

Date: 21 January 2007

In the response please cite:  
37230

Att. Shlomit Barnea Farago.  
Office of the Prime Minister

**By Fax: 02-5610618**

Dear Madam,

**Re: Unreasonable and arbitrary directive as a condition for appeals to the Erez DCO in the Gaza Strip**

1. I hereby appeal to you to request that you immediately cancel the unreasonable and arbitrary directive, which requires the provision of private telephone numbers of residents of the Occupied Territories who contact the DCO through human rights organizations or private attorneys to appeal the denial of an application to enter Israel.
2. We were recently informed by the Erez DCO of a new directive whereby for every appeal or application submitted to the DCO, including those submitted by an attorney or a human rights organization, the representing agent is required to provide the private telephone number of the applicant.
3. We have received no explanation as to the meaning of this directive or the purpose of obtaining the private telephone number of the applicant. Particularly in light of the fact that the Israeli DCO refuses to communicate directly with Palestinian applicants. All of the initial applications are submitted through the Palestinian DCO; appeals are submitted through private attorneys or human rights organizations. Our suggestion to open a direct channel for submissions by the residents themselves was rejected, as was the suggestion to provide residents with a response directly to an address or fax number provided by them.
4. It is a well known rule that if an administrative authority is aware that a certain applicant is represented by an attorney or a human rights organization, that authority must communicate only with the representing agent for clarifications and for providing responses. (See Art. 25 of the Bar Association Law (Professional Ethics), 5746-1986).
5. Any administrative directive must fulfill two conditions: The first – fairness and the second – efficiency. As a rule, directives are issued in order to serve the purpose of the authority. (See: Y. Zamir, Administrative Authority (volume 2, *Nevo*) 5756-1996, 673-679).
6. The authority of the Israeli DCO in Gaza is to make decisions regarding the initial applications transferred by the Palestinian DCO, and it is the latter which communicates the responses to the applicants. Appeals against the decisions of the Israeli DCO are submitted for reconsideration through attorneys or human rights organizations, and responses or requests for clarifications are addressed to the representing agent.

7. On 30 March 2006, the office of the Military Advocate General (MAG) informed us of the following:

In accordance with the working procedures agreed upon by the Palestinian Authority, a resident of Gaza who wishes to submit an application to the Israeli side must appeal to representatives of the Palestinian Authority, who are responsible for transferring the application to the Erez DCO for consideration by the Israeli side. The application is examined on its merits and the decision is communicated to Palestinian Authority representatives and through them to the applicant.

The Erez DCO's dealing with the Palestinian Authority rather than directly with the Gaza resident is the current policy, and at this time we see no cause for changing it, particularly in light of the disengagement from the Gaza Strip and the ensuing legal situation. [...] As to appeals, they are also transferred to the Erez DCO through representatives of the Palestinian Authority [...] We clarify the MAG and the Military Legal Advisor for the Gaza Strip are of the opinion that there is no reason to oppose the submission of applications on behalf of Gaza residents by human rights organizations. To the contrary, such activity should be commended.

8. Providing an applicant's personal telephone number does not serve the purpose of the authority of the Israeli DCO in Gaza, as there is no direct communication between the Israeli DCO and the Palestinian applicant. The demand is a nuisance, and wrongfully impinges on the privacy of the residents—perhaps due to irrelevant, ulterior considerations.
9. On 26 October 2006, we appealed to the MAG concerning the directive. At the same time, we also appealed to the International Law Division requesting explanations in this regard.
10. We received no response from the MAG, and the International Law Division provided a superficial response, in the framework of one of HaMoked's cases, according to which "there is no fault with the demand for a private telephone number as part of the details which an applicant for a permit to travel from Gaza to Judea and Samaria (which is in fact a permit to enter Israel) is required to provide in his application".
11. We cannot accept this superficial and unfounded argument. Therefore, and in light of the above, we request that you cancel the aforesaid directive, and wish to inquire:
  - A. Who are the officials who issued the aforesaid new directive?
  - B. What are the motives behind the directive?
  - C. What is the purpose of obtaining the personal telephone numbers of Palestinian applicants? How does the new directive serve the authority vested in the Gaza DCO, in reaching decisions regarding the entry of Palestinians to Israel for the purpose of passage to the West Bank?
  - D. How are the telephone numbers of Palestinians who apply for an entry permit used?
  - E. Where are the telephone numbers stored? What officials have access to them?
12. Until we receive your final position as to the above and your responses to the aforementioned questions, we request that you order that processing of applications

and appeals which have been or will be submitted to the DCO is undertaken without stipulating the provision of the personal telephone number of the Palestinian applicant.

13. We would appreciate your prompt response.

Respectfully,

Abeer Jubran, Att.

Copies:

Mr. Amir Peretz, Minister of Defense

Major General Yoav Galant, Southern Command

Major General Yosef Mishlav, Coordinator of Government Activities in the Territories

Att. Meni Mazuz, Attorney General

Att. Osnat Mendel, HCJ Division, State Attorney's Office

Colonel Nir Pres, Head of the Gaza DCO

Colonel Pnina Sharvit-Baruch, Head of International Law Division at the Military

Advocate General's Office