



Nick Ashmore, Director
Ireland Strategic Investment Fund
Treasury Dock
North Wall Quay
Dublin 1
info@isif.ie

Frank O'Connor, Chief Executive
National Treasury Management Agency
Treasury Dock
North Wall Quay
Dublin 1
foi@ntma.ie

By email only

13 May 2024

RE: Legal consequences of ISIF's investments connected to Israeli war crimes

Dear Mr Ashmore and Mr O'Connor,

We write in relation to ISIF's investments in eleven companies operating in the illegal Israeli settlements and, in the case of Motorola Solutions, supporting Israel's military offensive in Gaza ("Relevant Companies"), with which you are of course familiar, including from previous correspondence with the Global Legal Action Network (GLAN).

The attached memorandum outlines how ISIF's investments in the Relevant Companies render ISIF and/or the NTMA liable to (a) being the subject of proceedings brought by the Criminal Assets Bureau (CAB) under the Proceeds of Crime Act 1996 (PoC Act) and (b) prosecution for a money-laundering offence under section 7 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (MLTF Act).

We note in this regard that the Department of Foreign Affairs has issued an 'Advice on investment in Israeli settlements in Occupied Palestinian Territory' to Irish citizens and businesses which states *inter alia* as follows:

"Financial transactions, investments, purchases, procurements as well as other economic activities (including in services like tourism) in Israeli settlements or benefiting Israeli settlements, entail legal and economic risks

Global Legal Action Network
Irish Centre for Human Rights
University Road
Galway

Sadaka – the Ireland Palestine Alliance
Gortnadrass
Lavagh
Ballymote
Sligo

stemming from the fact that the Israeli settlements, according to international law, are built on occupied land and are not recognised as a legitimate part of Israel's territory”¹ (emphasis added)

We further note ISIF's recent decision to divest from six of the Relevant Companies. According to the provisions of the PoC Act and MLTF Act outlined in section C of the attached memorandum, this decision does not change the position with respect to ISIF's and/or the NTMA's liability under these Acts. In particular:

- (a) Property held by ISIF and/or the NTMA in connection with its investments in Relevant Companies which falls within the scope of sections 2-4 of the PoC Act and constitutes “proceeds of criminal conduct” for the purpose of Part 2 of the MLTF Act extends beyond the shares in these companies (or any other instruments) held by ISIF to all of the types of property referred to at paragraph 84 of the attached memorandum, including the proceeds of any sale of these shares (or other instruments);
- (b) For the purpose of the offence of money-laundering under section 7 of the MLTF, the decision to divest from six Relevant Companies does nothing to cure the criminal liability that has already arisen as a result of ISIF's investment in these companies;
- (c) With respect to the five Relevant Companies in which ISIF is invested and which are not included in ISIF's recent divestment announcement, insofar as these companies may have been excluded from this decision on the basis that ISIF's investments in them are held indirectly (for example, through a collective investment vehicle), this is immaterial for the purpose of the relevant provisions of both the PoC Act and MLTF Act (see paras. 82-84 of the attached memorandum).

In light of the foregoing, we will send a copy of this letter and the attached memorandum to the CAB requesting it to investigate the matter. We emphasise in this regard that we seek no more than to ensure that the monies and assets identified in section C of the attached memorandum as property which may be the subject of orders under sections 2-4 of the PoC Act and constituting “proceeds of criminal conduct” for the purpose of section 6 of the MLTF Act are disposed of in accordance with the PoC Act. For the time being, we do not therefore intend to make a formal complaint to An Garda Síochána in relation to the criminal liability of ISIF or the NTMA which we believe arises under the MLTF Act.

It is our view that the most appropriate course of action for ISIF to take is to seek the view of the CAB as to the proper means by which to dispose of the monies and assets identified above as constituting the proceeds of crime, and to whom they should be disposed. We therefore ask for confirmation within four weeks of the date of this letter that ISIF (a) has sought the view of the CAB as to matters raised in this letter and (b) intends to divest itself of all of the monies and assets identified in section C of the attached memorandum as being the subject of sections 2-4 of the PoC Act and constituting “proceeds of criminal conduct” for the purpose of section 6 of the MLTF Act.

We ask that you kindly acknowledge receipt of this letter and that correspondence be sent by email to gliston@glanlaw.org.

¹ See: <https://www.dfa.ie/our-role/policies/international-priorities/middle-east-and-north-africa/opt-investment-advice/>.

We look forward to hearing from you.

Yours sincerely,



Gerry Liston
Senior Lawyer
Global Legal Action Network



Éamonn Meehan
Chairperson
Sadaka – the Ireland Palestine Alliance