



June 18, 2020

To
Mr. Benny Gantz
Minister of Defense

By fax: 03-6962757

To
Dr. Avichai Mandelblit
Attorney General

By fax: 02-6467001

To
Mr. Kamil Abu Rukun
Coordinator of Government
Activities in the Territories

By fax: 03-6976306

- Extremely Urgent -

Dear Sirs,

Re: Israel's obligation to immediately ensure Palestinians' travel via Erez Crossing

On behalf of Physicians for Human Rights - Israel (PHRI), Adalah - Legal Center for Arab Minority Rights in Israel, HaMoked: Center for the Defence of the Individual, The Association for Civil Rights in Israel and Gisha - Legal Center for Freedom of Movement, we hereby contact you urgently about the matter in reference, demanding that you take action to ensure Palestinian travel via Erez Crossing regardless of Palestinian coordination officials. All as detailed herein:

1. The State of Israel places severe restrictions on Palestinians' freedom of movement, preventing travel to and from the Gaza Strip through the routine imposition of a rigid permit regime. The onset of the coronavirus has naturally led to a sharp drop in the number of exits and entries through Erez Crossing. However, patients in need of life-saving treatment that is not available in the Gaza Strip and other exceptional cases continued to travel. In recent weeks, most travel restrictions within Israel and between Israel and the West Bank imposed due to the pandemic have been removed, and there appears to be no justification for Israel to keep the restrictions on travel from the Gaza Strip in place.
2. In May, responding to Israel's plan to annex parts of the West Bank, the Palestinian Authority announced it was halting coordination with Israel. This measure applied to coordination between the Gaza Coordination and Liaison Administration (CLA) and the Palestinian Civil Affairs

Committee in the Gaza Strip – the body responsible for coordinating travel permit applications by Gaza residents on behalf of the Palestinian Authority.

3. According to information we have received, representatives of the Civil Affairs Committee have stopped receiving new exit permit applications from Gaza residents and halted processing of existing applications - even in exceptional, humanitarian and urgent cases. At present, it is not known how long the Palestinian Authority will continue this policy, nor is it known whether it will step up the measures it has taken and refrain from coordination in other areas, such as at Kerem Shalom Crossing, which is currently operating as usual.
4. Requests and information received by PHRI indicate that there are dozens of patients in Gaza who require treatment that is unavailable in the Strip and are currently waiting for arrangements to be made for their exit to the West Bank and Israel. Many of these patients have cancer or other life-threatening illnesses. Some of them are minors, and any delay in treatment causes suffering, irreversible harm and may put their lives in danger. Additionally, parents wishing to accompany their children to receive treatment are also unable to receive permits, which prevents the children from accessing treatment. These patients currently have no recourse.
5. Given the halt in coordination and the absence of clear guidelines, there is no information regarding how applications can reach the CLA at the moment. Permit applicants, including seriously ill patients find themselves pleading with and reaching out to NGOs and international organizations without knowing who to turn to with their applications. In the vast majority of the cases, with the exception of perhaps the **most difficult** medical cases, applicants are not receiving the permits they need. In several medical cases that have been brought to our attention, the CLA refused to handle applications because no application was received from the Civil Affairs Committee. The CLA stated that patient applications through NGOs are not a substitute for coordination by the committee. Note well, these are permit applications that meet the already stringent criteria put in place by Israel. The reason Israel refuses to issue the permits is not substantive but procedural: a bureaucratic failing and the absence of a proper alternative for the coordination mechanism.
6. As stated, we are aware that Israel has continued to issue permits for some patients and in other exceptional humanitarian cases even after the cessation of Palestinian coordination. However, there is no dispute that travel through the crossing is extremely limited, regardless of the coronavirus restrictions, due to the cessation of coordination.
7. The State of Israel is seemingly aware of its duty to accept permit applications from Palestinians and consider them regardless of Palestinian Authority involvement. This is the reason the

Coordinator of Government Activities in the Territories (COGAT) has posted notices on its Arabic Facebook page in the past two weeks, informing the public that permit applications can be submitted directly to the Israeli District Coordination Offices in the West Bank. **In the absence of a parallel arrangement for the Gaza Strip, the fundamental rights of individuals living in Gaza are being severely violated, including the rights to health, family life, freedom of movement and others.**

8. The State of Israel has a duty towards Gaza residents under the laws of occupation, which form part of international humanitarian law, under international human rights law and under Israeli law. According to Article 43 of the Hague Regulations regarding the Laws and Customs of War on Land of 1907, Israel must ensure public order and safety for Gaza's residents. This obligation also arises from Israel's control over its border crossings with the Gaza Strip (See HCJ 9132/07 **al-Bassiouni v. Prime Minister** (January 30, 2008)) and HCJ 201/09 **Physicians for Human Rights Israel v. Prime Minister** (January 19, 2009), hence the obligation to continue allowing travel in humanitarian cases.
9. Note well, the State of Israel has sole control over the crossings. The State of Israel controls Gaza residents' freedom of movement. The State of Israel created the permit regime and it determines, exclusively and independently, the criteria for issuing permits. The State of Israel has sole control over the issuing of permits. The Palestinian Authority, via the Palestinian Civil Affairs Committee in the Gaza Strip, is merely a secondary actor, entrusted with managing the flow of applications. As such, the cessation of coordination on the part of the committee has no effect on Israel's obligations and does not detract from its duty to ensure that travel through the crossing continues.
10. **The State of Israel must ensure that travel from the Gaza Strip to the West Bank and Israel and vice versa resumes regardless of the operation of the Palestinian Civil Affairs Committee or the decisions of the Palestinian Authority.** It goes without saying, but we note that this duty cannot be considered fulfilled when the State of Israel issues permits only in the most exceptional of cases. The State of Israel may not, no matter the circumstances, prevent travel on procedural, bureaucratic grounds, all the more when travel is required in order to exercise basic human rights. Denying these individuals travel would be a blatant, severe violation of their fundamental rights, including the right to life and bodily integrity.
11. **Given the above and given the cessation of coordination by the Palestinian Civil Affairs Committee, the State of Israel must:**

1. **Remove bureaucratic restrictions on the submission of permit applications in the Gaza Strip immediately, and allow entry into Israel and the West Bank immediately in cases of patients and other humanitarian cases as described above.**
2. **Immediately clarify how applications for travel permits may be submitted (and not only in medical emergencies).**
3. **Release and make widely available clear and detailed information about the alternative procedure for submission of permit applications (including where applications may be submitted and in what format, as well as contact details for inquiring about their status). To remove any doubt, entry into Israel and the West Bank must not be delayed until an application procedure is put in place, including urgent medical cases.**

The aforesaid is required due to the severe violation of Gaza residents' rights in the absence of an application submission mechanism, including the rights to life, health and bodily integrity. We request your response no later than June 22, 2020.

Sincerely,

[signed]

[signed]

Osnat Cohen Lifshitz, Adv. Adi Lustigman, Adv.

per/ **[signed]**

Sawsan Zaher, Adv.

per/ **[signed]**

Danny Shenhar, Adv.

[signed]

Abir Joubran Dakwar, Adv.