

Europe's Initial Reactions to Israel's Annexation Intentions

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US President Donald Trump's plan for resolution of the Israeli-Palestinian conflict, presented in January 2020, was perceived in Jerusalem as a green light to annexation of some 30 percent of the West Bank. It was in accordance with the intentions declared over the past year by Israeli Prime Minister Benjamin Netanyahu. Accordingly, the April 2020 coalition agreement between the Likud and Blue and White political parties included a clause allowing Netanyahu to bring a US-approved annexation plan for government or Knesset approval as of July 1, 2020.¹ Soon after, reactions began pouring in from around the world, including Europe, expressing opposition to annexation and warning Israel against such a move. This paper presents the reactions of the EU, its member states and the UK. It examines them in light of the hurdles to formulating an EU consensus on the issue, and maps them according to the extent of the criticism and the attitudes of the various European states toward the Israeli government's policy.

A. Background

The European Community has aspired since the 1970s to a coordinated foreign policy. One of its achievements in this context was the formulation of a united stand on the Israeli-Palestinian conflict. Already in 1980, the member states of the European Economic Community (EEC) adopted the "Venice Declaration" guiding EU principles on resolution of the conflict to this day. The EEC recognized the legitimate right of the Palestinians to self-determination and a state, called for a two-state for two-people solution based on the 1967 borderlines, and to end the occupation. The principles were based on UN Security Council Resolutions 242 and 338 and on respect for international law as an expression of the post-World War II liberal order.

In the 1990s, at the height of the Israeli-Palestinian peace process, the EU tightened its relationships with Israel. The EU – Israel Association Agreement signed in 1995, is still the anchoring agreement between the sides to this day. The Association Agreement paved the way for an improved free trade deal and to significant economic prosperity. Israel's participation since 1996 in the EU's research and development program has contributed to

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¹ Paragraph 28 states: "The Prime Minister and the Alternate Prime Minister will work together and in coordination to advance a peace agreement with all our neighbors and to advance regional cooperation in a variety of economic spheres, as well as with respect to the COVID-19 crisis. With regard to President Trump's declaration, the Prime Minister and the Alternate Prime Minister will act in full agreement with the United States, on the maps too, and international dialogue, while striving to preserve the security and strategic interests of the State of Israel, among them the need to maintain regional stability, protect the peace agreements and seek future peace agreements."

scientific innovation and is of strategic importance to the State of Israel. Despite EU criticism of Israel's occupation, construction in the settlements and violation of human rights, as long as the peace process continued, the EU refrained from adopting concrete measures against Israel.

In 2005, the EU decided to differentiate between goods exported to it from within Israel's 1967 sovereign borderlines, which benefitted from zero import duties thanks to the Association Agreement, and products emanating from the settlements, on which it started imposing customs tariffs. Since 2009, the EU has halted the upgrading of its relationship with Israel, conditioning it on progress in the peace process with the Palestinians. In 2013, the EU adopted a differentiation policy that draws an economic and legal distinction between sovereign Israel within the 1967 lines and the territories. That same year, the EU also offered to upgrade relations with Israel and the Palestinians to the status of "Special Privileged Partnerships" after they reach a peace agreement. In 2015, the EU recommended that its member states label products made in the settlements to designate their provenance in the occupied territories and not in sovereign Israel. This policy was advanced by states with a distinct pro-Palestinian position, such as Sweden, Ireland and Luxembourg.

The escalating EU measures and criticism of Israel, especially those which require the consensus of its member states, have stopped since 2016 due to vetoes imposed by various member states. Greece was the first, Hungary is the most frequent, with Poland, the Czech Republic, Austria, Romania, Bulgaria, Cyprus and the Baltic states taking turns in coming to Netanyahu's aid. The vetoes on the part of these states reflect the many crises afflicting the EU: The 2009 euro crisis, the 2015 refugee/migrant crisis, Brexit in 2016 and the rise of populist regimes in Hungary and Poland, among others, which have weakened their democratic institutions and rule of law. [A state](#) in the throes of conflict with Brussels, that has an interest in closer ties with Israel, may tend to challenge the EU by imposing vetoes on anti-Israel measures or watering down and softening the bloc's opposition. Given that EU foreign policy toward Israel since 2016 largely consists of repeating previously declared decisions, its ability to react to annexation by Israel's new government is unclear. The EU's ability as a bloc to take significant practical steps, not only declarative ones, appears limited. However, should the EU-one-block scenario materialize, the intensity of the blow to Israel could be severe.

B. The Position of the EU High Representative for Foreign Affairs

In response to the Likud-Blue and White agreement, EU High Representative for Foreign Affairs and Security Policy Josep Borrell [issued a statement](#) on April 23, 2020 warning that annexation would constitute "a serious violation of international law", and adding that the EU would "continue to closely monitor the situation and its broader implications, and will act accordingly". The statement followed an [earlier, tougher one](#) issued on February 4, a week after the unveiling of the Trump plan saying, "steps towards annexation, if implemented, could not pass unchallenged." In his February statement, Borrell reiterated the EU's "commitment to a negotiated two-state solution, based on 1967 lines, with equivalent land swaps, as may be agreed between the parties, with the State of Israel and an independent, democratic, contiguous, sovereign and viable State of Palestine, living side by side in peace, security and mutual recognition – as set out in the Council Conclusions of July 2014." The Trump initiative, he added, "departs from these internationally agreed parameters. To build a just and lasting peace, the unresolved final status issues must be decided through direct negotiations between both parties. This includes notably the issues related to borders, the

status of Jerusalem, security and the refugee question.” Borrell urged the sides to avoid unilateral moves that contravene international law.

Both Borrell's 2020 statements on the Israeli-Palestinian issue were issued in his name only, and not as a joint communique expressing a consensus of all 27 member states. EU foreign policy is the product of consensus. A veto by even one state is sufficient to derail a joint decision. On the other hand, a joint decision can be adopted even if up to one-third of members abstain. Eight states, among them Hungary and Austria, [reportedly](#) objected to Borrell's April statement, a greater number than ever before in decisions critical of Israel, but the objections appeared to stem from the timing of the proposed declaration, with some of the states wanting to wait until a new Israeli government was installed. Borrell also [reportedly](#) favored sanctions against Israel, such as the ones the EU imposed on Russia after its invasion of the Crimean Peninsula.

On May 15, EU foreign ministers held a video conference. At a news conference following the session and afterwards also in a written statement in his name, Borrell said the EU would not recognize border and sovereignty changes unless they were agreed upon in negotiations. In response to questions, Borrell said work was under way on possible response measures to a unilateral Israeli move. The declaration did not include an explicit threat of sanctions because Austria and Hungary refused to support it. However, the measures under preparation include steps that do not require the consensus of all member states (such as non-inclusion in Horizon Europe, the research and innovation program for 2021-2027, or suspension of the “Erasmus +” higher education agreement). The list might also include recommendations on bilateral measures, meaning they cannot be vetoed down, which will be open to member states choosing to take action against Israel.

Should the new Israeli government undertake annexation, Borrell, whose critical position on Israeli policy is well known, will undoubtedly try to push for a significant step by all 27 states. Given the current divisions within the EU, in general, and on the issue of Israel in particular, and the veto power of each member state over every foreign policy declaration and measure, the EU's bark as a joint body is expected to be worse than its bite. In fact, the “bark” may not even be very loud or will not convey the views of all 27 members, but those of a smaller club. However, should there be a “bite” not dependent on consensus, the implications for Israel could be painful.

C. EU Member States' Views on Annexation

States that have expressed harsh criticism

On April 30, 12 European ambassadors – from France, Germany, Italy, Ireland, The Netherlands, Spain, Sweden, Belgium, Denmark, Finland, as well as the EU itself and the UK (which departed the EU in January) – presented an official demarche to the Israeli Foreign Ministry over the annexation clause in the coalition agreement, and expressed concern over such a move. The ambassadors reportedly made clear to Deputy DG for Europe Anna Azari that such steps “would have severe implications for regional stability and Israel's stand in the international arena”. The demarche did not elaborate on the steps against Israel, presumably because the states wanted to wait and see the type and extent of annexation the government will advance.

Some EU states have expressed themselves in line with Borrell's declarations to varying degrees, perhaps reflecting their positions more precisely. Most of the states that issued a

statement chose to do so through their UN missions, often in the name of their ambassador to the UN.

[France](#) issued a tough statement through its UN ambassador, warning, "Such steps if implemented would not pass unchallenged and shall not be overlooked in our relationship with Israel". The exact nature of the threat to the quality of the relationship was not made clear. However, France appears to be leading [the more aggressive group](#) on the issue, threatening Israel with a harsh response that includes economic measures in a bid to forestall the annexation. Since the Six Day War, in the waning days of the De Gaulle regime, France has taken a critical view of Israeli policy. France regards itself as a regional power with many interests in the region and special relations with Muslim and Arab states, such as Morocco, Lebanon, Tunisia and Algeria. Instability in the region has negative repercussions for France, such as terrorism and immigration. From a domestic point of view, France is home to a large Muslim minority for whom the issue is important and French media devotes extensive coverage to the conflict. Therefore, absent a European consensus, France could take independent steps and might even form a bloc of like-minded states.

[Belgium](#) "strongly advised" against unilateral annexation steps. [Luxembourg's](#) Foreign Minister Jean Asselborn adopted Borrell's April statement. In February, following publication of the Trump plan, Asselborn led a meeting of eight EU foreign ministers in an effort to formulate a resolution by the EU's Foreign Affairs Council on unilateral recognition of a Palestinian state, or, alternatively, recognition by a bloc of EU members. The meeting did not yield concrete results, but the initiative remains on the table and annexation could certainly constitute a catalyst for such a move on the part of France, Luxembourg, Belgium, Ireland and Spain. In 2014, the Swedish government recognized Palestine as a state. At that time there was a wave of such recognition by parliaments in Spain, the UK, Ireland, France and the European Parliament. While recognition by a state is more binding than symbolic parliamentary recognition, in the end it is mainly a declarative step expressing support for the Palestinians' right to self-determination and a state, and does not influence the drawing of Palestinian state borders.

Ireland's Foreign Minister Simon Coveney [joined the warnings](#) to Israel's incoming government, but avoided supporting proposed Irish legislation on the occupied territories that would have imposed a boycott on products and services from the territories (the Irish Senate approved such legislation in 2018 despite [government objections](#), but it has not been enacted). Trade policy is one of the few policy fields that states have ceded to the authority of the European Union. Therefore, [according to Coveney](#), the proposed bill contravenes the EU's current trade policy and if enacted would most probably be void.

States that have expressed moderate criticism

[Germany](#) issued a moderate statement that while expressing concern over the implications of annexation and condemning Israel, does not threaten any measures, for now. In its statement, Germany "strongly advises against the annexation of occupied Palestinian territories. This would have serious, negative repercussions on the viability of the two-state solution, the entire peace process, regional stability and Israel's standing within the international community." The relatively moderate phrasing and its issuance by the German delegation to the UN and not by the ambassador appear to signal to the government of Israel that Germany does not wish to delve into the issue. Seventy-five years after the end of World War II and the Holocaust, the shadow of the past over Israeli-German relations presents a dilemma for Germany that prevents it from backing harsh measures that pro-Palestinian

states might try to advance. On the other hand, as a state respectful and adherent to international law and the rule of law, Germany is expected to react and condemn annexation. It remains to be seen whether Germany will serve as a moderating and balancing force vis-à-vis proposals for tough concrete measures against Israel in case of annexation.

At his May 15 news conference, Borrell provided resonance to the distinction that came up during the foreign ministers' conference between Russia's annexation of Crimea – annexation of territory that until 2014 was a formal and recognized part of Ukraine, a sovereign UN member state – and annexation of (the) land in Judea and Samaria. This distinction is important because of the position of states such as Luxembourg and Ireland that are demanding sanctions on Israel similar to those imposed on Russia following its occupation and annexation of the Crimean Peninsula. Despite reiterating the warning to Israel against violation of international law, German Foreign Minister Heiko Maas has supported that distinction. The importance of his declaration stems not only from Germany's status and power within the EU, but also from the fact that starting July 1 until the end of 2020, Germany will hold the presidency of the EU and could serve as a moderating element.

In late January, the UK officially seceded from the EU and is no longer part of its foreign policy decision mechanism. The [UK's](#) UN Ambassador expressed clear opposition to annexation and reiterated the familiar principles for resolution of the conflict, without threatening or hinting at measures the UK might take in case of annexation. On the other hand, 130 current and former British MPs from both the Liberal and Conservative parties have [signed](#) a letter to Prime Minister Boris Johnson calling on his government to impose economic sanctions on Israel similar to those imposed on Russia following its takeover of the Crimean Peninsula should Israel annex territories in the West Bank. The Johnson government is unlikely to adopt such measures. In 2019, the UK was Israel's third largest export market (4.7 billion USD) after the EU and the US, preceding China. Traditionally, UK foreign policy has tended to see eye to eye with the US on policy toward Israel. Under the Trump Administration, the US position has undergone significant change, and the UK has drawn back in part on its trans-Atlantic policy. Should the Trump Administration recognize annexation, the UK would find itself on the other side of the fence even as it continues negotiations with the US on the post-Brexit trade deal. Italy has joined the protest vis-a-vis the Israeli Foreign Ministry, but has not issued an official statement of its own.

States that have avoided expressing criticism

Estonia, which as a temporary UN Security Council member chaired the council in May, welcomed the cooperation between Israel and the Palestinian Authority in the fight against the coronavirus, [urging](#) the two sides to “renew negotiations in line with international law and UN resolutions”. Its brief statement did not mention annexation. Hungary, the Czech Republic, Bulgaria, Romania and Austria, which have adopted friendly attitudes toward Israel, have been silent and avoided condemnation of the annexation intentions. They have previously also avoided joining criticism and measures against Israel, and even worked to undercut and torpedo them. Although annexation is considered a blatant and egregious violation of international law, some of them may veto harsh proposals by countries such as France, Sweden, and Ireland or try to soften their language in order to ensure EU consensus. Greece, Cyprus and Poland are considered friends of Israel, as are Slovakia, Croatia, Latvia, Lithuania and Estonia, but it is unclear what stand they will take when the time comes – whether they will join condemnation of Israel over the annexation and enable harsh measures against it.

D. Summary

The EU will not ignore Israeli annexation measures. Right now, officials are trying to take preventive measures by voicing warnings and threats against annexation. Should the Israeli government act to annex territories, some within the EU will push the 27 member states to adopt a determined and significant response. Given the internal EU divisions on the issue of Israel, and the veto power of each member state over every foreign policy measure, the EU's bark as a joint body will likely be worse than its bite. The bark, too, may end up being muted, or it could be limited to some members but not voiced by all 27 member states. France leads the toughest line within the EU and even tries to advance economic measures against Israel. Israel's government should be troubled by such a potential move on the part of its biggest trade partner. Israel has become accustomed to viewing the EU as a weakened entity on the world stage, whose protests need not be taken seriously. However, this assumption could turn out to be wrong if Israel decides to take a formal annexation step, which would change the rules of the game in Europe's eyes. Prominent European leaders could lead measures within the EU institutions and elsewhere that would take their toll on Israel.