



ILLEGAL EU BUILDING IN ADUMIM REGION



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Regavim is a research backed, legal advocacy organization focused on land ownership issues whose mission is to ensure responsible, legal & accountable use of Israel's state lands and the return of the rule of law to all areas and aspects of the land and its preservation

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Introduction

The Homeless in America, Roma and Travelers in the EU and Bedouin of the Adumim Region.

Every January, the USA Department of Housing conducts an extensive survey of the current number of homeless street dwellers throughout the United States. In the latest count, from January 2014, the number of homeless stood at 578,424¹.

Now imagine a hypothetical case in which the United States government adopted a national project to house these unfortunates, and to grant to each homeless person gratis, movable caravans which would be placed immediately and randomly in various locations such as parks, entrances to suburbs, near highways and military bases.

Such a situation is clearly hypothetical and impossible, since this “humanitarian” project would create complete chaos, not only socially but also legally based on the innumerable violations of laws of the various states, municipal regulations and the Federal Constitution.

Now further imagine that this odd assistance program would be funded and implemented on the territory of the United States by another country, despite the opposition of the American Government. Clearly this would cause a highly explosive, diplomatic confrontation, whose results are difficult even to consider.

If we were to use an example well known in European Countries, the matter becomes even clearer. For many years, European countries have been dealing with the problem of nomadic ethnic groups such as the Roma in France & Italy and the Travelers in the UK.

The expulsion of the Roma from developed Western European countries to the less developed EU countries such as Romania, Bulgaria and Kosovo was put in place in recent years as a permanent policy of certain Western European countries such as France and Italy. Just a few examples will suffice:

According to data from the French Ministry of the Interior, and published in the New York Times², in 2010, 9,529 Roma were deported from France, in 2011 10,841, and 12,841 in 2012. In 2010, about 7,000 Roma were deported from Rome, Italy, and the government destroyed 346 illegal communities³. In 2013, tens of thousands of Roma were deported from France and Italy⁴.

Additionally, the government of France under Nikolas Sarkozy furnished flight tickets and €300 to each adult and €100 to each child for what was defined as “voluntary return”, and under Francois Hollande the grants were reduced to €50 per adult and €30 per child.

¹ <https://www.hudexchange.info/resources/documents/2014-AHAR-Part1.pdf>

² <http://www.nytimes.com/2013/06/04/world/europe/roma-still-shunned-in-france-ahead-of-eu-rules-change.html?pagewanted=all>

³ http://seattletimes.com/html/nationworld/2013173780_italyroma17.html

⁴ <http://www.newsrecord.co/french-divided-on-roma-expulsion/>

On October 17, 2013, the European Court for Human Rights (HUDOC), ruled unanimously that since 2003, France has been in continuous violation of Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms⁵, specifically the obligation to honor the private and family life of the individual and his home⁶. Due to the fact that France had not offered alternative solutions to the residents of the illegal communities, but had simply deported them.

This is not the place to point out the differences in legal policy, which apply to European countries with regard to the Roma or to illegal immigrants who enter into the EU. Although certain nations see the conduct of France as injurious and inappropriate, one could never imagine that Germany would fund the building of thousands of illegal dwelling places in the suburbs of Paris, as a “permanent solution” for the Roma living in France, in complete opposition to the policy and laws of France.

Unfortunately, these absurd suggestions are revealed as reality in the manner in which the European Union involves itself in the issue of the Bedouin population who live in Area C of Judea and Samaria.

Background of Bedouin in the Adumim region

The Bedouin share many cultural characteristics with the Roma. The Bedouin exist in the Middle East as different tribes, a nomadic society of herders. With the change in seasons, the Bedouin dwell in temporary structures for short periods of time and then move to greener pastures.

Modern developments and gradual abandonment of the nomadic life style have impacted the Bedouin who wandered into Judea and Samaria. In the past two decades, they have exchanged their tents for temporary tin structures, which were put up in violation of the law, very close to main roads, within industrial areas, on State lands and even within military bases.

These illegal squatter communities have become centers of poverty, unemployment and crime. It is estimated that around 12,000 people are spread over the Adumim Region in groups, which contain between 15-100 structures each. The Adumim Region sits east of Jerusalem, the major city of the area being Maale Adumim. “The Civil Administration”, the Israeli Authority that has jurisdiction to deal with all civilian aspects of its inhabitants, both Israeli and Palestinian, exerts only sporadic supervision and enforcement against the illegal building.

⁵ [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-127539#{\"itemid\[\"001-127539\"\]:](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-127539#{\)

⁶ “Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others”.

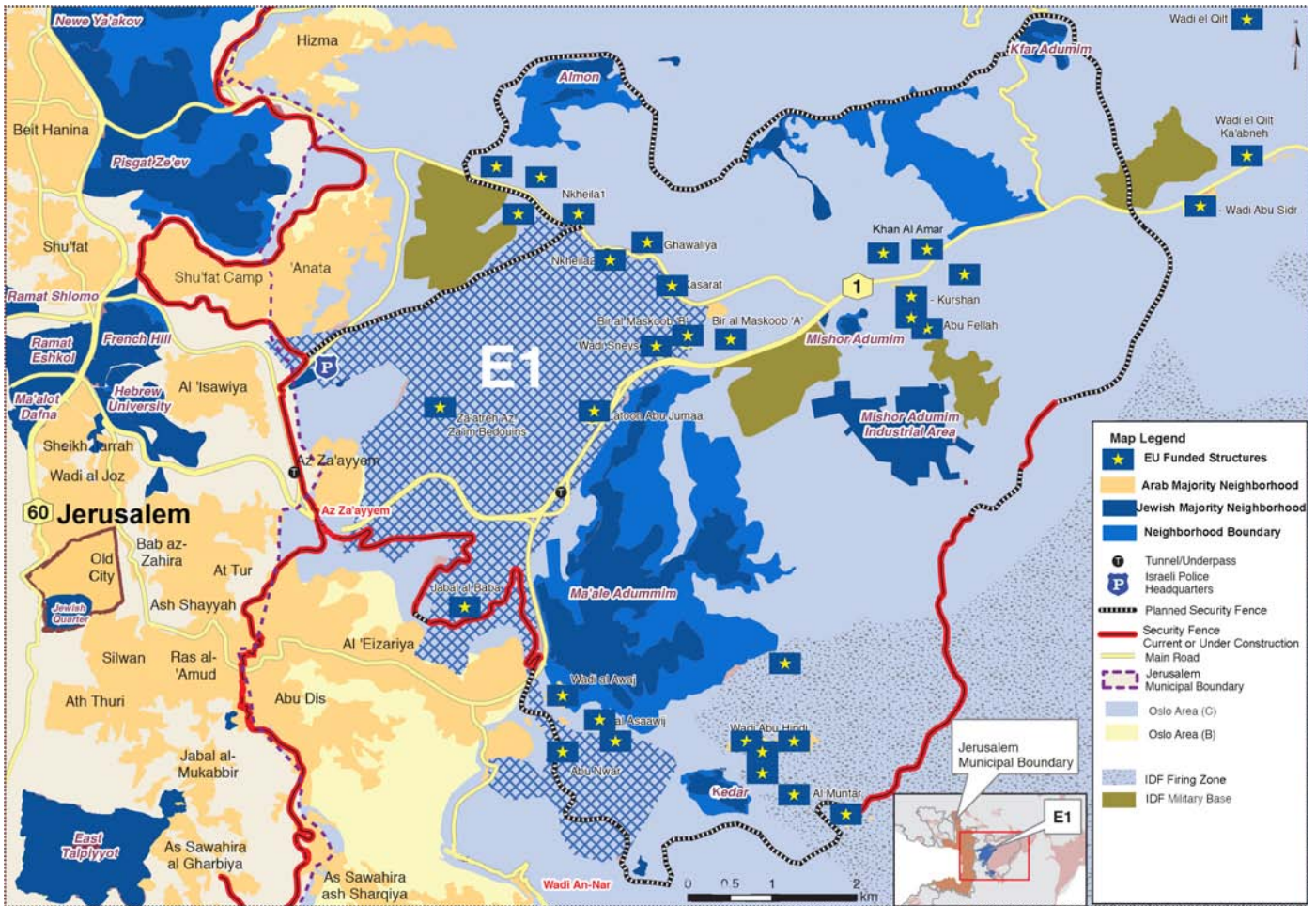


Figure 1: Areas of illegal construction funded by the EU⁷

⁷ The basis of this map was publicly available on the website of the EU-funded anti-Israel UN Office for the Coordination of Humanitarian Affairs (OCHA-opt). We have removed items not relevant to this paper and added those that were. The original can be found here: http://www.ochaopt.org/documents/ocha_opt_map_of_threat_of_displacement_jerusalem_periphery_october_2011_english.pdf

Actions taken by the State of Israel

In order to provide a humanitarian and holistic solution to this distressing situation, the Israeli government decided to plan and build a modern town for this population, Ramat Nueimah, to be located next to the city of Jericho. In this way, it would be possible to provide them with educational, health, sanitation and welfare services, which would ensure positive development and a stable economy. It should be emphasized that in order to realize this plan, the government decided to allocate enormous resources including 500 acres of State lands, planning and establishment of the city, development of 1000 plots of land which would be freely available to the Bedouin, and funding to enable their relocation to the new city.

It is easy to discern that this solution was planned and coordinated precisely by the Government authority and abides with the European Convention on Human Rights.

However, in the course of the last two years, the EU has been committed to a process, which seeks to make those illegal communities, permanent, in the place where they are today, by means of building many illegal homes. This procedure, although possibly related to social awareness (though not applied to the Bedouin in Saudi Arabia, Jordan, or Egypt) is based upon a totally unreasonable violation of building and zoning laws, and against all planning and environmental principles.

Many of those tent clusters were set up only a few years ago, and just recently underwent a process of building and settlement from funds granted by the EU. The claims that the Bedouin were in the area for many years, of the existence of “historical villages”, or that they are only working to “care for human rights to minimal existence level for the Bedouin” simply do not stand up against the test of historical aerial photography.

EU Aid used for illegal building

Every year, the European Union transfers millions of Euro to the Palestinian Authority – both indirectly, through the various United Nations institutions, and via direct, earmarked contributions for specific purposes.⁸

In September 2012, the European Union announced the allocation of **€100 million** toward the advancement of projects for the Arab population across Area C, which is under full Israeli control (in addition to the €100 million euros transferred in 2011).

The first paragraph in the document detailing the allocation of the funds⁹ indicates an earmarked transfer of **€7 million** (in 2012 alone) for “**development of land and basic infrastructures in Area C,**” with emphasis

⁸ European Union aid to the Palestinian Authority, 2007-2013:

http://ec.europa.eu/europeaid/countries/palestine_en?language=en

⁹ http://europa.eu/rapid/press-release_IP-12-964_en.htm

on the fact that “this activity is intended to support the Palestinian presence there and to promote the social and economic development of Area C, which is an essential condition for the ‘Two-State Solution.’”

In the October 2012 evaluations document by the European Union,¹⁰ following “implementation of a humanitarian program in the occupied Palestinian territories,” these expressions of support are even more explicit:

“In the National Development Plan, 2011-2013, the Palestinian Authority is focusing on construction of the state’s institutions. It recognizes, however, the importance of aid (including humanitarian aid), particularly in areas in which it does not have authority or influence, that is, the Gaza Strip and Area C, including the seam areas and East Jerusalem.”

A follow-up document of the EU, “Implementation of the Humanitarian program” from September 2014, noted another designated allocation (in addition to the fixed annual allocation) in the sum of €11 million, intended for illegal Bedouin communities (“communities of shepherds”) in Area C¹¹.

These sums demonstrate very clearly the profound involvement of the EU in illegal building activity.



This extensive illegal building activity in these communities within the municipal jurisdiction of Israeli communities, leads frequently to unnecessary confrontations between Bedouin and Israeli populations. In several incidents of so called “welfare activities” to these illegal communities, representatives of diplomatic staff from EU countries participated. During September 2013, the Cultural Attache of the French consulate

¹⁰ <http://ec.europa.eu/echo/files/funding/decisions/2013/HIPs/oPt.pdf>

¹¹ EU Humanitarian Implementation Plan (HIP) Palestine - 15/09/2014 Version 4

in Jerusalem, Marian Kosting, confronted and physically abused an Israeli policeman. As a result of this altercation, Israel considered designating Kosting as persona non grata, but after an agreement between Israel and France, France suspended the diplomat, and determined that she would terminate her service at the end of 2013, while Israel waived its sharply worded declaration. To summarize, the assistance of the EU to the illegal Bedouin communities brings with it diplomatic tension which leads to unnecessary friction between all involved parties.





Detailed Research

In the past few years, Regavim has conducted precise and extensive mapping of the illegal building in the Adumim area, the rural area surrounding the city of Maale Adumim. The results appear in the following



table.

Between 2003-2006, the extent of illegal building remained relatively stable, and there was even a slight reduction, due to enforcement by the local authorities. Between 2006 and 2012, the extent of illegal building of residential structures in the area shot up by 200 per cent. In a series of aerial photographs from 2012, 412 illegal structures were identified.

During 2014 an additional investigation was undertaken of the most current aerial photos, in which 774 illegal residential structures were counted! In other words, within only two years, the number of illegal dwellings doubled again. This number does not include approximately 200 additional structures that were built in violation of the law on State lands located within the municipal jurisdiction of the City of Maale Adumim.

To summarize, the survey conducted by Regavim reveals that the EU illegally financed, within the Adumim area, between 2012-2014, the establishment of more than 400 structures. Among them, Regavim identified 181 residential structures and in addition, 232 service structures (located separately from the residential structures). In other words, most of the structures set up in this period, in violation of the law, were the result of direct EU action.

On each and every one of these residential structures, built in a systematic and identical manner by means of modular panels, which permit the setting up of the structure within a few hours, they affix with pride, the flag of the EU. Next to these residential structures, one can see service structures, bathrooms and water tanks, and even these bear the symbols of the EU.

International Law

Behind the innocent diplomatic language, which speaks about a contribution for the sake of the development of land and basic infrastructure in area C and support for “communities of shepherds”, hides the active involvement of the EU in illegal, illogical and damaging building projects.

This process is both shocking and infuriating. Infuriating because it is carried out despite the opposition of the State of Israel and involves clear and continuous violations of the zoning and building laws in effect in the area.

The principle of “non-intervention” one of the oldest and most substantive in customary international law, clearly states that it is forbidden for a nation or group of nations to intervene directly or indirectly in either domestic or foreign matters of another country, in a manner which would harm its sovereignty, except in most exceptional circumstances. This principal has been codified in modern international law, and explicitly recited in the United Nations Charter¹² (Article 2.7)

It is well known that the legal status of Judea and Samaria is the subject of much controversy. Extensive research was carried out two years ago by a committee of experts in international law, headed by retired Judge Edmund Levy of the Israeli Supreme Court “z”l, (the Levy Committee). This determined that on the basis of international law, Judea and Samaria cannot be called “occupied territory” because they were not under the accepted sovereignty of another nation prior to 1967 and therefore, the State of Israel holds them by law and by right and its laws as the sovereign must be obeyed.

Even according to the European Union’s approach, that views Judea and Samaria as “occupied territory,” International Law clearly states that the occupying power has lawful administrative authority within the occupied areas, while preserving, as far as possible, the laws in force in those areas.

“The authority of the legitimate power having actually passed into the hands of the occupant, the latter shall take all steps in his power to re-establish and insure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.”¹³

According to international law, all of the actors in the area are obligated to obey the laws in effect there. Violation of the zoning and building laws in effect in the area by the EU constitutes, therefore, a gross violation of international law.

In addition, its behavior stands in clear violation of the Oslo Accords, in which Area C is defined as being under the full responsibility of the State of Israel.

¹² Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

<http://www.un.org/en/documents/charter/chapteri.shtml>

¹³ Hague Convention, 1907, and its Regulations, Article 43.

Humanitarian Aid or exacerbating problems

Following the above analysis, an additional point needs to be raised. It is clear that the energetic activities of the Palestinian Authority and the EU to make these Bedouin settlements permanent, and their ambition to undermine the establishment of the town of Ramat Nueimah, do not represent the best interests of the Bedouin. Continuing to live in these structures, established in an ad-hoc manner without any structural logic, does not permit the development of basic living conditions, such as the provision of water, electricity and infrastructure, medical and educational services.

The true goal behind the “Aid to the Bedouin” is a political program of the Palestinian Authority that was developed in conjunction with the previous Prime Minister, Salam Fayyad, which intends to gradually take control over Area C, and to add it into the area of the Palestinian Authority (PA). For purposes of this agenda, the PA exploits the Bedouin population cynically, without humanitarian or ethical concerns, and it is the Bedouin that pay the heavy price for this trapped in poverty, deprivation and crime.

Environmental concerns

Many of the illegal Bedouin communities developed by the EU were built in designated nature reserves in the area of Jerusalem and the Judean desert. These nature reserves protect rare natural treasures of desert landscapes and springs, in a natural setting of indigenous animal and plant life, as well as traditional and historical sites, including those holy to Christianity.

It should be pointed out that in the Wye River Agreement¹⁴ which was signed between Israel and the Palestinians in 1998, Israel transferred 12% of Area C which was under its control to the control of the PA (Area B) 3% of that area was defined as green areas and nature reserves. The PA was obligated to refrain from adding infrastructure and new building. Part of the illegal building which the EU finances is located in the very heart of this nature reserve.

Without sewage infrastructure, the waste from these illegal communities' flows into open areas and directly pollutes nature reserves. Further environmental damage is caused by unsupervised garbage disposal, including burying and burning of refuse.

From its inception, the EU has devoted exceptional attention to protecting the environment. This extensive concern appears in the Treaty of Lisbon, which was signed in December 2009. The EU operates a special administration to supervise the implementation of its environmental policies by member states, and summons those states for clarification in instances, which appear to violate the European law on environment. It is difficult to understand how the European Commission can support, de facto, the

¹⁴The Wye River Memorandum .Chapter I_A, http://www.knesset.gov.il/process/docs/wye_eng.htm

environmental pollution caused by illegal Bedouin settlements, which lead to serious violations of the principles of nature and environment.

Conclusions

The supposed good will of the EU to assist the Bedouin population should be carried out legally by helping or at least not hindering the establishment of the town of Ramat Nueimah and work within the framework of the law. In addition, it is essential the EU halt their unilateral behavior, which amounts to aggressive intervention in another countries sovereign responsibilities clearly characterized as illegitimate diplomatic behavior.

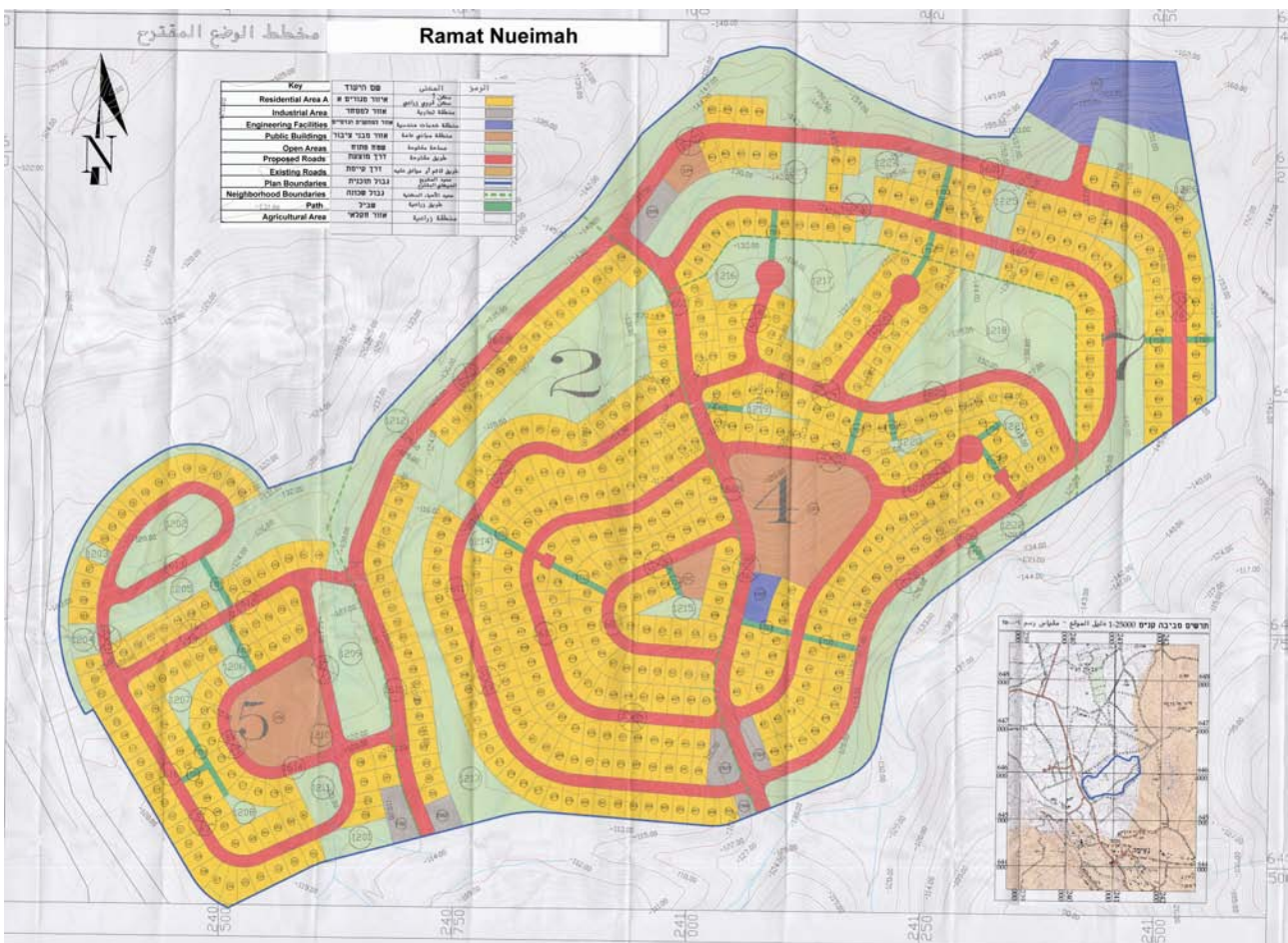


Image Showing Town Plan of soon to be established Ramat Nueimah



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