

BILL N. 836/XIV/2.^a

**ESTABLISHES THE PROHIBITION TO IMPORT AND SELL GOODS,
SERVICES AND NATURAL RESOURCES FROM ILLEGAL SETTLEMENTS IN
OCCUPIED TERRITORIES**

Explanatory statement

According to the Fourth Geneva Convention and the Rome Statute of the International Criminal Court, settlement building constitutes a war crime and a serious violation of international humanitarian law.

However, despite the fact that settlements have been condemned by several international organisations and institutions, including the European Union and the United Nations, the truth is that international trade in goods and services, as well as the exchange of natural resources with territories considered to be occupied by international law, remains an immutable reality, effectively legitimising and strengthening the occupying power economically and financially.

The most striking case concerns the occupation of Israel in the Palestinian West Bank, which since 1967 has forced the illegal transfer, from the point of view of international law, of more than 600 thousand Israeli citizens to the 200 settlements illegally established in that territory.

Such an operation was made possible through the expropriation of more than 40% of the available land, the control of Israeli military forces over a wide area of the territory, the blocking of roads, the control of access to water and electricity, the construction of wire fences that prevent Palestinian citizens from moving freely within the territory, and a

judicial apartheid regime externalised by the arbitrary detention of Palestinian men, women and children.

In fact, hundreds of Palestinian children are tried each year by military courts and sentenced to penalties clearly disproportionate to the acts they carry out. It should be noted that these military courts are only used to try Palestinians and have a sentencing rate of 99.74%. In addition, in 2013, UNICEF published a report entitled “Children in Israeli military detention: observations and recommendations”, which concluded that “the ill-treatment of children who come in contact with the military detention system appears to be widespread, systematic and institutionalized throughout the process, from the moment of arrest until the child’s prosecution and eventual conviction and sentencing”.

For more than half a century, the Palestinian people have seen their territory occupied and their fundamental, collective, and individual rights, denied. The reality of devastated houses, dismembered families, walls dividing communities, paths intercepted by successive checkpoints that retain and humiliate, remains unscathed. Meanwhile, there is a clear expansion of settlements by the Israeli government, ignoring the basic rules of international law and violating, repeatedly and gravely, the human rights of the Palestinian population.

Moreover, settlement policy continues to be the main cause of human rights violations against the Palestinians and has been one of the main obstacles to the materialisation of the two-state solution provided for in the Oslo peace agreements.

That is the stance of the European Union, which is absolutely clear in this respect: “settlement building anywhere in the occupied Palestinian Territory, including East Jerusalem, is illegal under international law, constitutes an obstacle to peace and threatens to make a two-state solution impossible”. Despite this, EU Member States, including Portugal, continue to make Israeli settlements financially viable, precisely through the commercial relations established between the two regions, which result in the export of agricultural products and other materials that are produced in illegal settlements, without any limitations.

Since the trade in settlement goods sustains and promotes the injustice perpetrated against the Palestinian people on a daily basis, it is concluded that the present conduct of

the international community has contributed to deepening the apartheid system existing in the Palestinian territories, preventing a future of peace and democracy that guarantees dignity, freedom and prosperity for the Palestinian people.

Likewise, the unacceptable complacency of the international community that insists on not acting consistently in the defence of the application of international law and of a peace process that respects the rights of all people without discrimination is also a way of legitimising the policies of illegal occupations, the expropriation of private lands, the massacres and the immense violence that have been taking place both in the Gaza Strip and in the occupied West Bank.

It is essential, therefore, for the international community to act in such a way as to prevent Israel from normalising its illegal occupation in these territories, as well as the realisation of these attacks on human rights and international law.

The present initiative thus intends to fulfil the obligations of the State arising from the Fourth Geneva Convention on the Protection of Civilian Persons in Time of War and under customary international humanitarian law, establishing, for that purpose, a legal framework that prohibits the importation or sale of goods, services and natural resources originating from illegal settlements in territories considered to be occupied by international law.

Therefore, this legislative initiative applies to territories where there is an international legal consensus on the status of the occupation. As such, and because they have been confirmed as territories occupied by the International Court of Justice, only the occupied Palestinian territories would, at present, fall within that scope. However, this initiative also allows the inclusion of other territories, as long as a consensus is reached between the Government and the Assembly of the Republic.

On the other hand, this bill does not intend to implement a boycott of Israeli goods, or even to promote a trade embargo on Israel. Only a ban on the import or sale of goods produced in settlements illegally occupied by Israel is provided for, in accordance with international conventions and resolutions.

Ultimately, and taking into account the EU's position on the illegality of Israeli settlements in the occupied territories; the United Nations Security Council Resolution 2334 (2016)

and previous Resolutions that confirm, *inter alia*, that Israeli settlements constitute a flagrant violation of international law; and the duties of non-recognition and non-assistance under Article 41 (2) of the text of the International Law Commission (ILC) on the Responsibility of States for Internationally Wrongful Acts, we believe it is essential to promote the implementation of this initiative, which would not only make it possible to ensure that tangible measures are taken to punish the illegal occupation of the State of Israel over Palestinian territories, but also to align Portugal's trade policies and relations with international law.

Thus, under the terms of paragraph b) of article 156 of the Constitution of the Portuguese Republic and paragraph b) of number 1 of article 4 of the Rules of Procedure of the Assembly of the Republic, the Deputies of the Parliamentary Group of Left Bloc present the following Bill:

Article 1

Object

This Law prohibits the import or sale of goods, services and natural resources originating from illegal settlements in territories considered to be occupied by international law.

Article 2

Definitions

For the purposes of this law, it is considered:

- a) "Illegal settler" means a member of the civilian population of an occupying power who was or is present in the occupied territory and whose presence is being, or has been, facilitated directly or indirectly by the occupying power;
- b) "Occupying power" has the same meaning as in the Fourth Geneva Convention;
- c) "Resources" means natural resources which include, but are not limited to, oil, gas, mineral, rock, energy, timber, marine life and agricultural produce;
- d) "Settlement goods" means goods produced wholly or partially in a territory occupied by an illegal settler;

- a) “Occupied territory” means a territory which is occupied according to the definition of the Fourth Geneva Convention, and which has been:
- i) confirmed as such in a decision or advisory opinion of the International Court of Justice;
 - ii) confirmed as such in a decision by the International Criminal Court;
 - iii) confirmed as such in a decision of an international tribunal;
 - iv) designated as such for the purposes of this Law in a regulation made by the government, in accordance with article 4.

Article 3

Update of the list of occupied territories

The Government shall publish and maintain a list of all territories considered to be occupied territories.

Article 4

Scope of application

This Law applies:

- a) Individuals with Portuguese citizenship or residing in Portugal;
- b) Collective persons, under the terms and for the purposes of article 11 of the Penal Code.
- c) Entities without legal personality whose activities are carried out in Portugal.

Article 5

Commercial relations with settlements

1 - Those who:

- a) import settlement goods;
- b) sell settlement goods;
- c) hire the provision of settlement services;
- d) by any means, extract resources from an occupied territory or its associated territorial waters;

Is punished with a prison sentence of up to 5 years.

2 - The attempt of these actions is punishable.

Article 6

Grounds for Exclusion

1 – Criminal liability for the facts provided for in article 5 is excluded when:

- a) the act or omission which is the object of the alleged crime was committed with the consent of an entity that is recognised by the State as being the legitimate authority over that occupied territory;
- b) the goods or services in question were not produced in an area occupied by an illegal settler;
- c) the goods or services in question were not produced by an illegal settler; or
- d) the natural resources in question do not originate within an occupied territory.

Article 7

Implementation

This law takes effect on the day following its approval.

Assembly of the Republic, 14 May 2021.

The Deputies of Left Bloc,

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José Manuel Pureza; José Maria Cardoso; José Soeiro; Luís Monteiro; Maria Manuel Rola;
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