

## Frequently Asked Questions

# Banning Belgian Investments and Financial Services Linked to the Illegal Israeli Occupation

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This document examines the feasibility of a Belgian national ban on investments in, and the provision of financial services to, companies involved in sustaining the illegal Israeli occupation of the Palestinian territory. The FAQ, drawing on the February 2026 [legal feasibility study](#) by Cédric Henet, PhD, and Alexandra Lachowsky, LL.M, analyses the legal grounds on which such a ban could be justified at the national level, taking into account EU law, WTO rules, and bilateral investment treaties (BIT). It also discusses the potential scope of such a ban, as well as implementation and enforcement methods.

## 1. Justification

### Why should Belgium ban investments in, and the provision of financial services to, companies sustaining the illegal Israeli occupation?

The need for an investment and financial services ban arises directly from **Belgium's international legal obligations**.

Under the United Nations (UN) Charter, Belgium is legally obligated to ensure its economic relations do not contribute to sustaining the unlawful situation created by Israel in the Occupied Palestinian Territory (OPT), including its illegal occupation, the settlement enterprise, and related systematic violations of international humanitarian law (IHL) and international human rights law (IHRL). This duty has been articulated most explicitly in the International Court of Justice (**ICJ**)'s **Advisory Opinion of 19 July 2024**.

In this opinion, taking note of relevant resolutions including UN Security Council (UNSC) Resolution 2334 (2016), the ICJ held that the obligations violated by Israel are *erga omnes* and therefore States "are under an obligation to distinguish, in their dealings with Israel, between the territory of the State of Israel and the Palestinian territory occupied since 1967." Crucially, the Court specified that this duty of distinction encompasses concrete obligations, including:

- the obligation of non-recognition of changes in the status, character or demographic composition of the occupied territory;
- the obligation to abstain from economic or trade dealings that may entrench Israel's unlawful presence in the occupied territory; and
- the obligation to **take steps to prevent trade or investment relations** that assist in maintaining the illegal situation.

**An investment and financial services ban is therefore a necessary means to bring Belgium's economic policy in line with its international legal obligations.**

### Can Belgium dismiss its obligations because the ICJ opinion is advisory?

No. ICJ advisory opinions carry considerable legal weight and are widely relied upon as authoritative interpretations of international law. The Court of Justice of the European Union (CJEU) in particular regularly relies on ICJ jurisprudence when determining the existence and scope of customary international law obligations binding on the EU and its Member States.

More fundamentally, these obligations exist independently of the July 2024 Advisory Opinion. They derive from *erga omnes* customary international norms that bind all States without exception, notably the prohibition on acquiring territory by force and the right to self-determination.

### Does Belgium need UN Security Council approval to introduce this ban?

No. The absence of a Chapter VII mandate does not relieve states of their obligations under the UN Charter and their duty of non-recognition and non-assistance in maintaining an unlawful situation – *erga omnes* duties repeatedly confirmed by the ICJ as applying to all States, regardless of Security Council sanctions. Accordingly, Belgium's obligations under the UN Charter, the Fourth Geneva Convention, and customary international law apply regardless of whether the UNSC has mandated specific economic sanctions.

## 2. Scope

### What types of activities could be banned?

Any financial or economic transaction whose purpose or effect is to support or facilitate activities contributing to the maintenance of the unlawful situation in the OPT should be prevented. To be effective and to bring Belgium into full compliance with its legal obligations, the ban must therefore cover all forms of financial or economic involvement that contribute to sustaining the unlawful situation in the OPT.

In particular, the prohibition could cover:

- direct or indirect **equity participation** in enterprises engaged in such activities;
- the establishment of a **commercial presence or business operations** for that purpose;
- **investment** in assets or economic projects illegally located in the OPT;
- the **provision of loans, credit facilities or other financial instruments** to companies involved in such activities.

This covers three legally distinct categories — direct investment, portfolio investment, and financial services — each of which requires its own justification under EU law. This is addressed in the legal basis section below.

## What types of entities could an investment and financial services ban apply to?

The legal study makes clear that a ban could apply to natural and legal persons falling within Belgian jurisdiction. This would include:

- natural persons residing or habitually present in Belgium; and
- legal persons, entities or bodies incorporated or registered under Belgian law.

## What criteria can be used to determine whether a company is involved in sustaining the illegal occupation?

A guiding principle should be that **any company engaging in activities that contribute to maintaining the unlawful situation created by Israel in the OPT** falls within the scope of the ban. Accordingly, any legislative framework establishing such a ban should, in order to give effect to the obligations identified by the ICJ Advisory Opinion, define its scope on that basis.

In practice, the precise criteria should be further defined in legislation or implementing regulations to ensure legal certainty. As a starting point, lawmakers may draw on the activities listed in paragraph 96 of the report of the independent international fact-finding mission, which underpins the **UN database** of businesses involved in Israeli settlements. However, those activities should not be treated as exhaustive, since that framework is limited to the settlement enterprise and does not capture the full range of activities that may contribute to maintaining the unlawful situation across the OPT as a whole. In that regard, the eleven categories set out in the **2025 DBIO report** offer a broader and more explicit basis for identifying activities that sustain the illegal situation.

## Should a ban apply to Israel-occupied areas of Syria (Golan Heights)?

The legal feasibility study focuses specifically on the OPT, namely the West Bank (including East Jerusalem) and the Gaza Strip, as directly addressed by the ICJ's 2024 Advisory Opinion. The obligations identified by the Court, such as the duty of non-recognition and non-assistance, are analysed in relation to that specific territorial context.

However, the same *erga omnes* obligations of non-recognition and non-assistance apply to the Golan Heights, considered Syrian territory under international law. Belgium and the EU have consistently refused to recognise Israel's annexation of the territory and have historically treated the Golan Heights alongside the OPT in the context of their non-recognition policy. Consistency with this position speaks in favour of extending the scope of a ban to include the Golan Heights.

## Why does this FAQ not consider a ban on trade in goods and/or other services?

Initiatives addressing trade in goods and services linked to International Humanitarian Law (IHL) and International Human Rights Law (IHRL) violations in the Occupied Palestinian Territory (OPT) are already under discussion in Belgium. On 29 August 2024, a legislative proposal was re-introduced in Belgium's federal parliament aiming to prohibit trade in goods and services originating from grave violations of IHL and human rights in occupied territories. In parallel, the

Belgian government has announced its intention to implement a ban on the import of settlement goods.

An investment ban would therefore be complementary to these initiatives, focusing specifically on the financial dimension of economic involvement in the unlawful situation. The measure should therefore be seen as part of a broader policy framework designed to ensure compliance with international law.

### 3. Compatibility with EU law

Which EU competences are engaged by a Belgian national ban on investment and financial services contributing to the maintenance of the illegal situation in the OPT?

**Different EU legal regimes and competence allocations** are relevant depending on the category of investment or financial activity under review. In this sense, a distinction must be made between foreign direct investment, portfolio investment and financial services.

a) **Foreign direct investment (FDI): exclusive EU competence**

Under Article 3(1)(e) of the *Treaty on the Functioning of the European Union* (TFEU), the EU enjoys exclusive competence over the Common Commercial Policy (CCP), which includes foreign direct investment. According to the case law of the Court of Justice, direct investment refers to investments that establish or maintain **lasting and direct links** between the investor and the undertaking, enabling effective participation in its management or control. This typically covers shareholdings conferring voting rights or strategic influence. As such, measures restricting or regulating FDI fall within the EU's exclusive external competence.

b) **Portfolio investment: internal market competence (shared)**

By contrast, portfolio investments (i.e. investments made solely for financial return without any intention to influence management) do not fall within the scope of the CCP. They are instead treated as **movements of capital** under Article 63 TFEU. Consequently, they fall within the internal market framework and are subject to **shared competence** between the EU and the Member States, including in their external dimension vis-à-vis third countries.

c) **Financial services: CCP competence as trade in services**

Financial services (such as banking, credit, investment, and related transactions) are generally characterised as **trade in services**. In the context of EU external relations, they fall within the scope of the CCP, and therefore within the EU's **exclusive competence**, insofar as they are supplied across borders or involve third countries.

Against this background, a measure restricting both foreign direct investment and the provision or export of financial services would, at least in part, fall within areas of exclusive EU competence under the CCP. By contrast, any restriction targeting portfolio investments would engage the free movement of capital regime and therefore raise issues of shared competence and compatibility with Article 63 TFEU.

## Is a Belgian national ban on investment and financial services compatible with EU law?

As demonstrated in the legal feasibility study, a national ban on investment and financial services contributing to the illegal situation in the OPT is legally defensible under EU law. EU Member States (EUMS) can rely on two complementary derogation grounds, Art 65 TFEU and Art 347 TFEU, which legitimate a national ban despite the EU's exclusive competence related to FDI and financial services as well as the shared competence related to portfolio investment (cf. question 8).

### **(a) Article 65 TFEU as a basis for Member State action**

Article 65(1)(b) TFEU may be interpreted as authorizing Member States to adopt restrictive measures affecting outward investments, including where such measures intersect with the Union's exclusive competence under the Common Commercial Policy (CCP), provided they are justified on grounds of public policy or public security and comply with proportionality.

This interpretation is supported by three elements: (i) a restrictive reading would lead to incoherent outcomes, allowing restrictions on intra-EU investments but not on foreign direct investment; (ii) Articles 63 and 65 TFEU draw no distinction between categories of capital movements, despite the practical overlap with the CCP; and (iii) Regulation (EU) 2019/452 confirms that Member States may rely on Article 65(1)(b) to restrict capital movements on public policy or security grounds, including in relation to FDI.

Accordingly, Article 65(1)(b) TFEU provides a **legally defensible basis** for targeted restrictions on outward investments, subject to justification, proportionality and non-discrimination.

### **(b) Article 347 TFEU as a safeguard clause**

Article 347 TFEU confirms that Member States may derogate from EU law in exceptional circumstances, including where measures are necessary to fulfil obligations relating to the maintenance of peace and international security.

In this context, the envisaged ban may be framed as a measure implementing Belgium's obligations under international law, as clarified by the ICJ and relevant UN instruments. These include duties of non-recognition and non-assistance in relation to the unlawful situation in the OPT, notably the obligation to distinguish between Israel's territory and the occupied territories and to avoid economic or financial involvement contributing to that situation.

A restrictive interpretation of Article 347 would risk creating a conflict between EU law and Member States' obligations under the UN Charter. By contrast, an interpretation aligned with Article 347 preserves the primacy of international peace and security obligations and ensures consistency with analogous security exceptions in international economic law.

**A financial services and investment ban grounded in Belgium's *erga omnes* obligations under international law, as confirmed by the ICJ, can therefore fall within the scope of Articles 65 and 347 TFEU. When properly framed as a foreign policy measure ensuring compliance with international law, and applied in a proportionate and non-discriminatory manner, such a ban is compatible with EU law.**

## 4. Compatibility with other international legal frameworks

### Is a Belgian ban consistent with WTO rules?

As demonstrated in the legal feasibility study, a national ban on investments and financial services linked to the unlawful situation in the OPT is legally defensible under World Trade Organisation (WTO) rules.

Because the ban could restrict financial services—such as loans, investments or other financing instruments—it may affect the cross-border supply of financial services (Mode 1) and the establishment of commercial presence (Mode 3) under the General Agreement on Trade in Services (GATS) framework. In principle, WTO Members must respect commitments relating to market access and national treatment in sectors where they have undertaken liberalisation commitments.

However, the WTO agreements contain general and security exceptions that can justify such measures. In particular, GATS Article XIV(a) allows Members to adopt measures necessary to protect public morals or public order. In addition, Article XIVbis provides a security exception allowing measures taken in pursuance of obligations relating to the maintenance of international peace and security. A ban grounded in Belgium's obligations under international law — as confirmed by the ICJ and UN resolutions — falls within these exceptions.

### Is a Belgian ban consistent with the EU-Israel Association Agreement (AA)?

A Belgian investment and financial services ban targeting activities that contribute to the unlawful situation in the OPT **can be considered consistent with the EU-Israel Association Agreement**, provided it is targeted, proportionate and explicitly grounded in international law and security objectives.

First, the AA's territorial scope is limited to the territory of Israel, as confirmed by the case law of the ECJ (notably *Brita* and *Psagot*). Hence, measures targeting settlement-linked activities established in the OPTs fall outside the scope of the AA.

Second, while the AA contains binding liberalisation commitments, in particular on capital movements, these are not absolute. The case law of the ECJ and AG opinions (including in *Rosneft*) confirm that restrictive measures may be justified for overriding reasons of public interest, including public policy, public security, and the maintenance of international peace and security, subject to proportionality.

Finally, Article 76(c) of the AA provides a security exception, allowing measures considered essential to fulfil obligations relating to peace and international security. This provision grants margin of discretion and may encompass obligations arising under the UN Charter and international law, as interpreted by the ICJ.

### Is a Belgian ban consistent with Belgium's BITs, including those concluded by the Belgium-Luxembourg Economic Union (BLEU) ?

A carefully designed and justified national ban on investments and financial services linked to the unlawful situation in the OPT is **unlikely to conflict directly with Belgium's bilateral investment treaties (BITs), including those concluded by the BLEU**.

First, jurisdictional risk is limited: **Belgium and the BLEU have no BIT with Israel**. Israeli investors therefore lack any treaty basis to initiate investor-State arbitration against Belgium in relation to

the ban. More broadly, the absence of BITs **with several key States** where major investors in settlement-related activities are headquartered further reduces exposure.

Second, while theoretically foreign shareholders of Belgian companies affected by the ban may bring claims for reflective loss, the associated risks remain limited. A measure that applies uniformly to Belgian and foreign investors and targets conduct rather than nationality is unlikely to breach non-discrimination standards (MFN and national treatment).

The main potential exposure lies under the fair and equitable treatment (FET) standard. However, FET does not preclude regulatory change. A measure grounded in a legitimate public purpose and applied in a general, non-discriminatory manner is unlikely to be arbitrary or to frustrate legitimate expectations, particularly in the absence of specific assurances. Ensuring compliance with obligations under international law, particularly the duties of non-recognition and non-assistance in an unlawful situation identified by the ICJ and UN bodies, is generally recognised as legitimate public policy. Similarly, the risk of indirect expropriation remains limited. The ban does not transfer assets or target specific investors and is likely to fall within the State's regulatory powers, even if it entails significant economic effects.

## 5. Other legal questions

### How would a Belgian ban relate to due diligence law?

A ban of this kind goes beyond traditional due diligence obligations and imposes a direct prohibition on financing activities that contribute to maintaining an unlawful situation in occupied territory. Where the ICJ has already determined that the situation is unlawful, ordinary corporate risk-management mechanisms are insufficient and a direct prohibition is more appropriate to ensure Belgium's full compliance with its international legal obligations and protect Belgian companies from the legal and reputational risks of inadvertently financing unlawful activities.

Even enhanced due diligence cannot be sufficient here. A due diligence framework — however stringent — creates the false impression that economic activity in these territories can be made compliant with international law, exposing Belgian businesses to unnecessary legal and reputational risk.

A clear prohibition removes that ambiguity. It provides legal certainty for businesses, protects them from inadvertently financing unlawful activities, and complements due diligence frameworks by closing the gap that risk-management alone cannot fill.

### Is there precedent for national bans on investment and financial services?

Restrictive measures affecting investments and financial services are not unprecedented in international practice. Economic sanctions frequently include financial restrictions, such as prohibitions on investment, lending or the provision of financial services to certain entities or territories.

Within the European Union, such measures are usually adopted at EU level, following a decision under the Common Foreign and Security Policy and implemented through regulations under Article 215 TFEU. Examples include sanctions regimes targeting Russia, Iran and other countries.

However, Member States have historically adopted national restrictive measures in certain circumstances, particularly where foreign policy considerations or obligations under international law were involved. EU law recognises that Member States retain certain powers in

foreign policy and security matters, although these powers must be exercised consistently with EU competences and internal market rules.

## Could a Belgian ban be legally contested under EU law, WTO rules or other legal frameworks?

A national ban of this nature could be challenged before several legal forums, including the CJEU, through WTO dispute settlement, or by investors under bilateral investment treaties. However, the legal feasibility study demonstrates that **a strong and robust legal basis is available**.

A ban carefully justified by reference to international law obligations, proportionately designed, and grounded in the public policy or security exceptions outlined in the legal feasibility study is legally defensible and sound.

If challenged, Belgium would be entitled to rely on all of these defences before the relevant courts. Legal uncertainty is not unique to this measure but exists across the board in this area of law, and should not serve as an excuse to limit ambition or avoid compliance with international legal obligations. **Ultimately, this is a question of political will, similar to the political decision to put in place a national prohibition on trade with illegal settlements in the OPT.**

## 6. Enforcement and impact

### Is there public support for this ban in Belgium?

In June and September 2025, **110.000 demonstrators** marched in Brussels calling on the EU to adopt concrete measures against Israeli violations of IHL and HRL, including a ban on investments contributing to the maintenance of the illegal situation in the OPT. At local level, dozens of actions have echoed this demand, as part of the “red line” campaign initiated by Belgian civil society.

More broadly, there is clear and growing public support for restricting economic ties linked to violations of international humanitarian and human rights law in the OPT. A European Citizens’ Initiative launched in February 2022 calling for a comprehensive trade ban on illegal settlements gathered more than 277,000 signatures EU-wide, including over 20,000 from Belgium. Similarly, a 2026 EU-level campaign calling for the suspension of the EU–Israel Association Agreement has already attracted more than 500,000 signatures, including nearly 25,000 from Belgium.

While these initiatives do not all target investment and financial services specifically, they collectively reflect the breadth and depth of public support for ending the illegal situation in the occupied Palestinian territory.

### What will be the impact of a Belgian ban on investment and financial services contributing to the maintenance of the illegal situation in the OPT?

First and foremost, a Belgian ban on investment and financial services contributing to the maintenance of the illegal situation in the OPT **would bring Belgium’s economic policy in line with its international legal obligations**. By adopting this legislation, Belgium gives effect, within its own legal order, to the obligations spelled out in the ICJ AO of 2024's ruling. The role of

financial institutions is pivotal: the financial sector constitutes a primary channel through which the unlawful occupation is economically sustained.

At the same time, the measure targets **substantial economic ties. Belgian banks are far from peripheral actors** when it comes to investment and financial ties to the illegal situation in the OPT. KBC ranks 29th among 1,115 European financial institutions identified as investors linked to 104 companies identified by the Don't Buy into Occupation (DBIO) coalition as supporting the maintenance of the illegal situation in the OPT, with holdings valued at \$9.94 billion, while BNP Paribas ranks as the leading European creditor, with total financial relationships amounting to \$32.72 billion in such companies.

Restricting these flows would increase the economic and political cost of maintaining unlawful practices, while signalling growing international isolation. Moreover, Belgium would set a precedent that can provide an incentive for other EUMS adopting similar measures (see also Q19).

### Are there similar initiatives ongoing in other countries?

Several EU Member States, including Belgium, Ireland, Slovenia, Spain, and Netherlands, are developing legislations to restrict economic ties to the illegal situation in the OPT. Most initiatives focus on banning trade in goods from illegal settlements, rather than addressing the broader financial and investment relationships that sustain the situation. This reflects the more established and relatively uncontroversial nature of trade measures, not the lesser importance of investment and/or services. **To comply with international law, governments are required to also curtail investment and financial services, which continues to sustain the illegal situation in the OPT.**

Governments have consistently justified excluding services and investment on grounds of legal complexity, but EU trade law experts, including Henet and Lachowsky and a 2025 study by Tridimas and Koutrakos, show that legal avenues exist for derogations covering these activities.

**A Belgian law prohibiting investments would embody the full ambition that international legal obligations demand, and its significance lies not only in its content but in its precedent: meaningful international change requires someone to go first.**

Current efforts include:

- Spain banned the import of goods from illegal settlements in September 2025, becoming the first EUMS in which a settlement trade ban came into effect. Concurrently, the Spanish government prohibited the marketing of settlement goods and services – notifying large booking platforms of their duty to remove tourism listings located in the settlements – becoming the first country to restrict services, although only partially.
- In Ireland, the Occupied Territories Bill, first introduced in 2018, proposes a comprehensive ban on trade in goods and services with illegal settlements. Following the July 2024 ICJ Advisory Opinion, the Irish government announced its intention to enact the bill, but debates are still ongoing, particularly around the inclusion of services.

- In Belgium, a September 2026 government agreement included the introduction of a ban on the import of settlement goods, but this ban has not yet been enacted. **A law proposal for prohibition of financing the illegal situation in the OPT, deposited by Vooruit, is also pending parliamentary review.**
- In the Netherlands, draft legislation covering imports of goods is being finalised, even as the largest coalition party continues to call for a comprehensive ban including services and investments.
- At the EU level, progress remains constrained by the difficulty of achieving majority votes at Council level, with the Commission claiming its existing policy is already fully aligned with the ICJ ruling, a position widely contested. Banning trade in goods is currently seen as a minimum first step, with broader measures on services and investments remaining officially on the table.

### What impact will this have on the Palestinian economy?

According to UN Trade and Development, Israel's occupation cost the Palestinian economy an estimated \$50 billion between 2000 and 2023, with the direct cost reaching 25.3% of the West Bank's annual GDP in 2014 alone. The World Bank estimates annual losses of approximately \$3.4 billion due to movement restrictions, denial of access to land, and settlement expansion.

Banning investment in and trade with settlement-linked companies would directly target this dynamic. Withdrawing the financial support that sustains settlements would reduce incentives for their expansion and open space for Palestinian economic activity. The World Bank has assessed that ending Israeli control over Area C, which represents 60% of the West Bank and contains the majority of its natural resources, could boost Palestinian employment by 35%.

A genuine investment ban would help restore the conditions for Palestinian economic self-determination, shifting incentives away from occupation and toward sustainable development on Palestinians' own terms.