

Q and A

All you need to know about
the EU's Counter-terrorism clause
and its destructive impact on
Palestinian Civil Society



**Palestinian National Campaign to
Reject Conditional Funding**
August 2020

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What is the Palestinian National Campaign to Reject Conditional Funding?

The Palestinian National Campaign to Reject conditional Funding was born in response to increasing unacceptable political conditions imposed on Palestinian civil society by the international donor community, namely the EU and international non-government organizations from EU member states. The Campaign was launched in late December 2019 and advocates for the removal of any unacceptable political conditions included in the funding contracts and agreements with Palestinian civil society.

Who are the members of the Palestinian National Campaign to Reject Conditional Funding?

The campaign has over 300 member organizations, including a number of Palestinian networks/coalitions, spanning historic Palestine and Lebanon. Its members are respected community-based organizations with significant ties to the communities they serve. The organizations vary in their area of expertise and scope, operating in a variety of sectors: providing civil, economic, political, social and cultural services, as well as promoting Palestinian voices and rights. The Campaign is guided by an elected 7 member steering committee.

The EU says nothing has changed in the granting contracts to Palestinian civil society. Is that true?

This is false. While the clause existed in EU's regulations since 2001, it was only included in and imposed on Palestinian civil society in July 2019 within Annex II of the General Conditions.

What is the counter-terrorism clause?

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The clause, known as “Article 1.5 bis”, states that “grant beneficiaries and contractors must ensure that there is no detection of subcontractors, natural persons, including participants to workshops and/or training and recipients of financial support to third parties, in the lists of EU restrictive measures”.

More importantly, what does it mean?

It means that any organization receiving EU funds must take measures to ensure that none of the funds go to entities or individuals that are on the EU sanctions lists.

What are the EU lists and the restrictive measures?

The EU has a number of lists that are not static, rather they have and can evolve over time usually depending on the political climate. The “EU sanctions list” contains a list of states subject to EU sanctions, and a list of entities and individuals that the EU has designated as terrorist. The EU restrictive measures are a set of sanctions and procedures imposed upon states, entities and individuals designated in the EU sanctions list. These measures include a set of pre, during and post implementation checks and vetting to ensure that funds are not channeled, directly or indirectly, to alleged terrorist entities or individuals.

What is the criteria that the EU used to determine who/what is a terrorist or terrorist entity?

The EU defines terrorism as “intentional acts, which, given its nature or its context, may seriously damage a country or an international organization, as defined as an offence under national law, where committed with the aim of: (i) seriously intimidating a population, or (ii) unduly compelling a Government or an international organization to perform or abstain from performing any act, or (iii) seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or an international organization, [...]”.

What is the problem with the EU’s definition of terrorism?

The problem in the EU definition is attributed to many factors. One of the most important is that it fails to differentiate between the legitimate struggle of a people to achieve liberation from domination and oppression and terrorist acts. Considering the legal context of Palestine, the EU definition fails to address the right of Palestinian people to legitimate resistance. Another problem is that the EU definition does not entail States’ actions which may constitute terrorist acts, particularly actions that are directed against an oppressed people, such as the Palestinian people. Finally, while the EU can adopt its own definitions and regulations, it cannot impose them on others – bearing in mind that as of the publication of this Q&A there is no internationally accepted definition of terrorism.

Are Palestinian entities and individuals on the EU sanctions list?

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To date, the Palestinian entities that are on the EU sanctions list are: Hamas, Islamic Jihad, Al-Aqsa Brigade-Fatah, the Popular Front for the Liberation of Palestine (PFLP) and the Popular Front - General Command. There are no Palestinian individuals on the list, yet.

What can be done about the Palestinian entities on the EU sanctions list?

As mentioned previously, the sanctions list is evolving and the EU has procedures in place to remove and add entities and/or persons to the list. So, its highly probable that other Palestinian entities and individuals will be added to the list in the future. While removing entities and individuals from the list involves a long legal and resource intensive battle that would take long time and requires serious change in international balance of powers, removing the article from granting contracts with Palestinian CSOs is possible and achievable.

So what do Palestinian organizations that are members of the Campaign want the EU to do?

During multiple dialogues with EU, members of the Campaign to Reject Conditional Funding first called on the EU to recognize the legal context of Palestine and Palestinians as a country and people struggling for self-determination and remove Article 1.5 bis from

the granting contracts with Palestinian organizations. When the EU refused, we proposed alternative articles to replace Article 1.5 bis. The EU rejected this as well even though both solutions are viable and would respect the responsibilities of both the EU and Palestinian civil society.

What did Palestinian civil society propose to the EU to replace Article 1.5 bis?

In several meetings and interviews, the EU declared that the article in Palestine context aims not to criminalize Palestinian struggle and the political parties, but to guarantee not channeling EU's funds to political parties. based on this, and after the EU rejected the removal of Article 1.5 bis in the granting contracts, we proposed a set of articles that fulfilled the EU's aim stated during the dialog meetings, while respecting Palestinian rights and our laws which prohibit receiving conditional funding, and preserving the legitimacy of our people's struggle. The articles that were proposed were:

- The partner commits to spend the EU funds on the activities of, and for the purposes of the partner's approved project and budget only.
- The partner will not make available or transfer any EU funds to any political group/s and/or entities/s.
- The partner will use EU funds to ensure and promote human rights and democratic principles and values in accordance to international law and best practices.

The EU issued a clarification letter addressed to Palestinian NGOs Network that appears to address Palestinian concerns. Why has the Campaign rejected it?

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Rather than responding to the proposed alternatives submitted to the EU by large Palestinian civil society (see Q11 and Q12), the EU delivered a clarification letter to one of the Palestinian networks only, namely the Palestinian NGO Network (PNGO) through which it claimed to address Palestinian civil society concerns. The EU clarification letter was rejected by the Campaign because:

- It lacks any legal value, as it is a mere clarification letter, not part of the granting contract.
- It mentions the Palestinian people's right to self-determination as a quest (not a right), and it does not recognize our right to legitimate resistance.
- It affirms the obligatory nature of Article 1.5 bis and the restrictive measures (to screen Palestinians).
- While the letter claims that it does not affect the individual's affiliation, it does not clarify how to differentiate between the Palestinian political parties listed in the EU sanctions list and those individuals belonging to or affiliated with them. Moreover, it does not provide any guarantee that those individuals, who - in practice - could be any Palestinian beneficiary, supplier, member of the board, general assembly, or staff of the organization, would not be excluded from the scope of the EU funds.

What is the position of Palestinian political parties concerning EU conditional funding?

On 3 January 2020, the Secretary of the Executive Committee of the Palestinian Liberation Organization (PLO), Dr. Saeb Erekat objected to the imposition of Article 1.5 bis and requested the removal of the conditions in a letter to the EU High Representative. On 6 February 2020 both the PLO and Islamic political factions issued a statement in which they rejected the EU conditional funding and called on Palestinian civil society organizations not to sign the EU contracts. In addition, there were several statements issued separately by individual parties such as the People's Party (Hizib al-Sh'ab) and more recently by the Popular Front for the Liberation of Palestine (PFLP) also in objection to the conditions.

Have any Palestinian organizations refused to sign the EU granting contracts and had the project cancelled?

Yes, more than a dozen Palestinian organizations (that we know of) within multiple sectors of operation (human rights, humanitarian, cultural and artistic) refused to sign contracts for projects approved by the EU because of the inclusion of Article 1.5 bis and the EU restrictive measures..

Have any Palestinian organizations signed the EU granting contracts that have included the counter-terrorism article and measures?

Yes, 12 Palestinian organizations have signed the EU contract with the political conditions.

Is Palestinian civil society split on the issue of the EU political conditions?

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While it may appear that there is an even number of organizations refusing the conditional funding and those accepting the EU's conditions, this case should be accurately explored.. The Campaign has more than 300 members, constituting the largest coalition of Palestinian organizations. All member organizations have refused to apply for projects with EU, and to not engage with those Palestinian organizations that have signed the EU granting contracts. Moreover, this split should be seen as a result and consequence of the EU's insistence on imposing Article 1.5 bis. which is a political condition criminalizing our people struggle and political parties.

Since Palestinian organizations are bound by their own regulations and laws not to fund any political parties, then what's the big deal with the EU counter-terrorism clause and its imposition in the grant contracts?

Yes, Palestinian law and regulations do require that Palestinian civil society organizations refrain from both receiving conditional funding and funding any political party or group. However, if we sign the EU or other members states' contracts with similar conditions, we breach our national laws and are nullifying and rejecting the justness/righteousness of our people's struggle for basic freedoms and rights. Further, it means that we are implicitly acknowledging that all Palestinian individuals that are affiliated with or members of the listed political parties, especially the hundreds of thousands of current and past Palestinian prisoners, are or could be terrorists. Signing the contracts means that we agree with the EU's definition and criteria, and we acknowledge the superiority of their regulations and laws over ours. In addition, according to the restrictive measures, we would also have to screen any potential

actors involved in the approved project. This amounts to policing our own people, which is not our responsibility as civil society. More importantly, the act of screening would destroy the credibility and trust between the organization and the people it intends to serve, as well as between the organization and Palestinian political parties and their members – those that Palestinian civil society are supposed to try to influence

Aren't there more important and pressing issues in Palestine, than the issue of conditional funding and money?

Yes, that is true. But this is happening amid a growing institutionalized campaign of repression and attacks against us, designed to leave Palestinian civil society without funds, delegitimize our work and silence our voices. It is happening when we need that funding the most in order to challenge the more urgent issues such as Trump's "Peace to Prosperity"/so-called Deal of Century plan for Palestine and the looming official Israeli annexation of strategic areas of the West Bank.

Does signing the EU conditional funding contracts ensure protection or provide any reprieve from Zionist-Israeli smear and defamation attacks and campaigns?

No, signing the contracts with the EU does not offer any type of protection to those Palestinian organizations. Rather, by signing such contracts these organizations open the door wider and create an additional opportunity for Zionist-Israeli organizations and groups to intensify these attacks and demand more conditions from the EU and its member states to be put in place against Palestinian civil society.

Does refusal to sign the EU granting contracts with the conditional article indicate proof that that organization is channeling funds to the political parties (those alleged terrorist entities or individuals by the EU?

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No, rather that allegation is fuelled by the same Zionist-Israeli organizations and groups that have pressured and continue to pressure the EU into reducing and/or terminating funding to Palestinian civil society. The allegation constitutes one of the many tactics in the Zionist-Israel strategy designed to defame and delegitimize the Palestinian people, their struggle and civil society organizations that promote and respect international law and human rights.

In this situation, what is the responsibility of a Palestinian civil society organization?

To reject all politically conditional funding by not signing any granting contracts from the EU or its member states that contain such conditions.

In this situation, what is the responsibility of an international organization or movement in solidarity with Palestine and Palestinians?

To demand that your government and/or funding agencies and institutions do not impose these conditions on Palestinian civil society and if they have already done so to remove them.

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