. Today, there are around 4700 settlers living in the area. The focus of the settler organisations has included excavation of archaeological sites, services for tourists and recreational facilities. In spite of the fact that these activities are often being implemented by private organisations, such as Ataret Cohanim and El'ad (see archaeology section), they still form part of an overall pro-settlement strategy, the realisation of which is facilitated by the GoI as well as the Jerusalem municipality.

14. The strategic settlement push is made evident through the continued expansion of settlement activities around and within the Historic Basin. This creates a settlement continuum, comprised by a swath of smaller settlements, public parks,

archaeological sites and tourist complexes along the eastern and southern wall of the Old City. These activities effectively encircle and contain the Historic Basin, cut off the territorial contiguity between the Palestinian neighbourhoods of East Jerusalem and the Old City and separate the Muslim and Christian holy places from the rest of East Jerusalem.

15. Various methods are used to strategically gain control of Palestinian properties: through the Absentee Property Law, on the basis of claimed Jewish ownership (pre-1948), or through the purchase from the owners. As a consequence, land and property have gradually fallen under the control of various private settler organizations, almost invariably with state support. This raises concerns over the extent of influence settlement organisations enjoy inside the relevant authorities. At the same time, under Israeli law, Palestinians are precluded from reclaiming pre-1948 property in Israel or in West Jerusalem.

16. Moreover, private Israeli settler organisations have continued to take over property within the Old City where today the number of Jewish settlers is around 3,500. These settlers presently occupy property in all quarters of the Old City. Often these properties are wedged tightly in between existing Palestinian dwellings (sometimes settlers will occupy individual apartments in buildings also inhabited by Palestinian families). The close proximity between settlers and Palestinians in the Old City only adds to the considerable tension that already exists in the area. Settlers have increased the focus on the periphery of the Old City and its surroundings, leading to increased pressure on the nearby Palestinian neighbourhoods such as Sheikh Jarrah, Mount of Olives and Silwan. In Sheikh Jarrah, the construction of a new settlement is ongoing at the Shepherd's Hotel site. The demolition of the building in January 2011 led to strong protest by Palestinians and the international community. The initial plan to build 20 housing units at the site will be expanded with an additional plan comprising 90 housing units, a synagogue, a kindergarten and dormitories.

17. Following the Municipality's approval of construction permits in 2010, settlers have started the construction of 24 new apartments in four buildings in the private settlement of Beit Orot on the Mount of Olives. In the neighbourhood of Ras al-Amud, renovation and construction work for 14 new apartments in the old Police Station is nearing completion. Now called Ma'ale David, the station itself was vacated by the police after settlers funded the construction of the new police headquarters located in the E-1 area (see below). It was subsequently turned over to the settlers as part of a plan to expand the nearby settlement of Ma'ale Zeitim from 60 housing units to more than 200 by incorporating this new site. The plan aims at connecting Ma'ale Zeitim and Ma'ale David with a pedestrian bridge, thereby creating a settlement of more than 1,000 settlers at the entrance to Ras al-Amud.

18. Concerns remain about the Open Spaces project, which foresees, inter alia, the establishment of a sequence of national parks around the Old City, which are often related to archeological excavations. By cutting through Palestinian neighbourhoods

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and linking up settlements in East-Jerusalem, the establishment of these national parks risks to further isolate Palestinian neighbourhoods and limit Palestinian construction and living space in East Jerusalem. In November 2011 a plan for a new national park at the Mount Scopus slopes has been deposited for public review. The park, which would extend to a large part on private Palestinian land, is located between the Palestinian neighbourhoods of Isawiyya and A-Tur. If implemented it would prevent the urban development of these neighbourhoods.

### *The Inner Settlement Ring*

19. The inner ring comprises large government-initiated settlements within the Israeli-defined municipal boundary of Jerusalem. They are home to approximately 194,000 Israeli settlers. Wedged in between East Jerusalem and the rest of the West Bank, these settlements in combination with the barrier effectively cut East-Jerusalem off from the rest of the West Bank.

20. Settlement activity in East Jerusalem has accelerated in 2011. Four new town plan schemes have been approved for public review, altogether comprising at least 5,840 new housing units in the settlements of Gilo (South and West), Ramat Shlomo and Givat Hamatos. The expansion of Gilo attracted significant international concern and condemnation as the decision was taken only a few days after the Quartet issued a statement on 23 September calling on Israelis and Palestinians to refrain from provocative actions. While the Givat Hamatos plan does provide for some construction for Palestinians from Beit Safafa, it constitutes the creation of the first major new Israeli settlement in Jerusalem since Har Homa and significantly contributes to severing East Jerusalem from Bethlehem. Furthermore, as a response to the Palestinian membership of UNESCO in late 2011, the Israeli authorities have advanced East Jerusalem settlement construction by announcing the issuance of tenders for the construction of approximately 2,000 housing units in the settlements of Har Homa, Ramot and Pisgat Ze'ev. In effect, just before the Jordanian-sponsored direct talks between the Israeli and the Palestinian negotiators on 3 January 2012, the first for 16 months, tenders for 312 units in Har Homa and Pisgat Zeev were publicised by the Israel Lands Authority.

### *The Outer Settlement Ring*

21. The outer ring consists of settlements outside Jerusalem's municipal boundary but largely on the west side of the barrier. These settlements further isolate Jerusalem from the rest of the West Bank. They include the three main "settlement blocks": Giv'at Ze'ev, Ma'ale Adumim and the Gush Etzion bloc, home to approximately 100 000 settlers. Also in these large settlements tenders were announced in November 2011 as a retaliatory response to the Palestinian membership of UNESCO.

22. Concerns remain about areas that have been designed for further settlement expansion, such as the E1 area (situated between Jerusalem and the Ma'ale Adumim settlement). In this area, there is a long-standing plan to build a new settlement with 3 500 units for around 14 500 settlers. The plan also includes an industrial park, large-

scale infrastructure, commercial development and recreational facilities. The police headquarters of "Judea and Samaria" has already been moved to E1 (see above). Construction of infrastructure in E1 began in 2004 and was subsequently halted as a result of strong US objections. It has not resumed since then nor has it appeared likely to resume until recently. However, recent announcements by the Israeli Finance Minister that the time to build E1 has come and the approaching implementation of plans to displace the Bedouins living in the E1 area (see "planning, demolitions, evictions and displacement" section), all indicate that the prospect of the GoI implementing the E1 plan in the near future is greater than it has been since 2004. The implementation of the E1 project would effectively divide the West Bank into separate northern and southern parts. Moreover, by establishing contiguity between the settlements and Jerusalem, it would be the final step to geographically cutting off East Jerusalem from the rest of the West Bank.

## ARCHAEOLOGY

23. GoI involvement in settlement activities in the Historic Basin includes the outsourcing of archaeological undertakings to private Israeli pro-settlement organisations. The use of archaeology as a political and ideological tool in the Wadi Hilweh area just south of the Temple Mount/Haram Al-Sharif is a source of increasing concern. According to historic accounts, biblical Jerusalem originated in this area some 3000 years ago and so the place has been the subject of numerous archaeological excavations throughout the last century.

24. The management of the various archaeological sites in Wadi Hilweh, the northern part of Silwan, has now largely been placed in the hands of El'ad, a Jewish settler organisation. The organisation has entered into a partnership with the Israel Antiquities Authority which is paid directly by El'ad to carry out the excavations without Palestinian involvement or international oversight. Furthermore, with the support of the Jerusalem Municipality, El'ad has been successful in securing a contract from the Israel Nature and Parks authority to manage the "City of David" archaeological visitors' park in Wadi Hilweh, a contract which is currently being contested in the Supreme Court. Consequently, not only the excavation, but also the presentation of important parts of the Jerusalem archaeology has been outsourced to El'ad. On 28 December, Jerusalem Local Planning and Building Committee approved an El'ad-sponsored plan for building a vast Israeli tourist complex in the highly sensitive area of Silwan. This plan includes a bridge over the road that will create a direct connection between the "City of David" tourist site and the Dung Gate entrance to the Western Wall plaza. It is El'ad's stated aim to transform Wadi Hilweh/Silwan into an extension of the Old City's Jewish quarter. If implemented, this plan will constitute another unilateral fact on the ground, affecting the character of the public space in this highly sensitive area.

25. The result has been a biased official historical narrative of Jerusalem, placing emphasis on biblical and Jewish-Israeli connotations of the area while neglecting Arab/Muslim claims of historic-archaeological ties to the same place. The overarching

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purpose of such a pre-programmed approach to the presentation of archaeological evidence in the area seems to be a concerted effort to utilize archaeology to enhance a claimed historic Jewish continuity in Jerusalem, thereby creating the sense of a historic justification for the establishment of Jerusalem as the eternal and undivided capital of Israel.

## **PLANNING, DEMOLITIONS, EVICTIONS and DISPLACEMENT**

26. The planning regime of the Jerusalem municipality remains a source of concern as it places severe restrictions on the building of Palestinian housing in East Jerusalem. While Israeli planning legislation does not explicitly discriminate against the Palestinian population, in its implementation it leads to de facto discrimination on the ground, as the following examples show:

- A very small proportion (less than 9%) of Palestinian privately-owned land in East Jerusalem can be used for building. This is due to the fact that around 57% of Palestinian privately-owned land remains unplanned and therefore not eligible for building permits. In addition around 35% of the total land in the Palestinian suburbs has been defined by Israel as "open space", which further restricts the possibility of building.
- Where allowed, the building density permitted in certain areas of East Jerusalem is significantly lower than in West Jerusalem. Besides, the relatively higher density allowed in Palestinian neighbourhoods close to Palestinian built-up areas on the "West Bank" side of the separation barrier pushes the Palestinian population towards specific areas of East Jerusalem.
- In order to be able to get a building permit it is necessary to prove ownership of the land, which is problematic as most land in East Jerusalem, due to historic reasons, is not officially registered with the Israeli authorities.
- For Palestinians, the cost of getting the licenses still remains high and the process is complicated and lengthy. Because of the lower building density in Palestinian areas, the costs, which are based on the building's footprint, are shared amongst fewer people.

27. As a consequence of the restrictive planning regime, there is an acute housing shortage in East Jerusalem. Over the past years Palestinians have received fewer than 200 building permits per year. Based on the population growth, permits for 1500 housing units annually would be necessary to cover the housing needs in East Jerusalem. Consequently, Palestinian houses are overcrowded and in a bad condition.

28. The planning regime poses a difficult dilemma for Palestinian families: they have the choice between migrating outside the municipal area of Jerusalem (and losing their residency status) or building without the necessary building permit. 32% of Palestinian structures in East Jerusalem lack such a permit and as a result 85,000 Palestinians are at risk of demolitions and forced displacement in East Jerusalem.



29. Buildings that are constructed without a permit are considered illegal by the Israeli authorities. Up to 1,500 'illegally' built residential buildings in East Jerusalem currently have demolition orders against them. In 2011, Israel has demolished 28 structures. Moreover, 10 demolitions have been executed by the owners themselves after receiving a demolition order, under the threat of heavy fines. As a result, 91 people (of which 48 are children) have been displaced. This compares favourably to 84 structures demolished by Israel in 2009 and 82 in 2010. While the Municipality, within the Israeli system, is responsible for demolitions, the Gol can stop these from taking place by refusing to provide police protection. This occurred for several months in 2011, until early December when the police again began to provide security, thus allowing demolitions to take place.

30. Alongside the threat of demolitions, a number of Palestinians face the risk of eviction. This is usually associated with the take-over of Palestinian property by settler organisations. Recent years have seen the forced evictions of over 200 Palestinians from their homes in several neighbourhoods in East Jerusalem, typically based on claims of Jewish land ownership prior to 1948 or based on the historical, religious or archaeological importance of the area, as in the case of the "City of David" / Silwan (see archaeology section). Similarly to demolitions, evictions require police presence.

31. In the E1 area around 2,300 Bedouin are threatened with forced transfer. Plans include the relocation of some of these communities to the site of the Abu Dis waste dump. Reports indicate that the implementation of the first stage of this relocation plan may begin in early 2012. (for concerns on E1, see par. 22 of the settlement section)

## RESIDENCY STATUS

32. Residency rights in East Jerusalem are linked to Israeli demographic policy. Restrictive measures continue to apply in relation to the ID and residency status of Palestinians from East Jerusalem. Since 1967, Palestinian residents of the city were given the status of "permanent residents" of Israel, giving them the right to live in Jerusalem and work in Israel without the need for a special permit. To retain this status residents are forced to regularly prove, according to a strict criteria, that Jerusalem is the centre of their life. If they fail to convince the Israeli authorities, they lose their right to reside in the city. Permanent residency is also revoked if they obtain citizenship or residency of another country. Latest data acquired from the Israeli Ministry of Interior shows that since 1967, around 14,500 Palestinian residents of Jerusalem have had their status revoked.

33. Unlike Israeli citizenship, permanent residency is not automatically passed on to Palestinian children, who only receive permanent residence under certain conditions. This leads to difficulties in the registration of children where one parent is a Jerusalem resident and the other is from rest of the West Bank or the Gaza Strip.

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There are as many as 10,000 unregistered children in East Jerusalem, which impacts on their ability to access basic education, health and other social services.

34. As permanent residency is not automatically transferred through marriage, an East Jerusalemite who marries a Palestinian from the rest of the West Bank or the Gaza Strip, and wishes to reside in the city with his/her spouse must apply for family unification, a long, expensive bureaucratic process. In 2003, Israel introduced the "Nationality and Entry into Israel Law (Temporary Order)" under which not only the spouses of permanent residents of East-Jerusalem, but also their children are prohibited from living with them in the city.

35. In June 2010, the Israeli authorities invoked a "breach of loyalty to the state of Israel" in order to expel from Jerusalem three members of the Palestinian Legislative Council as well as a former PA Minister. Out of these, two have now been forcibly transferred from the city, while two others remain in the ICRC compound, where they have sought refuge. In early 2011, the Israeli authorities also invoked emergency regulations from the British mandate period to expel a Silwan activist from Jerusalem for four months.

36. At least 45,000 East Jerusalem residents live on the "West Bank" side of the separation barrier (Kufr Aqab, Anata, Semiramis) but within the Israeli declared boundaries of the Jerusalem municipality. Jerusalem residents have been attracted by lower costs of living and the ability to live with West Bank-ID holding family members. Following Israeli statements, most recently by the Jerusalem Mayor, there is growing concern that Israel could re-draw the city's municipal boundaries along the route of the barrier, excluding these areas from Jerusalem. The decision would require a majority in the Knesset.

## **ACCESS AND MOVEMENT**

37. The route of the separation barrier and its associated permit regime continue to have a serious negative social and economic impact on East Jerusalem. The barrier, much of which consist of a nine-metre-high cement wall in and around Jerusalem, disconnects East Jerusalem from the rest of the West Bank and physically separates Palestinian communities within East Jerusalem.

38. The construction of the separation barrier in East Jerusalem, which started in 2002, continued throughout 2011. In the Jerusalem area, the barrier is 168 kilometres long, of which only three percent runs along the 1967 Green Line. The main reason behind this deviation was the integration of 12 Israeli settlements (and space for their future expansion) and the future integration of settlements beyond the municipal boundary such as Ma'ale Adummim.

39. The route of the barrier changes the de facto boundaries of Jerusalem and, in some cases, runs through the middle of densely populated Palestinian neighbourhoods. As a consequence, a number of Palestinian communities within the

Jerusalem municipal boundary find themselves on the "West Bank" side of the barrier. These communities need to cross checkpoints to access the health, education and other services to which they are entitled (and pay taxes for) as residents of Jerusalem. The barrier also affects at least 16 West Bank localities outside of the Jerusalem Municipality but now situated on the "Jerusalem" side of the Barrier. The 2,500 residents in these communities face uncertain residency, impeded access to basic services and fear of displacement.

40. In December 2011, the Israeli authorities completed the construction of the barrier around Shu'afat refugee camp and opened a new checkpoint. This further consolidates the geographical and physical separation of East Jerusalem from the rest of the West Bank. Moreover, the barrier and the new checkpoint are further isolating Shu'afat refugee camp, already a particularly neglected area in terms of services provided, from the rest of East Jerusalem.

41. The village of Al Walaja, at the south-eastern flank of Jerusalem, offers another concrete example of the impact of the barrier. Here, despite ongoing legal proceedings, the barrier continues to be built along a route that will essentially encircle the village and its residents and has led to the de facto confiscation of privately-owned Palestinian land. Once the barrier is complete, much of the remaining land will be on the other side of the barrier and only be accessible by the Palestinian residents through a system of gates and permits.

42. Palestinians who do not have Israeli citizenship or residency rights in Jerusalem need a permit to enter the city. The permit is difficult to obtain and is subject to a number of conditions, e.g. time limited, a ban on driving a car or staying overnight. For those Palestinians who are granted permits, access is restricted to four out of 14 barrier checkpoints: Gilo, Qalandiya, Shu'afat and Zaytoun. Permits are suspended during security closures and often during Jewish holidays.

## **EDUCATION**

43. Inequities in the education sector in Jerusalem, coupled with access restrictions, are having a serious impact on the quality of education provided to the nearly 90,000 school-age Palestinian children in East Jerusalem. Many students are failing to complete the secondary cycle and the drop-out rate is much higher than in West Jerusalem.

44. Despite a requirement under Israeli law that Palestinian pupils between the ages of 5 and 18 are entitled to free public education, in practice, due to a severe shortage of classrooms and poor standards of teaching and facilities, less than half of the school-age Palestinians in East Jerusalem attend municipal schools. Private schools, UNRWA schools and schools run by the Waqf on behalf of the PA, accommodate most others, although it is estimated that up to 5,300 children are not enrolled in any educational institution. In February 2011, the Israeli Supreme Court recognised that the current situation in East Jerusalem "violates the constitutional

right of children in East Jerusalem for equality in education". The Court ordered the Municipality to provide sufficient classrooms within 5 years. Planning for, and the construction of, an additional 352 classrooms has begun. However, as approximately 1,500 additional classrooms are needed as of today, a significant gap will remain. The demand for classrooms is likely to grow even further as the Palestinian population increases.

45. An estimated 50 percent of existing classrooms in East Jerusalem municipal schools are unsuitable or substandard. Outside the municipal system, planning restrictions hinder the construction of new school facilities and some schools are threatened by demolition and sealing orders. Due to this shortage, children in Waqf schools often study in overcrowded, makeshift classrooms in facilities that are not built for educational purposes and that lack libraries or even playgrounds.

46. Palestinian students and teachers face serious difficulties in reaching educational services, reporting longer journeys and delays in getting to schools, including in some cases from having to cross the separation barrier. The PA estimates that 20% of students and teachers in Waqf schools have to cross at least one checkpoint on a daily basis to access their schools.

47. Since 2000, a PA developed curriculum, and associated textbooks, have been in use throughout the oPt, including in all East Jerusalem schools, (replacing the Jordanian curriculum used before then). Palestinians attach considerable importance to the use of this curriculum as a means to express and teach their identity. Municipal schools use a version of the curriculum that is edited by the Israeli authorities to remove references to subjects considered sensitive, such as a picture of a Palestinian flag. In March 2011, the Israeli authorities wrote to private schools that receive funds from the Municipality, requiring them to use the edited version of the textbooks, instead of the PA version (which the PA provide free of charge) or risk losing their funding. This move was met by protest from parents and others involved in the education sector but many schools have complied. Statements by members of the Knesset education committee in 2011, suggesting that the Israeli curriculum will be imposed on East Jerusalem schools, caused further alarm, although there do not seem to have been further moves on this to date.

48. The challenges faced by Palestinian institutions in East Jerusalem are encapsulated by Al Quds University. Its main campus is now separated from the city and its other campuses by the separation barrier. As a result students from both sides of the barrier face access difficulties. Most problematically, the Israeli authorities have refused to recognise the qualifications issued by the University (unlike other Palestinian Third Level institutions which operate outside of Jerusalem) leaving its thousands of graduates unable to access the Jerusalem jobs market. To remedy this, the University has applied for Israeli accreditation but was advised that to be successful it would have to split in two. In effect, to gain recognition it has to become two Universities; both in Jerusalem, but one on either side of the separation barrier.

## HEALTH

49. While all East-Jerusalemites are entitled to (and pay for) Israeli health insurance, those residing on the "West Bank" side of the barrier regularly have difficulties accessing Jerusalem healthcare facilities.

50. Furthermore, certain secondary and tertiary care which is not available in the West Bank and Gaza, including specialised treatment for diabetes, cancer and cardiovascular disease, are only provided for by East Jerusalem's hospitals (non-governmental). As a result of the barrier and the (accompanying) Israeli permit regime, West Bank ID-holders, who make up about 60 percent of all admissions to the East Jerusalem hospitals, struggle to enter Jerusalem for treatment. Males aged between 15 and 30 often have their requests for permits rejected on the grounds of security, and parents or family members of sick children have difficulties in obtaining permits to accompany them to East Jerusalem hospitals. Most West Bank-ID holding patients are also required to cross barrier checkpoints on foot. Few separate lines exist for people with special needs, but they are not regularly open. Patients needing emergency treatment available only in Jerusalem are especially affected by the delays caused by the Israeli access restrictions. Only in urgent cases can "West Bank" ambulances be authorised to enter East Jerusalem and even then there are often delays and or entry is denied.

51. Since 2008, all permit-holding medical personnel, excluding doctors, who live in the West Bank are only allowed to cross through three very congested checkpoints (Qalandiya, Gilo, Zaytoun). Only doctors continue to have a special stamp on their permits allowing them to use any checkpoint to reach East Jerusalem. These further access restrictions result in long delays and impede efficient functioning of hospitals and the delivery of quality health-care services.

52. East Jerusalem hospitals are prohibited by the Israeli Ministry of Health from importing medical equipment and medicine from the West Bank creating supply and logistical problems for the hospitals and resulting in higher costs. Israeli restrictions on construction, expansion or renovation of East Jerusalem hospitals have a negative impact on these hospitals' ability to meet their patients' needs. East Jerusalem hospitals have a quota for the number of West Bank-ID holding staff they can employ. Whereas work permits for existing staff can be renewed, permits requested for new staff are often turned down. This has led to a decrease in West Bank-ID holding staff at East Jerusalem hospitals, impacting on patient care. Trainee medical personnel also require access to the hospitals in order to complete their studies (and therefore meet the future needs of health sector staffing) and some 90 percent of these students are from the West Bank.

53. Israeli ambulance staff are allowed to enter Palestinian neighbourhoods in East Jerusalem only under police escort, even when patient/resident is in critical condition. Requests for the dispatch of ambulances regularly result in unnecessary, and potentially life-threatening, delays for Palestinian residents in East Jerusalem.

54. All six East Jerusalem Hospitals were severely affected in 2011 by the inability of the PA to pay the cost of treatment of the patients which were referred from the West Bank and Gaza. PA debts towards the hospitals peaked at more than 70 million Shekels at two occasions in 2011. This situation was exacerbated by Israel's withholding of Palestinian clearance revenues. This poses a severe threat to the hospitals as key Palestinian institutions remaining in East Jerusalem.

## **ECONOMY, TRANSPORT and INFRASTRUCTURE**

55. The economic situation in East Jerusalem remains a major source of concern. The barrier has a particularly adverse impact on the traditionally strong trade links between East Jerusalem and the rest of the West Bank. The traditional market of East Jerusalem for goods and services manufactured in the rest of the Palestinian territory remains largely beyond reach. There are, for instance, restrictions on the import of dairy products and vegetables from the West Bank to East Jerusalem.

56. While Palestinians constitute approximately 37 percent of the population in Jerusalem, only around 10 percent of the municipal budget is spent in Palestinian areas. The provision of services in East Jerusalem by the Jerusalem municipality is inadequate. Palestinian areas are characterised by poor roads, little or no street cleaning, limited sewage systems and an absence of well-maintained public spaces - in sharp contrast to areas where Israelis live (in both West Jerusalem and East Jerusalem settlements).

57. While per capita GDP in East Jerusalem is generally higher than in the rest of the West Bank, East Jerusalem Palestinians must cope with higher prices and higher taxes, which lowers their purchasing power relative to West Bank Palestinians. While accurate economic data for East Jerusalem, disaggregated from West Jerusalem, is not available, poverty rates in East Jerusalem are far higher than in most other areas of the city. There was a slight increase in unemployment. Unemployment was highest within the age group of for those aged 15-29 and amongst the poorly educated.

58. A number of completed or ongoing infrastructure projects contribute to the Israeli control over East Jerusalem. A tramway/light rail now connects Israeli settlements in East Jerusalem with the centre in West Jerusalem. After repeated delays, the Jerusalem light rail system began limited passenger service on August 19, 2011. The first line of this tramway passes through the Palestinian neighbourhood of Shu'afat and touches the southern border of Beit Hanina. The line is about 14 kilometers long with 23 stops to date, but extensions are planned for both ends of the route. Since the opening, several incidents have been reported between young Israelis and Palestinians.

59. A separate and inferior set of roads for Palestinians is being set up around Jerusalem. A series of bypass roads, to the east of Jerusalem, is currently being built and will connect Palestinian neighbourhoods outside of the separation barrier north and south of Jerusalem. The declared purpose of the Israeli authorities for these roads is to secure so-called "transport contiguity" for Palestinians living in the north and the south of the West Bank, who are already denied travelling from Ramallah to Bethlehem through East-Jerusalem. It is intended that one of the main roads linking Hizma to Az Zayyem will have restricted access by a further Israeli checkpoint in Anata (north of Ma'ale Adumim). It is separated by a wall from a parallel road reserved for Israeli vehicular use only, which connects the settlement of Ma'ale Adumim to Jerusalem.

60. At least two other roads are currently under construction: the first one is Route 20, a lateral bypass road that will create a direct link between road 443 (west of Ramallah) and the settlement of Pisgat Zeev. It will be reserved for Israelis and Palestinian residents of Jerusalem. An infrastructure has been created to prepare the building of a bridge which is going to create a connection between road 20 and road 443, which will divide Beit Hanina into two parts. The second one is an additional access road south of Ma'ale Adumim, reserved for Israeli use only and aiming at facilitating traffic and access to Ma'ale Adumim. Land confiscations for another bypass road for Palestinian traffic have taken place south of the Ma'ale Adumim/E1 area. The cumulative effect of this new road grid will eliminate West Bank Palestinian traffic in the Ma'ale Adumim/E1 area. (see also par. 31 in the section on displacement)

## **PALESTINIAN INSTITUTIONS**

61. In 1993 the then Foreign Minister of Israel in a letter to his Norwegian counterpart acknowledged the importance of Palestinian institutions in East Jerusalem, adding that their activities would not be hampered. In 2001, however, Israel decided to close most of these institutions. The Roadmap required Israel to reopen the institutions whilst the EU, in its December 2009 Council conclusions, reiterated in December 2010, also called for the reopening of Palestinian institutions.

62. Nonetheless, Israeli authorities continue to renew the order of closure of numerous institutions every six months, basing its decision on claims that the institutions are affiliated to the Palestinian Authority and, therefore, in violation of the Oslo Accords.

63. The institutional and leadership vacuum in East Jerusalem created by the prolonged closure of those institutions, in particular that of the Orient House, which functioned as the PLO focal point in East Jerusalem, remains a key concern. In August 2011, EU HoMs in Jerusalem and Ramallah called for its reopening on the 10th anniversary of its closure. Palestinian politicians active in Jerusalem are subject to repressive measures by Israel. This void continues to seriously affect all spheres of

life of Palestinians in East Jerusalem (political, economic, social and cultural) and foster a growing fragmentation of society at all levels, the isolation of communities and a weakened collective sense of identity. Equally of concern is the general sense of neglect felt by many Palestinian East Jerusalemites and the absence of Palestinian state-sponsored institutions and secular organisations, as they allow more space for Islamic extremist organisations to extend their influence.

## RELIGION

64. Jerusalem is a city of paramount importance to the three monotheistic religions and the location of many of their most sacred sites. More than 98 percent of Palestinians in the oPt are Sunni Muslims, with an estimated 50,000 Christians of different confessions in Jerusalem and the rest of the West Bank and 1,000 to 3,000 in Gaza.

65. Relations between different religious groups continue to be strained. Such tensions are fuelled by historical grievances, as well by cultural and religious differences. Church leaders have reported an increase of interreligious intolerance such as harassment and defamation of religious symbols. Interfaith organizations such as the Council of Religious Institutions of the Holy Land continue their work to foster dialogue between the city's religions and to preserve the character of Jerusalem. In this respect, Church leaders claim that the GoI is increasingly implementing policies aimed at fundamentally altering the character and status of the Holy City of Jerusalem by stressing the Jewish character and history of the city at the expense of the Christian and Muslim narratives.

66. The GoI selectively enforces legal and policy restrictions on religious freedoms and on access by Christian and Muslims religious worshippers to their holy sites located in Jerusalem/Old City throughout the year. In addition, the separation barrier seriously impedes the work of religious organisations who provide education, healthcare, and other humanitarian relief and social services to Palestinians in and around East Jerusalem.

67. While visa issuance rates for members of the Christian clergy have improved throughout the year, visa issuance rates remain low for volunteers working in religious institutions. The Anglican Bishop of Jerusalem, who is a Palestinian from Nablus, was finally issued a new temporary residency permit in September 2011, after having been denied it in 2010.

68. Palestinian Christian emigration has been continuous but accelerated since 2001, reducing the number of Christians in Jerusalem and in the rest of the oPt resulting in the progressive erosion of the Christian presence and of the Christian character of the Holy City. Church leaders cite as reasons for increased emigration: GoI imposed family-reunification restrictions, the limited ability of Christian communities in the Jerusalem area to expand due to confiscation of church properties and building restrictions, taxation problems and difficulties in obtaining residency

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permits for Christian clergy. Moreover, lower birth rates among Palestinian Christians contribute to the decline in their numbers. The Christian Palestinian population is now estimated at 11.000, down from 34.000 in 1948.

69. The GoI makes some accommodations for Palestinian Christians in the West Bank, especially from the Bethlehem-area, to access Jerusalem on the occasion of the most important Christian religious festivities (Christmas and Easter). These accommodations, based on permits, are limited in time and selectively enforced (i.e. not all members of one family obtain the permit). In 2011 Israeli Authorities again invoked security reasons to intensify restrictions on the access to Christian Sites in the Old City, e.g. by closing the Jaffa Gate, thereby obstructing access to the Holy Sepulchre during the Holy Fire Ceremony of the Christian Orthodox Easter and Palm Sunday. Similar restrictions are not put in place for the Jewish population with some Christian Church leaders arguing that when Jewish and Christian religious holidays coincide, which is typically the case of the Easter festivities, Israel adopts discriminatory practices against Christians.

70. Fewer accommodations are made by the GoI for Palestinian Muslim pilgrims entering Jerusalem. During the month of Ramadan, many Muslims cannot observe their prayers at the mosque of their choice, notably Al-Aqsa. This was again the case in 2011 when access for Palestinians with West Bank ID was restricted to men over 50 and women over 45 and boys and girls under 12. Other categories need to apply for special permits. This implies that 40 percent of the West Bank population was denied access to Friday prayers. The Jordanian Waqf that manages the Haram-Al-Sharif/Temple Mount site complains that Israeli police increasingly violates agreements regarding control of access to the site (see Haram al-Sharif/Temple Mount section).

#### **THE HARAM AL-SHARIF/TEMPLE MOUNT**

71. The Haram al-Sharif/ Temple Mount is a holy site for both Jews and Muslims. The site is under de facto Israeli control but administered by the Jordanian Islamic Waqf. Any perceived threat to its integrity and to the status quo not only raises tensions locally but has the potential to provoke extreme reactions regionally and globally.

72. Compared to previous years, 2011 has seen fewer violent incidents at the site despite increased visits by Jewish radical political and religious groups especially during the high Jewish holidays. However, tension has heightened due to continued provocative statements by some Jewish religious and political leaders calling for the imposition of Israeli sovereignty over the Mount. Moreover, religious opinions urging Jews to visit the site, in violation of orthodox precepts prohibiting any Jewish presence on the Mount, have become more widely accepted.

73. The Mughrabi bridge, the only access to the Haram al-Sharif / Temple Mount for non-Muslims, continues to be a highly contentious issue. Preparatory steps by the

Municipality, without prior consultation with the Waqf or Jordan, to replace the temporary bridge with a more permanent structure have exacerbated tensions and further harmed Israeli relations with these stakeholders. In December the city engineer ordered the Mughrabi bridge to be closed, citing safety concerns. Three days later, the bridge was reopened upon the instruction of the Prime Minister, asserting that the genuine safety concerns will not be used as a pretext to unilaterally alter the status quo. This decision has deferred the impending crisis but left the underlying issues unresolved. The Waqf fears that current Israeli plans to replace the bridge would change the status quo and moreover facilitate incursions by Israeli security forces. Israel and Jordan, which has a special responsibility for Jerusalem's holy sites according to the Israeli-Jordanian peace treaty, have been trying to reach consensus on the issue of replacement, so far to no avail. Any uncoordinated action could lead to an escalation of violence.

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## **Reinforcing the EU policy on East Jerusalem**

*The 2011 recommendations made by Heads of Mission in Jerusalem and Ramallah are largely congruent with those of 2010. Keeping in mind the deterioration on the ground and the sensitivity of the situation in Jerusalem, they have been drawn up in a spirit that aims to maintain the possibility of a two-state solution as set out in numerous statements by the EU, not least the Council Conclusions of 8 December 2009. Their implementation, which aims to preserve a Palestinian social fabric in East Jerusalem on a political, cultural and economic level, has for these reasons become increasingly urgent.*

*These actions can be implemented by the EU or individual Member States as appropriate.*

### **A. East Jerusalem as the future Palestinian capital**

- 1) In conformity with the objectives of the Strategic Multi-sector Development Plan for East Jerusalem, promote a coordinated approach and a coherent Palestinian strategy towards East Jerusalem.
- 2) Promote the establishment of a PLO focal point/representative in East Jerusalem.
- 3) National or Europe Day events to be held in East Jerusalem (when suitable at Palestinian institutions).
- 4) EU missions with offices or residences in East Jerusalem to regularly host Palestinian officials with senior EU visitors.
- 5) Avoid having Israeli security and/or protocol accompanying high ranking officials from Member States when visiting the Old City/East Jerusalem.
- 6) Prevent/discourage financial transactions from EU MS actors supporting settlement activity in East Jerusalem.
- 7) Invite the Commission to consider proposing appropriate EU legislation to prevent/discourage financial transactions in support of settlement activity.
- 8) Compile voluntary guidelines for EU tour operators to prevent support for settlement business in East Jerusalem.
- 9) Ensure that products manufactured in settlements in East Jerusalem do not benefit from preferential treatment under the EU-Israel Association Agreement.
- 10) Raise public awareness about settlement products, for instance by providing guidance on origin labelling for settlement products to major EU retailers.

- 11) Inform EU citizens of financial risks involved in purchasing property in occupied East Jerusalem.

**B. Reopening of Palestinian institutions in East Jerusalem**

- 1) Highlight the reopening, as stipulated in the Road Map, of Palestinian institutions in high level meetings with Israeli representatives, as well as in the EU and Quartet discussions and statements.
- 2) Host Palestinian Jerusalem civil society events in cultural offices, consulates and diplomatic residences until institutions are reopened.
- 3) Explore the use of Palestinian institutions to promote joint EU-PLO interests.

**C. Economic and social rights of the Palestinian population**

- 1) Provide assistance to ensure that Palestinians are included in the development of urban masterplans in East Jerusalem in order for i.e. Palestinian housing needs to be met.
- 2) In high level meetings, stress the EU's serious concerns regarding inadequate emergency services, e.g ambulances, fire fighting and policing for all residents in East Jerusalem.
- 3) Coordinate, fund and support projects in East Jerusalem.

**D. Religious and cultural dimension of the city**

- 1) Support and encourage inter-faith dialogue in Jerusalem.
- 2) Encourage Arab countries to acknowledge the multicultural dimension of Jerusalem, including its Jewish and Christian heritage.
- 3) Engage in informing (e.g. web sites etc) EU citizens undertaking visits on the political situation in East Jerusalem.

**E. Strengthen the role of the European Union**

- 1) Enhance local coordination between Quartet actors for input into policy making and decisions.
- 2) Ensure EU presence when there is a risk of demolitions or evictions of Palestinian families.
- 3) Ensure EU presence at Israeli courts cases on house demolitions or evictions of Palestinian families.

- 4) Ensure EU intervention when Palestinians are arrested or intimidated by Israeli authorities for peaceful cultural, social or political activities in East Jerusalem.
- 5) Operationalise the EU policy on bringing high level visitors to sensitive sites (e.g. separation barrier etc).
  - on logistics for high level visitors (e.g choice of hotel, change of transport East/West)
  - on contacts with the Jerusalem Mayor and on refraining from meeting Israeli officials in their East Jerusalem offices (e.g. in the Israeli Ministry of Justice etc)
- 6) Share information on violent settlers in East Jerusalem to assess whether to grant entry into EU Member States.