



Comité de Solidaridad con la Causa Árabe

NATIONAL CONTACT POINT OF THE OECD GUIDELINES

במינהל סחר חוץ במשרד הכלכלה והתעשייה והוא OECD - הישראלי ממוקם במחלקת ה-NCP ה-

Israel

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Company: Shapir Engineering and Industry

The following case is presented to ascertain that the National Contact Point of Israel does goods deeds. The PNC knows the preeminence of international rules over national and is an agency created as a result of Israel accepting the international rules when becoming a member of the OECD.

The complaining party: (Comité de Solidaridad con la Causa Árabe (The Committee of Solidarity for the Arab Cause), Address, Miguel Llaneza Street, Number 66, 33208 Gijón. Spain, National Register of Associations, Group 1º Sección 1ª, National Number 68337. On his behalf, its President, Francisco Javier Martínez Andrade, Identity National Document: 11960312Z.

The denounced company: Shapir Engineering and Industry

The companies Construcciones y Auxiliar de Ferrocarriles (CAF) and Shapir Engineering and Industry formed a consortium, TransJerusalem J-Net Ltd. They participated in (and also won) a competition called by the Israeli Authority, which is also the occupying Power in the Palestinian Occupied territories, to build a tram line and extend another (27 km of railroad, 53 stations and various deposits) from the Palestinian occupied territories of Jerusalem to different settlements in West Bank and to provide 114 trams, refurbish another 48, the traffic signals, power, and communication systems; in addition to operations and line maintenance, rail material, trams and traffic signal controls during 15 to 25 years. This includes their 50% participation in the SPV consortium that will manage the operation and maintenance of the two light rail lines.

Shapir and CAF will work on the extension of the Red Line of the light rail that already expropriated 8.16 hectares of Palestinian land in East Jerusalem and in the construction of the new Green Line.



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Actually, the Red Line reaches the settlement of Pisgat Ze'ev and it will be extended to the settlement of Neve Ya'akov in one way and in another extension, from Beit Hakerem to Hadassah Ein Kerem.

The construction of the Green Line will extend from Ramot (an illegal settlement that forced the confiscation of Palestinian land in the village Beit Iksa and Beit Hamania) to The Khan and from there to the settlement of Gilo, near of Biet Jala, on one side and, on the other side, to Malha. In addition, a section will extend to reach Jabal Al Masharef and is named "Mount Scopus¹."

This competition makes both companies CAF and Shapir co-responsible for the whole project. They cannot argue that one company does a part of the contract while the other does other parts. The authority that launches the competition is part of the occupying power.

The company Shapir Engineering and Industry, partner of CAF, is very active in their activities as part of the occupation, taking advantages of confiscations, eviction of the Palestinian population and taking over the Palestinian natural resources. According to data published by the Research Center WHOPROFITS², Shapir has made or is present in the following activities:

Manage a quarry and a cement plant located in the settlement Nili. The quarry has a maximum capacity of production of 3.5 million tons and an annual production of 1.8 million tons.

It has a cement factory in the settlement Atarot IZ in occupied Jerusalem and another in the settlement Migdal Oz.

In addition, Shapir has an agreement of extraction in the Natuf quarry, signed in October 2013 between a subsidiary of the company and the exploitation agency of the settlement Binyamin, in conjunction with the occupying Israeli authorities.

All of these exploitations, besides being located in and tapping Palestinian resources, avail the housing construction of new settlers and, in this way, increase the colonization of Palestine.

Shapir has built the infrastructure of the settlement Ramot, structure under the policemen's center of occupation, and a bridge in the settlement Gush Etzion. It has participated in the construction of Road 50, "Begin South" that connects the settlement Gilo with road 60 and the infrastructure for the high-speed train from Tel Aviv to Jerusalem, which crosses the Palestinian territory into

¹ https://www.gov.il/BlobFolder/news/spoke_book030219/he/Spoke_growth140219.pdf
See specifically page 9, but there are others.

² <https://whoprofits.org/company/shapir-civil-and-marine-engineering/>



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two areas. It has also carried out projects of housing development and infrastructure in the settlement of Gilo and Pisgat Ze'ev in East Jerusalem and projects in the settlements of Maale Adumin and Beit Horon.

Complaint to the PNC for the actions of Shapir

Based on the actions and compromises accrued by Shapir, this Committee of Solidarity for the Arab Cause raises the issue before the Contact National Point, for their analysis and mediation, the breaches of the guidelines for Multinationals of the OCDE, by Shapir in the Palestinian occupied territories, without consulting the Palestinian population and their representatives, serving the occupying power, the state of Israel, succinctly stated as follows:

Chapter II. General Principles:

- Section A:

All the related with points 1 (under occupation there cannot be integral development), 2 (that we cannot stop to emphasize, “Respect the internationally recognized human rights of the persons affected by the company’s activities”) , 3 (occupation cripples the local economy in favor of the occupiers), 4 (ignorance or intentional violation of human rights), 5 (same as 4), 6 (for their activities and, from where they obtain the raw materials and how), 7 (it would form part of the occupying power’s transfer mechanism of their population into the occupied territory, expel and expropriate from its original inhabitants, Palestinians), 10 (it does not exist any “due diligence” when there is a conscientious transgression of any element of protecting, respecting and repairing), 11,12,14,15 (Shapir accepts to be in the service of the authority of the occupying Power, Israel and its planned urban policy).

Points 8, 9 and 13 are not included in this list. In any case, it is verified that there are violation of international rules by this competition which was promoted by the occupying authorities. Before the resolution of the competition and before it was awarded, Shapir could have desisted from the competition, and it seems that their personnel do not receive instructions as to how to respect the guidelines.

- Section B. Point 2. Shapir’s historical list of robberies of Palestinian resources shows it.



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Chapter III. Disclosure.

- Point 4. Shapir has not clarified that its work project is going to be over Palestinian occupied territory. Shapir is aware of the violation of international humanitarian law and the company's alignment with the objectives of the occupying Power. Consequently, it gives a false account of the awarded contract to shareholders, investors, clients, and providers that they may not know about the litigation the company may face and possible damage to their reputation.
- Because of its activity and compromises, it deserves to be in the database of enterprises that favor the occupation, as was approved in the United Nation Human Rights Council (UNHRC); and it should be listed by the European Union as a company no eligible for their different competitions and grants, etc.
- These elements of omission and alignment against international law by the occupying Power, by the Management Board of Shapir suggest that are more concerned with the present invoicing, that of transmitting the impact on both the company's image and legitimacy of Shapir to participate in international competition and on future invoicing.

Chapter IV. Human Rights.

- This entire chapter, which includes the 6 points 1, 2, 3, 4, 5 and 6, is considered applicable. In relation to the Commentaries on Human Rights of the Guidelines, the content of point 40 is particularly illustrative:

“Enterprises can have an impact on virtually the entire spectrum of internationally recognized human rights. In practice, some human rights may be at greater risk than others in particular industries or contexts, and therefore will be the focus of heightened attention. ...Moreover, in situations of armed conflict, enterprises should respect the standards of international humanitarian law, which can help enterprises avoid the risks of causing or contributing to adverse impacts when operating in such difficult environments”.

Chapter X, Competition

- In point 1. It is clear that competing and winning a contract improves the billing figures and the economy of scale of the winning companies over the ones that lost the contract. This spurs acute potential growth that strengthens some companies over others, which will be assessed in terms of worth and price in other competitions of the occupying Power.



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Chapter XI, Taxation.

- Points 1 and 2. The taxation and finances are controlled by the occupying Power including those in the occupied territories and borders, so only the occupying Power is receives financial compensation. Only randomly, does the occupying Power transfers amounts to the Palestinian Authority in the occupied territories. The management board of Shapir would be responsible for theft and the financial, regulatory and the reputation risks associated with taxation.

Others Chapters:

- The occupation by the occupying Power dominates over all aspects of life, the properties or rights of the occupied population and of the discriminated-against Israeli-Palestinians, including the workers' rights of chapters V and VI.
- Given that, until now, we only have knowledge of the awarding of the contract promoted by the occupying Power, we may not be aware of other issues concerning:
The exploitation of natural resources³ from the quarry in the occupied territory; getting energy or water in the occupied territory; management of waste and its dumping in the occupied territories, including the usage of asbestos.
- Complicity with the authorities of the occupying Power, Israel, in expropriations and house demolishing of Palestinian property: in economic extortion or refusal to improve habitability for Palestinians inhabitants in order to force them to abandon their properties, using the excuse of new infrastructures. Activities that are already undertaken by Shapir, without any kind of consideration.

Arguments that support filing this procedure

- There is an extensive set of United Nations resolutions with regard to the occupation of Palestine concerning repeated non-compliances with the international law and, concretely, the the serious human rights violations that Israel systematically and plannedly carries out in the occupied territory of Palestine.

Israel has no sovereignty over the occupied territories of Palestine after 1967, and, consequently, the project competition is illegal and illegitimate.

Shapir cannot pretend not to know those facts and it should detach itself from a project of the occupying Power.

³ See point 26, although the others are also relevant: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/150/41/PDF/G1915041.pdf?OpenElement>



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It is presupposed that the information about the historical context and the actual situation of Palestine is publicly known and widely available in all its facets and scopes. Nevertheless, per their illustrative content, it is considered relevant to highlight the following references:

- **Convention (IV) relative to the Protection of Civilian Persons in Time of War**

Article 49 said that “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies”. Also, article 53 “Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations”.

Link: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=77068F12B8857C4DC12563CD0051BDB0>

- **Resolution 2334- United Nations Security Council- S/RES/2334(2016)**

Adopted on 23 December 2016, it requires Israel to immediately and completely end all settlement, pointing to the situation of the Israeli settlements in the occupied territories since 1967, including East Jerusalem. The resolution, considered of obligatory compliance by all the UNO members states, affirms that those settlements «do not have legal validity» and are described as «flagrant violation of international law», also demanding that Israel stop such activities and abide, scrupulously, by its legal obligations and responsibilities relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 as Israel being the occupying Power per the Fourth Geneva Convention. It refers to the situation of the Israeli settlements in the occupied territories since 1967, including East Jerusalem (in addition to the link, it is included the document in PDF format),

Link: https://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2334%282016%29

-**Resolution of the United Nations General Assembly-A/ES-10/L.22**

Adopted 19 December 2017. It rejects any action or decision that changes the character and status of the city of Jerusalem. It stresses that the final status of Jerusalem shall be achieved through negotiations in agreement with relevant resolutions by the UNO and states clearly that any decision that alters the status of Jerusalem lacks legal standing and must be revoked, requiring that countries do not establish diplomatic missions in Jerusalem, in compliance with Resolution 478 of the Security Council. - [https://undocs.org/es/S/RES/478%20\(1980\)](https://undocs.org/es/S/RES/478%20(1980))

Link: <https://undocs.org/es/A/ES-10/L.22>



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-Resolution of the United Nations General Assembly- A/HRC/2/L.12

Adopted 2 October 2006. It refers to the relevant resolutions of the Commission on Human Rights, the Security Council and the General Assembly, most recently General Assembly resolution 60/106 of 18 January 2006, in which it reaffirmed, inter alia, the illegality of the Israeli settlements in the occupied territories.

Paragraph 2, section f, expresses its grave preoccupation: “The Israeli decision to establish and operate a tramway between West Jerusalem and the Israeli settlement of Pisgat Zeev in violation of international law and relevant United Nations resolutions, and calls upon Member States, in respect for their obligations under international humanitarian law, to refrain from rendering any form of support to the above Israeli project”. (In addition to the links, to reach the documents from the website, the documents in PDF format are included).

<https://documents-dds-ny.un.org/doc/UNDOC/LTD/G06/142/76/PDF/G0614276.pdf?OpenElement> (Spanish)

<https://documents-dds-ny.un.org/doc/UNDOC/LTD/G06/142/73/pdf/G0614273.pdf?OpenElement> (English)

Additional link: <http://www.worldlii.org/int/other/UNGA/2005/107.pdf> (Res 60/106, 18/01/2006)

Advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory

See the whole text. See also paragraph 159:

“Given the character and the importance of the rights and obligations involved, the Court is of the view that all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem. They are also under an obligation not to render aid or assistance in maintaining the situation created by such construction. It is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end. In addition, all the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 are under an obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention.”

<https://www.icj-cij.org/files/advisory-opinions/advisory-opinions-2004-es.pdf> (General Assembly Document in Spanish)

<https://undocs.org/A/ES-10/273> (General Assembly document)

<https://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-BI.pdf> (Jurisdiction of the court to give the advisory opinion requested by the General Assembly in English)

PETTITION/REQUEST



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In regard to all the previously stated above, and through the PNC as the competent office that knows the priority of international rules over the national and agency developed as a result of Israel accepting the international rules when becoming a member of the OECD, in order to resolve the claim herein stated, it is considered relevant to request that the established procedure will be started for the specific case exposed here.

The undersigned's request is that the case be examined with all due rigor, such that timely, or cautiously, Shapir will stop its participation in the project of the occupying Power, Israel, forsakes it and report its withdrawal to the Palestinian authorities.

In the assurance that this request will be met, with the importance that it deserves, and awaiting your news, please receive our attentive greeting.

Francisco Javier Martínez Andrade

A handwritten signature in blue ink, appearing to be 'Francisco Javier Martínez Andrade', written over a horizontal line.

President

Committee of Solidarity for the Arab Cause