

Serious Violations of Fundamental Ethical Norms

KLP seeks to apply a consistent and principled approach to all of its exclusion decisions. To ensure that we handle similar cases consistently, we rely on KLP's previous divestment decisions, as well as recommendations on exclusion from the Council on Ethics for the Government Pension Fund – Global (GPFG).¹

KLP makes exclusion decisions based on whether there is an unacceptable risk for ongoing or future violations, not on past violations alone. This approach highlights that KLP's goal is not to "punish" companies, but to ensure that KLP does not contribute to violations through its investments.

International standards

KLP's exclusion decisions under this criterion involve primarily the exploration or extraction of natural resources from non-self-governing or occupied territory.² This is both because such activities weaken the prospect for a future peace agreement and because they are difficult to reconcile with international law.³ More generally, contributions to serious violations of international law not already covered by other exclusion criteria would fall under this category, such as violations of the UN Charter.⁴ We cannot rule out the possibility that other activities might qualify as serious violations of fundamental ethical norms.

Key considerations

As with the other conduct-based criteria for exclusion, it is important to evaluate the company's individual contribution to the violation and the harm to affected stakeholders. KLP also looks to whether the company was aware of or intended to contribute to the violation, and whether the company has undertaken measures to avoid, mitigate, or remediate any adverse impacts.

Examples:

Exploration for nonrenewable natural resources off the coast of Western Sahara

KLP excluded Glencore in 2015. The company is conducting exploration and seismic studies of possible oil reserves under the continental shelf off the coast of Western Sahara. KLP considers investment in Glencore to be in conflict with KLP's guidelines for responsible investment. There is an unacceptable risk that the company's operations on the continental shelf off the coast of Western Sahara constitute a violation of fundamental ethical norms.

Extraction of nonrenewable natural resources from Area C of the West Bank

KLP excluded HeidelbergCement in 2015 due to the company's extraction of natural resources from occupied territory. Through a subsidiary, HeidelbergCement operates a quarry in Area C in the West Bank, an area under full Israeli civil and military control. The quarries were established after the occupation began and license fees and royalties are paid to the Israeli state. Based on a review of the law of belligerent occupation, KLP concludes that the activities are not consistent with the international law principle that occupation shall be temporary. Neither does this resource extraction benefit the local population. Therefore, the operation of a quarry on occupied territory that was opened after the occupation constitutes an unacceptable risk of violating fundamental ethical norms.

¹ <https://www.regjeringen.no/no/dokumenter/nou-2003-22/id118914/>

² See, also https://nettsteder.regjeringen.no/etikkradet-2017/files/2017/03/Etikkradet_annual_report_2016_web.pdf (p. 24-27).

³ See, e.g. <http://nettsteder.regjeringen.no/etikkradet/files/2014/12/KMG-eng-april-2005.pdf>

⁴ <http://www.un.org/en/charter-united-nations/>