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18 June 2003

Ms. Udit Corinaldi, Attorney
HCJ Division
State Attorney's Office
Ministry of Justice
PO Box 1087
Jerusalem

Dear Ms. Corinaldi:

Re: **HCJ 8696/02, 10327/02, Jadala et al. v. Commander of the IDF Forces
in the West Bank**

In follow-up of the response affidavit filed on your behalf, we request additional and better particulars regarding contentions set forth therein:

1. In the petition, we related to an unspecified facility. Just prior to the hearing on the petition, the number 1391 appeared in the response for one of the persons whose whereabouts was being sought. In the affidavit (sections 2, 3, 4) it is stated that all the petitioners were held in the same facility at the time that their whereabouts were unknown. Are there others? If so, how many? Who are they?
2. A. Is 1391 the only facility in which detainees are being held whose location is classified?
B. Are there other detention facilities being used by Israel whose location is classified?
 1. If so, how many such facilities are there?
 2. If so, please identify and describe the facilities.

3. Section 6 of the affidavit states that the petition fails to state concrete circumstances that justify a general hearing, in part because the petitioners were only held in the facility for a number of days.
 - A. Were all detainees in this facility held only for a number of days?
 - B. Is there a fixed quota for the number of days that a person is allowed to be held in this facility? Who makes this determination? A psychologist? A neurologist? What is the maximum time that a person was held? What is the average amount of time?
 1. Who determines the maximum amount of time that detainees are held (in general or in a specific case)?
 2. Is the determination made by a psychologist or based on his input?
 3. Is the determination made by a neurologist or based on his input?
 - C. Since the facility was established, what is the maximum time that a person was held there?
 - D. Since the facility was established, what is the average time of that a person was held there?
4. According to Section 3 of the affidavit, Petitioner 4 was held for more than two months (from 24 November 2002 to 27 January 2003). What precisely do the words “for a number of days” in Section 6, paragraph 3, refer to, and what do the words “short periods of time” refer to in Section 11.
5. Section 9 states that the detention facility “is intended, generally, for special cases...” Please set forth particulars as to the following:
 - A. Is there a special reason why detainees were brought to the facility located in the secret army base, rather than to another site?
 1. Is the reason due to the lack of other detention or interrogation sites?
 2. Is the reason due to the need to use special services in a facility that is especially set up for handling interrogations?
 - B. Who orders on the holding of a detainee in Facility 1391?
 - C. Are there criteria for the holding of a detainee in this particular detention facility? If so, what are those criteria?
6. Section 9 of the affidavit states that you are unable to describe the reasons for using the facility and the “special cases” that are held there, because of the fear that the response would endanger state security. However, the matters relating to the

petitioners detained in the facility are known to the public. Please describe what is special in these cases that necessitates their detention and interrogation in this particular facility.

7. Section 9 states that the installation is used as a detention facility. You do not use the word “interrogation.”
 - A. Is the facility also intended for interrogations? Are convicts also held in the facility?
 - B. Is the facility only intended for interrogations?
 - C. Do interrogations take place in the facility?
 - D. Is the facility used for keeping detainees in solitary confinement?

8. The affidavit indicates that the facility is intended for the purpose of holding certain categories of detainees (as appears from paragraph 2 of Section 9, paragraph 2 of Section 11, and other clauses), while in the past year, a temporary category – residents from the Occupied Territories – was added. In determining whether the holding of persons in a secret, military facility is lawful and whether the facility and the conditions prevailing there meet the requirements of law, it is necessary to know who are being held there, pursuant to what law they are being held, and the like. Therefore, as regards the detainees held in the facility over the years, please state:
 - A. The law pursuant to which their liberty was taken from them (domestic Israeli law/ military law applying in the Occupied Territories/ other law);
 - B. The act that covers their detention (Order Regarding Defense Regulations applying in the Occupied Territories / the Israeli Criminal Procedure Law/ the Military Justice Law / the Emergency Powers (Detentions) Law / the Illegal Combatants Law / other legislation – please set forth in detail);
 - C. The detaining entity;
 - D. The type of detention (detention for purposes of interrogation / administrative detention / detention of prisoner of war / detention until end of proceedings / incarceration following conviction);
 - E. Nationality of the detainees;
 - F. Were Israeli nationals also among the detainees at any time in the past or present?
 - G. Were Israeli residents also among the detainees at any time in the past or present?

- H. Were IDF soldiers also among the detainees at any time in the past or present?
- I. Were nationals of states friendly to Israel also among the detainees at any time in the past or present?
- J. Were nationals of enemy states of Israel also among the detainees at any time in the past or present?
- K. When a detainee is not a resident of the Occupied Territories and is not an Israeli national, is notification given to the relevant consulate? Do consuls visit detainees?

In the event that the answer to any of the above is complicated (such as, if detainees are held pursuant to various pieces of legislation or hold diverse nationalities) please set forth the relevant categories, including the proportion of detainees in each category. If the answer varies from period to period during the life of the facility, please relate to each period separately.

- 9. Does the facility meet international standards? If so, which standards?
- 10. Section 11 states that the GSS used the facility because of the shortage of detention sites. It also states that, “the factual situation has changed recently.” Insofar as the number of detainees has increased rather than decreased (in April 2002, there were 2682 detainees and in March 2003, 3316 detainees), what factual situation is referred to? Why is there no correlation between the reason for using the facility at the start and for ceasing to use it?
- 11. Paragraph 2 of Section 11 states that the GSS ceased using the facility as a “detention facility.” Does the GSS continue to use the facility for other purposes? What are these purposes?
- 12. Paragraph 2 of Section 11 states: “As far back as a number of months ago ... the facility reverted to its original purpose.” What was its original purpose? As an interrogation facility? Some other purpose?
- 13. Section 12 states that only a few detainees are being held in the facility at present. HaMoked has received many requests to locate individuals over the past several weeks. Despite this, nobody was located in Facility 1391. Please set forth the number and particulars of the persons being held in the facility (as of the day the affidavit was given and as of the day that the answers to the request for additional particulars are given), and describe, regarding each person, as follows (the details are necessary, as stated, to examine the legality of the detention pursuant to the relevant law and to

obtain concrete, updated particulars to the general declarations made in the response affidavit):

- A. The law pursuant to which their liberty was taken from them (Israeli domestic law / military law applying in the Occupied Territories / another law);
 - B. The act that covers their detention ((Order Regarding Defense Regulations applying in the Occupied Territories / the Israeli Criminal Procedure Law/ the Military Justice Law / the Emergency Powers (Detentions) Law / the Illegal Combatants Law / other legislation – please provide details);
 - C. Which governmental body arrested them;
 - D. Which governmental body is currently responsible for their detention;
 - E. If they are being interrogated – which governmental body is conducting the interrogation;
 - F. Where each of them was initially detained;
 - G. When each of them was first detained;
 - H. The type of detention (detention for purposes of interrogation / administrative detention / detention of prisoner of war / detention until end of proceedings / incarceration following conviction);
 - I. The nationality of the detainees;
 - J. Are there Israeli nationals among them?
 - K. Are there Israeli residents among them?
 - L. Are there IDF soldiers among them?
 - M. Are there nationals of friendly states among them?
 - N. Are there nationals of enemy states among them;
 - O. Was notification given to their family of their arrest and whereabouts?
 - P. Was notification given to attorneys?
 - Q. Did they meet with attorneys?
 - R. Regarding foreign nationals, was notification given to the relevant consuls?
Did they meet with the consuls?
 - S. Was notification of their detention given to the Red Cross?
 - T. Did they meet with representatives of the Red Cross?
14. A. How many detainees are being held in the facility?

- B. What is the maximum number of detainees who were held in the facility at any one time since it was opened?
 - C. What is the maximum occupancy of the facility?
15. Section 10 of the affidavit indicates that Facility 1391 has existed for more than five years.
- A. When did the facility open?
 - B. What was the legal basis for its operation before it was declared a military prison pursuant to the order of the Minister of Defense of April 2002 (R/1)?
 - C. Was the holding of detainees in the facility prior to 2003, in your opinion, illegal?
16. Where was the declaration R/1 published?
17. You state in the first paragraph of Section 14 that “the facility meets all the standards of a military prison.”
- A. Were changes made in the conditions within the facility in preparation for it to be declared a military prison?
 - B. If so, what changes were made?
 - C. Following the filing of the petitions or in the handling thereof, were changes made in the conditions within the facility?
 - D. If so, what changes were made?
18. You state in the second paragraph of Section 14 that the cells are of standard size (“each cell is 4.5 sq. m in size”) and that, as a rule, the detainees are held in solitary confinement (“as a rule, there is one detainee to a cell”).
- A. What is the reason for holding the detainees in cells separately?
 - B. Is the objective to isolate the detainees?
 - C. Is it because of the size of the cells?
 - D. Are there cells for more than one detainee?
 - E. Who decided to hold the detainees in solitary confinement and according to what procedure was the decision made?
 - F. Who decides on removing a detainee from solitary confinement? Based on what procedure? How is the decision to remove a detainee from solitary confinement implemented?

19. You state in the second paragraph of Section 14 that, “the detention cells are ventilated”:
 - A. Are there windows in the cells?
 - B. How are the cells ventilated?
20. Section 15 states that, “other government authorities' officials also visited the facility.” Other than Ms. Talia Sasson, did other officials visit the facility? If so, who were these officials and when did they visit?
21. Regarding sections 17 and 18, when did the conditions as described first exist in the facility?
22. Regarding Section 17, where and how are the meals served (for example, on a table)?
23. Regarding Section 18, do the detainees receive a toothbrush? Toothpaste? Shaving articles?
24. Regarding paragraph 4 of Section 18, where did the detainees shower (in the cell or in a separate shower compartment, as indicated in the response)?
25. Does each cell have a toilet? Describe the toilet?
26. Does each cell have a sink?
27. Is there running water in the cells at all times? Does the detainee have control over the water flow?
28. Do the cells have a window for providing light? What light? What is the power of the illumination? What are the hours that the lighting is available? Who control it?
29. Do the detainees receive religious articles?
30. Are the detainees allowed walks on a daily basis?
31. Does the facility have a yard intended for daily walks? If so, when was it first used for that purpose?
32. In Section 19, you mention the health services and medical checks that take place in the facility. Please state:
 - A. Who conducts the sanitation and medical checks?
 - B. Does the facility provide mental-health services?
 - C. Are mental-health checks made and are the detainees examined to determine if detention is compatible with their mental health?

33. In Section 20, you mention that the detainees are allowed (subject to interrogation needs) to send and receive letters. What is the address for receiving letters of detainees held in the facility?
34. The petitioners believe that the statements made in sections 20-23 do not indicate actual contact between the detainees and the outside world. A general description of detainees' rights and the procedures relating to them are insufficient when left dangling in the air; rather, the affidavit should have mentioned how and to what degree these rights are exercised in practice. We request, therefore, that you provide the following particulars:
- A. When was the last time that a letter was sent, or received, by a detainee in the facility?
 - B. How many letters were sent or received in the facility over the past five years?
 - C. Over the past five years, what percentage of detainees –
 - 1. had notification given to their families regarding their whereabouts during the time they were in the facility;
 - 2. had notification given to their attorneys regarding their whereabouts during the time they were in the facility;
 - 3. had notification given to the Red Cross regarding their whereabouts during the time they were in the facility;
 - 4. met with a representative of the Red Cross during the time they were in the facility;
 - 5. met with an attorney during the time they were in the facility;In each answer, please also mention the average time that passed from intake to the time that notification was sent or the meeting was held, and the range of times (the shortest and longest times).
 - D. Does every detainee held in the facility obtain a written document stating his rights? If so, please attach a copy.
35. Section 21 states that, “notification of the detention of detainees held in the facility is delivered **to the relevant officials in accordance with law**” (emphasis added).
36. In sections 21, 23 and 27, you mention a “clear address” for “letters and requests relating to the detainee,” “to obtain information, and to submit requests and file applications, including requests to allow them to receive visitors, ” and “for letters

and requests, including requests for visits, and in the matter of meeting with an attorney.”

The existence of this “clear address” lies at the very heart of your legal contention in the response, in which you argue that such address provides a proper substitute for notification regarding the place where the detainee is being held.

Please state the clear address.

37.
 - A. Is it true that the Red Cross has never visited the facility?
 - B. Is it true that the Red Cross has never been informed about the existence of the facility?
 - C. If the Red Cross was informed of the existence of the facility, when was it so notified?
 - D. Has another international body visited the facility?
 - E. If so, when?
38.
 - A. Is it true that an order prohibiting meeting with an attorney has been issued regarding every detainee in the facility, and, therefore, the statement set forth in Section 29 is misleading?
 - B. If there is no prohibition against meeting with an attorney or with Red Cross representatives, please state the procedure regarding visits to the facility by attorneys.
 - C. Is it true that spontaneous visits are not allowed? How much time in advance is required to arrange a visit?
 - D. If such an arrangement is required, why is it required?
 - E. What means are available to the facility for urgent visits by an attorney or the Red Cross?
39. Regarding the end of paragraph 2 of Section 30, in practice, how is it possible for a family to contact a detainee in the facility to assist him in protecting his rights, as set forth in this section?
40. Regarding the end of Section 30, please attach the Judge Advocate Office’s procedure pursuant to which, as you state, regular visits take place in the facility.
41. Regarding Section 31:
 - A. Please state the means available to the detainee to complain about the detention conditions and bring about judicial review of the matter?

- B. In continuation of the above subsection, please state the technical tools available to the detainee for this purpose (documents regarding his rights and the available procedures, access to legal advice, writing materials, and the like).
 - C. Are detainees informed concerning the means available to them to complain about the conditions in which they are being held and to bring the matter before the courts for review?
 - D. How are the detainees informed about these means?
 - E. Please delineate every instance that took place throughout the history of the facility in which a court reviewed the conditions in the facility.
42. Why is it impossible to conduct the interrogations that take place in Facility 1391 in a prison that is not located in a secret army base? What is the added value of interrogation or detention in a facility located within such an army base?
43. If the facility is not intended for residents of the Occupied Territories, why is the assistant legal advisor for Judea and Samaria, the individual who gave the affidavit in support of the response?
44. Attached to the response is the affidavit of a person “referred to as Adi, the individual in charge of Facility 1391.”
- A. In what respect is “Adi” in charge of the facility?
 - B. Does “Adi” determine who is held in the facility?
 - C. Is “Adi” the commander of the facility?
 - D. Does “Adi” order the interrogations?
 - E. Why is the name of “Adi” not provided?
 - F. Is “Adi” a member of the military?
 - G. If “Adi” is a member of the military, why is his rank not given? What is his rank?
 - H. Why is “Adi” only able to make his declaration to the best of his knowledge? What is the source of his information?

Sincerely,

[signed]

Lea Tsemel, Attorney