

Joint Statement

Continued Delay of the UN Database by the UN High Commissioner for Human Rights, Unfounded and Unacceptable

Date: 1 October 2019

The undersigned organisations express their serious concern and disappointment that the United Nations (UN) High Commissioner for Human Rights did not transmit to the Human Rights Council, at its 42nd session, the database of all businesses engaged in listed activities related to Israel's unlawful settlement enterprise (the Database) in the Occupied Palestinian Territory (OPT), as mandated in Human Rights Council resolution 31/36 (2016).¹ The Human Rights Council called for transmission of the data at its 34th session in March 2017.

The repeated, open-ended, and unexplained delays have no precedent in the handling of previous mandates by the Office of the High Commissioner for Human Rights (OHCHR). In March 2019, the High Commissioner wrote to the President of the Human Rights Council, pledging to fulfil the mandate “in coming months.” Her decision not to do so at the Council's September session means that the Council will have no practical opportunity to consider the report before its next session in March 2020 – a full year after the High Commissioner made her commitment.

The OHCHR's failure so far to fulfil the mandate, explicitly stipulating the transmission of the data gathered, is of deep concern, particularly in light of consistent reports of political interference by some states in the implementation of this resolution.² In July 2019, during the 41st Human Rights Council session, some 90 states, in two joint statements, emphasized the crucial importance that the High Commissioner and her Office maintain their independence and are able to execute their mandates impartially and without interference.³ Meanwhile, civil society organisations from around the world have repeatedly called on the High Commissioner to fulfil the mandate of resolution 31/36 (2016) and release the Database, noting that it “is not only important for the protection of the rights of the Palestinian people, but also constitutes an important development in international efforts to ensure respect for international law by State and non-State actors” and “an

¹ UN Human Rights Council, A/HRC/RES/31/36 at para 96

² There have been several media reports highlighting political interference exerted against the publication of the Database. *See for example:* Josef Federman, Josh Lederman and Jamey Keaten, ‘Israel races to head off UN settlement ‘blacklist’ (AP, 26 November 2017), available at: <https://www.apnews.com/9f910e5a7b264c38aad504a6147d9898>; Nick Cumming-Bruce, ‘Clash Over Israeli Settlements Has a New Front: A Delayed U.N. Report’ (The New York Times, 5 March 2019), available at: <https://www.nytimes.com/2019/03/05/world/middleeast/israel-united-nations-boycottcompanies.html>

³ Al-Haq, ‘More than 100 Organisations Call for the Release of the UN Database of Businesses Engaged in Activities with Israeli Settlements’ (29 August 2019) <http://www.alhaq.org/advocacy/14950.html>

important tool to strengthen the implementation of international law and standards, including the UN Guiding Principles on Business and Human Rights, in situations of conflict and occupation.”⁴

The High Commissioner has not provided any substantive reasons or explanations consistent with the independence of her Office for the extended delay in the fulfilment of the mandate entrusted to her. The OHCHR has had ample time to make all necessary preparations for the release of the Database, including contacting companies.⁵ In order to protect and uphold the human rights of Palestinians and the integrity of OHCHR, it is imperative that the High Commissioner immediately publish and transmit the Database to the Council, including the names of all companies listed, and commit to the annual update of its contents. Otherwise, the High Commissioner should state publicly her principled grounds, consistent with the independence of her Office, for not carrying out the specific mandate entrusted to her.

Since the establishment of the Database mandate in 2016, Israel has escalated its construction of illegal settlements in the West Bank and in September approved ex-post facto the outpost settlement of *Mevo'ot Yericho* near Jericho in the Jordan Valley,⁶ just days after Prime Minister Netanyahu vowed to annex the Jordan Valley if elected.⁷ Business activity in or with settlements contributes in many ways to the growth and development of these settlements and to serious human rights abuses.⁸ OHCHR's repeated delays in releasing the Database and transmitting the data promote impunity and enable further entrenchment and expansion of illegal settlements. Transmission of the data would provide a degree of transparency over these activities and serve as

⁴ Al-Haq, '100 Palestinian, Regional and International Organisations Call on High Commissioner for Human Rights to Publish the UN Database on Business Enterprises with Activities Related to Israeli Settlements in the OPT' (30 November 2018) <http://www.alhaq.org/advocacy/6130.html>

⁵ See, for example, letter from High Commissioner for Human Rights, Zeid Ra'ad al-Hussein, to the President of the Human Rights Council, Ambassador Vojislav Šuc, on 7 August 2018, available at: <https://extranet.ohchr.org/sites/hrc/PresidencyBureau/BureauRegionalGroupsCorrespondence/Corresp2014DL/180807LetterfromHCdatabase.pdf>

⁶ See for example: United Nations Meetings Coverage and Press Releases 'Special Coordinator Reports Largest Expansion of West Bank Settlements in 2 Years, as He Briefs Security Council on Middle East Peace Process' (20 June 2019) <https://www.un.org/press/en/2019/sc13853.doc.htm>

⁷ David M. Halbfinger, 'Netanyahu Vows to Start Annexing West Bank, in Bid to Rally the Right' (New York Times, 6 April 2019) <https://www.nytimes.com/2019/04/06/world/middleeast/netanyahu-annex-west-bank.html?module=inline>; BBC, 'Israel PM Netanyahu vows to annex occupied Jordan Valley' (10 September 2019) <https://www.bbc.com/news/world-middle-east-49655226>

⁸ "The violations of human rights associated with the settlements are pervasive and devastating, reaching every facet of Palestinian life, owing to settlement development and infrastructure, Palestinians suffer from restrictions on freedom of religion, movement and education; their rights to land and water; access to livelihood and their right to an adequate standard of living; their rights to family life; and many other fundamental rights." Human Rights Council, Database of all business enterprises involved in the activities detailed in paragraph 96 of the report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem (26 January 2018) A/HRC/37/39; The 2013 report of the UN commissioned International Fact-Finding Mission to investigate the implications of the Israeli settlements on the human rights of the Palestinian people, found that "business enterprises have, directly and indirectly, enabled, facilitated and profited from the construction and growth of the settlements." Human Rights Council, Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem (7 February 2013) A/HRC/22/63

a tool to assist states and businesses to uphold their obligations and responsibilities under international human rights and humanitarian law.

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Al-Haq

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European Middle East Project (EuMEP)

Global Legal Action Network (GLAN)

Human Rights Watch