

UNOFFICIAL ENGLISH TRANSLATION

To Norges Bank

December 19, 2024

**Recommendation to exclude
Paz Retail and Energy Ltd from
investment by the
Government Pension Fund Global**

Summary

The Council on Ethics recommends that Paz Retail and Energy Ltd (Paz) be excluded from investment by the Norwegian Government Pension Fund Global (GPF) due to an unacceptable risk that the company is contributing to serious violation of the rights of individuals in situations of war or conflict.

Paz is an Israeli company which operates filling stations. The company is listed on the Tel Aviv Stock Exchange. At the close of June 2024, the GPF owned 0.57 per cent of the company's shares, worth NOK 58.6 million.

Paz owns and operates filling stations in nine Israeli settlements in the West Bank, thereby supplying the settlements with fuel. Several of these settlements have been built far inside the Occupied Palestinian Territory (OPT) and are linked to Israel by dedicated access roads.

By operating infrastructure for the supply of fuel to the settlements, Paz is contributing to their perpetuation. The settlements have been established in violation of international law, and their perpetuation constitutes an ongoing violation thereof. The Council therefore considers that Paz is contributing to the violation of international law in such a way as to give grounds for recommending its exclusion from investment by the GPF.

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1 Introduction

The Council on Ethics for the Norwegian Government Pension Fund Global (GPFG) has assessed the Fund's investment in Paz Retail and Energy Ltd¹ (Paz) against the Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global (the ethical guidelines).²

At the close of June 2024, the GPFG owned 0.57 per cent of the company's shares to the value of NOK 58.6 million.

Paz is an Israeli energy company that distributes fuel and operates filling stations, among other things. The company is listed on the Tel Aviv Stock Exchange.

1.1 Matters considered by the Council

The Council has considered whether there is an unacceptable risk that the company is contributing to or is itself responsible for serious violations of the rights of individuals in situations of war or conflict under section 4(b) of the ethical guidelines, according to which:

Companies may be excluded or placed under observation if there is an unacceptable risk that the company contributes to or is responsible for:

[...]

b) serious violations of the rights of individuals in situations of war or conflict

[...]

This assessment was prompted by the fact that Paz operates a network of filling stations supplying of fuel to Israeli settlements in the West Bank.

1.2 Sources

Information about Paz's business activities has been obtained from the company's website. With respect to the West Bank's status under international law, the Council has i.a. relied on statements by various UN bodies and the International Court of Justice in the Hague. All sources are specified in footnotes.

¹ Issuer ID: 7766353.

² Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global:

https://www.regjeringen.no/contentassets/9d68c55c272c41e99f0bf45d24397d8c/2022.09.05_gpfg_guidelines_observation_exclusion.pdf.

2 Background

2.1 Israeli settlements in the West Bank

The *West Bank* is the term used for the area of land that lies west of the River Jordan and east of the 1949 demarcation line. The territory was occupied by Israel during the Six-Day War in 1967. Before that, the area was occupied by Kingdom of Jordan. Following the signing of the Oslo Accords, authority for parts of the West Bank, the so-called A and B areas, was transferred to a Palestinian self-governing authority. A large part of the West Bank is designated as Area C and remains under Israeli civilian and military authority. Paz operates filling stations in nine Israeli settlements in Area C and in East Jerusalem.

It has been reported that more than half a million Israelis currently live in settlements in Area C, in addition to those living in East Jerusalem.³ The current Israeli government aims to further increase this number.⁴ In 2022, the Palestinian population in the West Bank totalled around 3.2 million, with some 300,000 living in Area C.⁵

2.2 Legality of the Israeli occupation of the West Bank and the Israeli settlements

Advisory Opinion issued by the International Court of Justice (ICJ)

In 2022, the UN General Assembly asked the ICJ to assess the implications under international law of Israel's occupation of the Palestinian Territory (OPT), including the question of whether the Israeli occupation in and of itself must be deemed to violate international law. In this connection, the General Assembly expressed grave concern about the human rights situation in the Occupied Palestinian Territory (OPT).⁶

On 19 July this year, the ICJ issued its opinion. The ICJ found that the occupation of Palestinian areas must be considered a violation of the rules governing the use of force and a violation of the Palestinian people's right to self-determination. As a result, the occupation is illegal.⁷

³ Times of Israel, 12 February 2024, *West Bank settler population grew by nearly 3% in 2023*: <https://www.timesofisrael.com/west-bank-settler-population-grew-by-nearly-3-in-2023-report/>.

⁴ *Israel approves plans for 3,400 new homes in West Bank settlements*, BBC, 6. mars 2024: <https://www.bbc.com/news/world-middle-east-68490034>.

⁵ Palestinian Central Bureau of Statistics: https://www.pcbs.gov.ps/portals/_pcbs/PressRelease/Press_En_InterPopDay2022E.pdf.

⁶ ICJ, Request for Advisory Opinion, 30 December 2022: <https://www.icj-cij.org/sites/default/files/case-related/186/186-20230117-REQ-01-00-EN.pdf>

⁷ ICJ, Advisory Opinion, 19 July 2024, para. 261: <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>.

The Court further found that Israel's settlement policy and the way Israel exploits the territory's natural resources violate international law. The Court pointed to the expansion of Israel's settlements in the West Bank and in East Jerusalem as resulting in the confiscation or requisitioning of large areas of land, with associated natural resources. The Court took the view that Israel's use of the OPT's natural resources, including the redistribution of a substantial part of those resources to its own population, and the inadequate securing of water supplies of sufficient volume and quality for the Palestinian population, violate the country's obligations under international law. According to the Court, the widespread confiscation of land and natural resources is not the only factor that takes away the local population's livelihood and drives them out of their homes. It also pointed to the fact that the Israeli Defence Force (IDF) has implemented measures that intensify the pressure on the Palestinian population to leave certain areas. The Court found that the character of Israel's actions indicate that the measures are not of a temporary nature, and can therefore not be deemed to constitute a lawful evacuation under the terms of the Fourth Geneva Convention. The Court concluded that Israel's policies and practices must be considered a violation of the prohibition on forcible transfers set out in Article 49 of the Fourth Geneva Convention.

The Court further concluded that the restrictions that Israel imposes on the Palestinians in the West Bank and East Jerusalem constitute systematic discrimination on the grounds of race, religion or ethnic origin, in violation of Article 2 and Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).⁸

The Fourth Geneva Convention

The point of departure for assessing the legality of the West Bank settlements is the Fourth Geneva Convention (Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War). The Convention establishes, *inter alia*, the rights and duties that an occupying state has in an occupied territory. The Convention came into effect in 1950, and Israel became a signatory to it, without reservations, in 1951.

The Convention's Article 4 sets out who it is intended to protect: "*Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals. [...]*"

The legality of the settlements may be assessed against the provisions of Article 49(6), which states: "*[...] The Occupying Power shall not deport or transfer parts of*

⁸ ICJ, Advisory Opinion, 19 July 2024, paras. 213, 222 and 229: <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>.

its own civilian population into the territory it occupies." The purpose of this provision is to prevent an occupying power from absorbing occupied areas and to protect local populations from any worsening of their economic situation and other abuses.⁹ Any such actions are deemed a gross violation of the Fourth Geneva Convention¹⁰ and a war crime under the Rome Statute of the International Criminal Court.¹¹

After the Six-Day War, Israel disclaimed its legal obligation to abide by all the Convention's provisions on the grounds that the West Bank was already occupied by Jordan before it was occupied by Israel. Although this reservation was rejected by other states and by the UN, it resulted, *inter alia*, in Israel permitting the construction of settlements in the occupied areas. In 2004, Israel's Supreme Court found that the Fourth Geneva Convention applied in full to the occupied areas and that construction of settlements therein was illegal. However, it further specified that the ban applied only to the establishment of new settlements, not the expansion of existing settlements.

International bodies' views on the legality of the settlements

There is broad international consensus that the Israeli settlements in the West Bank violate international law. This has also been the underlying premise for several previous recommendations to exclude companies issued by the Council on Ethics.

UN Security Council

The UN Security Council has passed a number of resolutions on the settlements. Security Council Resolution 465, which was passed unanimously on 1 March 1980, states, *inter alia*, that Israel's policy and practice with respect to building settlements in occupied areas are without legal validity and "*constitute a flagrant violation*" of the Fourth Geneva Convention.¹² Most recently, this was repeated in Resolution 2334 from 2016:

*[...] the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law and a major obstacle to the achievement of the two-State solution and a just, lasting and comprehensive peace; [...]*¹³

⁹ International Committee of the Red Cross, Commentary on the Fourth Geneva Convention (1958), Article 49, p. 283.

¹⁰ Protocol 1 (1977) to the four Geneva Conventions, Article 85(4)(a).

¹¹ Rome Statute of the International Criminal Court of 1998, Article 8(2)(b)viii.

¹² Security Council Resolution 465:

<https://unispal.un.org/UNISPAL.NSF/0/5AA254A1C8F8B1CB852560E50075D7D5>

¹³ Security Council Resolution 2334: <https://www.un.org/webcast/pdfs/SRES2334-2016.pdf>.

Norway's position

Norway's official position with respect to the settlements has always been that they violate international law. This is rooted in the resolutions passed by the UN Security Council and the opinions published by the ICJ. Norway's statement to the ICJ in February 2024 reaffirmed this view.¹⁴ The Norwegian government further reiterated its position in a press release published in March this year.¹⁵

Israel's position

In Israel, the various branches of government have differing opinions on the settlements' legality. The Israeli Foreign Ministry asserts that the settlements are not illegal and that any claims to this effect are politically motivated. Israel refers, *inter alia*, to the fact that the relocation of Israelis to the settlements is voluntary and that the settlements do not displace other population groups in the area. Moreover, Israel points out that several of the settlements have been established in areas where Jewish communities were located in ancient times.¹⁶ As mentioned above, the current Israeli government plans to establish new settlements, while the Israeli Supreme Court largely maintains the position that the settlements violate the Fourth Geneva Convention.

2.3 The settlements' humanitarian impact

In previous recommendations, the Council has referred to statements by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA),¹⁷ which has repeatedly highlighted the negative impact on social and economic conditions that the settlements and their associated infrastructure have on the population in the occupied territory.¹⁸ In 2023, the existence was reported of several hundred road blocks and checkpoints that prevented free movement and access to farmland.¹⁹ A large proportion of these measures have been established to protect the Israeli settlements. OCHA has previously documented

¹⁴ Norway's statement to the Court, ICJ, Public Proceedings, Verbatim, 23 February 2023, p. 21: <https://icj-cij.org/sites/default/files/case-related/186/186-20240223-ora-01-00-bi.pdf>.

¹⁵ Norwegian government, Press release, 14 March 2024: <https://www.regjeringen.no/en/aktuelt/government-is-advising-against-trade-and-business-activity-with-israeli-settlements/id3028680/>.

¹⁶ Israel Ministry of Foreign Affairs, Israeli Settlements and International Law: <https://mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/israeli%20settlements%20and%20international%20law.aspx>.

¹⁷ United Nations Office for the Coordination of Humanitarian Affairs: <https://www.unocha.org/>.

¹⁸ See, for example, the Council on Ethics' 2021 recommendation to exclude the companies Elco Ltd and Electra Ltd: <https://etikkradet.no/elco-ltd-og-electra-ltd/>.

¹⁹ *Movement and Access in the West Bank*, OCHA, August 2023: <https://www.unocha.org/publications/report/occupied-palestinian-territory/fact-sheet-movement-and-access-west-bank-august-2023>.

how the expansion of Israeli settlements in the West Bank has obstructed the Palestinian population's access to scarce water resources.²⁰

The term *settler violence* is used to describe the violence perpetrated by Israeli settlers on the Palestinian population. On 19 June 2024, the UN's Independent International Commission of Inquiry on the Occupied Palestinian Territory presented a report on the Israel-Hamas War to the UN Human Rights Council. The report was the UN's first in-depth investigation of the conflict and mainly covered the period 7 October to 31 December 2023.²¹

The report primarily covers Hamas's terrorist attack on Israel in 2023 and the subsequent war in Gaza. However, it also touches on conditions in the West Bank and East Jerusalem. The report states that there has been an increase in settler violence in local Palestinian communities after 7 October 2023. The number of people killed in the West Bank in the period from 7 October to 31 December 2023 exceeded all annually reported deaths since 2005. In the period 7 October 2023 to 30 April 2024, 457 Palestinians were killed by Israeli forces, while 10 were killed by settlers, in the West Bank and East Jerusalem. According to the report, there are several factors which may have contributed to the increased level of violence in the West Bank. This includes:

- The enlistment of thousands of settlers in the Israeli security forces.
- The fact that settlers have been armed and mobilised for military service in separate battalions in the West Bank.
- The creation of armed militias in the Israeli settlements.
- The easing of rules governing the issue of firearms licences in Israel.

Similarly, the OCHA has reported that around 4,000 Palestinians were driven from their homes in the West Bank in 2023, over 1,500 of these as a result of settler violence after 7 October of that year:

At least 1,539 Palestinians were displaced during 2023, citing Israeli settlers' violence and shrinking access to grazing land as the main reasons, compared with 774 people in 2022. Of them, 1,208 (81 per cent) were displaced in the aftermath of 7 October, amid a significant increase in violence by Israeli settlers against Palestinians, including physical attacks and death threats. [...] At least fourteen Palestinian

²⁰ *The Humanitarian Impact of the Takeover of Palestinian Water Springs by Israel Settlers*, OCHA, March 2012:

https://www.ochaopt.org/sites/default/files/ocha_opt_springs_factSheet_march_2012_english.pdf

²¹ The Commission's report to the UN Human Rights Council (A/HRC/56/26):

<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.ohchr.org%2Fsites%2Fdefault%2Ffiles%2Fdocuments%2Fhrbodies%2Fhrcouncil%2Fsessions-regular%2Fsession56%2Fa-hrc-56-26-auv.docx&wdOrigin=BROWSELINK>.

*communities were completely displaced during 2023 and now stand empty. In some of these communities, Israeli forces demolished the remaining structures, including at least two schools.*²²

In February 2024, the UN High Commissioner for Human Rights published a report on the human rights situation in the OPT. Among other things, the report discusses how the Israeli authorities are failing to provide the Palestinian population with adequate legal protection against abuses by Israeli settlers:

*The absence of accountability for settler violence is a key factor in the ongoing coercive environment, raising continued concerns about the forcible transfer of Palestinians. The lack of accountability is a manifestation of a dual system of criminal justice that has discriminatory effects on Palestinians. Policing and judicial bodies administered by the Israeli military in the Occupied Palestinian Territory for more than 56 years have steadily entrenched systematic patterns of violation of Palestinians' due process and fair trial rights. Israel, as the occupying Power, has adopted laws and policies enabling a discriminatory system of administering justice – based on grounds of race and religion – providing Jewish Israelis in the occupied West Bank with access to civilian-administered justice with greater human rights protections compared with the military justice administered to Palestinians.*²³

2.4 The occupying power's rights and obligations

International law imposes constraints on the manner in which an occupying power may administer the territory it occupies.²⁴ An occupying power's right of use to land and real property in the occupied territory is severely restricted.²⁵

The crucial factor is whether the infrastructure is necessary for military purposes or, alternatively, whether it is being constructed to meet the basic needs of the

²² About 4,000 Palestinians displaced in the West Bank in 2023, OCHA, 24 February 2024: <https://www.unocha.org/publications/report/occupied-palestinian-territory/over-4000-palestinians-displaced-west-bank-2023>.

²³ Report of the United Nations High Commissioner for Human Rights, Israeli Settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the Occupied Syrian Golan: <https://un.org/unispal/document/israeli-settlements-in-the-occupied-palestinian-territory-including-east-jerusalem-and-in-the-occupied-syrian-golan/>.

²⁴ Articles 42–56 of the Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land. These regulations are deemed to constitute customary international law and are binding on all States.

²⁵ Hague Convention (IV) of 1907, Article 55.

occupied population.²⁶ The establishment in occupied territories of infrastructure that primarily serves the commercial interests of the occupying power or is intended to maintain illegal civilian settlements in the occupied territory, without benefiting the occupied population, falls outside the occupying power's right of use. However, irrespective of the legality of the occupation or the settlements, basic needs must be met. This includes, for example, ensuring the supply of food and medicines to all civilians in the occupied territory.

In its Advisory Opinion from 2024, the ICJ found that Israel's occupation being of long duration does not exempt it from its obligations as the occupying power under the law of occupation. Nor does long-term occupation increase the occupying power's rights over the occupied territory.²⁷ An occupying power cannot acquire for itself increased rights to operate in or regulate an occupied territory simply by maintaining its occupation over a long period of time. The ICJ also took the position that the Oslo Accords cannot be understood to place any restrictions on Israel's obligations under international law.²⁸

2.5 The previous exclusion of companies linked to the West Bank

At the recommendation of the Council on Ethics, several companies have been excluded from investment by the GPFGE due to their business links with Israeli settlements in the West Bank.²⁹ Examples include contractors which construct settlements and associated access roads, and companies which supply the settlements with critical infrastructure in the form of telecommunications.

In previous cases, the Council has attached importance to whether the companies' activities play a significant role in enabling the norm violations to take place, and to the likelihood of them continuing to engage in or be linked to activities which could constitute grounds for their exclusion. The Council has attached importance to whether the companies have a permanent presence in the occupied territory or do only sporadic business there, and whether they sell purely generic products or provide products or services that are specifically tailored for use in the area.

²⁶ International Committee of the Red Cross, Commentary on the Fourth Geneva Convention (1958), Article 49, p. 283.

²⁷ Footnote 13, para 108.

²⁸ Footnote 13, para 102: *"For all these reasons, the Court considers that the Oslo Accords cannot be understood to detract from Israel's obligations under the pertinent rules of international law applicable in the Occupied Palestinian Territory."*

²⁹ See, for example, the Council's recommendations to exclude the companies Elco Ltd and Electra Ltd (2021): <https://etikkradet.no/shikun-binui-ltd-2/> and <https://etikkradet.no/elco-ltd-and-electra-ltd/> and its recommendation to exclude Bezeq Corp Ltd (2024): <https://etikkradet.no/bezeq-the-israeli-telecommunication-corp-ltd-2/>.

3 Paz' operations

According to Paz' website, the company operates filling stations in the settlements Alfei Menashe, Argaman, Ariel, Beit El, Karnei Shomron, Kiryat Arba, Ma'ale Adumim, Mishor Adumim and Ofra in the West Bank. In addition, the company operates several filling stations in East Jerusalem.³⁰

4 Information provided by the company

The Council on Ethics has written to the company requesting information about its operations in the West Bank.³¹ The company has not replied to the Council's letter.

Furthermore, the company has blocked access to its website from abroad. Company-related information in the form of annual reports, etc., is therefore less readily available. It is, however, possible to circumvent this by means of VPN solutions for internet access.

Paz has been furnished with a draft version of this recommendation and invited to submit any comments it may have.³² No reply from the company has been forthcoming.

5 The Council's assessment

The Council on Ethics has previously assessed the GPFG's investments in several companies operating in the West Bank. The starting point for such assessments has always been that the Israeli settlements in the West Bank are a violation of international law. This view remains unchanged. In 2024, the ICJ found that the occupation itself must be deemed to violate international law and determined that the settlements are a crucial tool with which to cement the Israeli occupation and extend its duration. It is, moreover, evident to the Council that the Israeli settlements, both directly and indirectly, cause considerable harm to the Palestinian population of the West Bank.

Over half a million Israelis are now living in illegal settlements in the West Bank and East Jerusalem. All types of goods and services that are offered in Israel are, in principle, also available to the Israeli population in the settlements. A large number of companies may therefore be said to be associated with the

³⁰ The company's website: <https://www.paz.co.il/service-locator>.

³¹ Letter from the Council on Ethics to Paz Co Ltd, dated 24 September 2024.

³² Letter from the Council on Ethics to Paz Retail and Energy Ltd, dated 29 October 2024.

settlements in one form or another, in part because their goods and services are available or used there.

In keeping with its established practice, the Council has attached importance to whether Paz's business operations play a significant role in the perpetuation of the settlements over and above meeting their basic needs, and whether the company has a permanent presence in the area.

Paz owns and operates filling stations in nine Israeli settlements in the West Bank and thereby supplies the settlements with fuel. Several of these settlements have been established far inside the occupied territories and are linked to Israel via dedicated access roads. The settlements' viability depends on them receiving supplies of fuel. The infrastructure relating to the supply of fuel must therefore be considered critical for the settlements.

By providing Israeli settlements with infrastructure to supply fuel, Paz is helping to perpetuate them. The settlements have been established in violation of international law and their perpetuation constitutes an ongoing breach thereof. The Council therefore considers that Paz is contributing to the violation of international law in a way that constitutes grounds for recommending the company's exclusion from investment by the GPF. There are, moreover, no indications that Paz will cease its activities. The Council therefore considers that there is an unacceptable risk of the company continuing to contribute to serious norm violations in future.

On the basis of the above, the Council concludes that Paz should be excluded from investment by the Norwegian Government Pension Fund Global.

6 Recommendation

The Council recommends that Paz Retail and Energy Ltd be excluded from investments by the Government Pension Fund Global.

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