



**State of Israel  
Ministry of Justice**

**The Legal Counseling and Legislation Department (International Law)**

**Av 27, 5776  
August 31, 2016  
Ref: 1223**

To Whom it May Concern:

Re: **Mr. Bilal Kayed**

We received your enquiry regarding Mr. Kayed, and would like to address your concerns, according to information forwarded to us by the relevant authorities.

**General**

1. Israel has been struggling with terrorism from the day it was founded. An effective and lawful security measure against such continuous terrorist attacks is the use of administrative detention which allows for the deprivation of a person's liberty for a limited time. Issuance of administrative detention orders against detainees who pose a danger to public security in the West Bank is recognized by international law and is in full conformity with Article 78 of the *Fourth Geneva Convention 1949*.
2. Due to the complex and volatile security situation in the West Bank, and in order to protect the rights of the potential victims of terrorist activities, detention orders are issued against those planning terrorist attacks, or orchestrating, facilitating or otherwise actively assisting in the commission of such illegal and harmful acts.
3. Where sufficient and admissible evidence exists against an individual, authorities are required to bring that individual to justice, rather than adopt measures such as administrative detention. Thus, administrative detention is solely used as a preventive measure of last resort to frustrate the commission of future illegal acts when evidence is clear, concrete and trustworthy, but for reasons of confidentiality and protection of intelligence sources it cannot be presented as evidence at ordinary criminal proceedings. Moreover, the measure is only used in cases where there is corroborating evidence that an individual is engaged in

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illegal acts that endanger the security of the West Bank and the lives of civilians, and each order is subject to judicial review. Note that an administrative detention order is limited to six months and its extension requires a re-evaluation of the relevant intelligence materials, as well as further judicial review.

4. Furthermore, local legislation governing the process grants all relevant individuals the right to appeal the order to the Military Court of Appeals for judicial review. Petitioners may be represented by counsel of their choice at every stage of these proceedings. All individuals have the additional right to petition the Israeli High Court of Justice for a repeal of the order. The judicial organs reviewing each and every order carefully examine whether the criteria outlined in case law and legislation are fully met.

### **Mr. Bilal Kayed**

5. On March 5, 2003, Mr. Bilal Kayed was sentenced to 14.5 years in prison for membership in the Popular Front for the Liberation of Palestine (PFLP), an illegal association and an internationally-recognized terrorist organization, as well as two instances of attempted murder by way of automatic-weapon fire.
6. Between November 2014 and March 2016, while Mr. Kayed was still serving his sentence, intelligence surfaced demonstrating that Mr. Kayed remained a PFLP operative and that he was significantly involved, both militarily and organizationally, in PFLP terrorist activities conducted inside and outside the prison. Moreover, the intelligence demonstrated that Mr. Kayed was acting as the head of PFLP prisoners in the Megiddo prison and used this position to advance the organization's goals within the prison, a finding that necessitated his separation from his fellow prisoners for a period of time.
7. In light of the significant threat posed by Mr. Kayed to the security of the West Bank according to professional security assessments, on June 13, 2016, an administrative detention order was issued against him by the Military Commander of Judea and Samaria. As opposed to Mr. Kayed's criminal detention, his administrative detention, like that of others, **is solely a preventative measure** of last resort used to prevent the commission of future acts when the existing evidence is clear, concrete and trustworthy, but for reasons

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of confidentiality and in order to protect intelligence sources, it cannot be presented in standard, open criminal proceedings.

8. After being reviewed both by the military court on July 5, 2016 and by the Military Court of Appeals on July 27, 2016, Mr. Kayed's administrative detention order was upheld until December 12, 2016, in light of the threat that he continues to pose to public security. Having viewed the intelligence information forming the basis of the order, the Military Court of Appeals noted that the intelligence was current, reliable, diversely-sourced, and clearly demonstrated the need for preventative measures.
9. On June 15, 2016, Mr. Kayed began to conduct a hunger strike in protest of his detention. On July 17, 2016, after complaining of chest pain, Mr. Kayed was transferred to Barzilai Medical Center in Ashkelon to undergo medical examinations. **Mr. Kayed concluded his hunger strike on August 28, 2016** and given the satisfactory state of his health, he was then transferred to an IPS medical center for continued supervision.
10. While on hunger strike at the Barzilai Medical Center, Mr. Kayed received professional care by top Israeli physicians experienced in dealing with Mr. Kayed's particular condition. Additionally, Mr. Kayed was entitled to visits by the International Red Cross (including a visit from a physician) every week. On August 11, 2016, the Be'er Sheva Administrative Court rejected Mr. Kayed's petition to be allowed to consult a private doctor. In the Court's view, the right to a second medical opinion as provided by Israeli law had already been met, and by an indisputably neutral party, raising questions as to the sincerity of Mr. Kayed's request.
11. In light of his presence at a civilian hospital lacking the sophisticated security apparatus of a prison facility, and his location on the ground floor room lacking a barricaded window, Mr. Kayed was restrained to his bed to prevent his escape. Within a few days of Mr. Kayed's arrival at the hospital the IPS Commander authorized reducing the number of restraints to the minimum necessary, and the need for restraints was reassessed every few days. In the aforementioned petition, the Administrative Court upheld the necessity of maintaining the remaining restraints, taking into account the potential for Mr. Kayed's escape. Following his transfer to the IPS medical center, Mr. Kayed's restraints were removed.

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12. With respect to Mr. Kayed's visitation rights, throughout his hunger strike, Mr. Kayed was entitled to visits from his lawyer twice a week. In the final month of his hunger strike Mr. Kayed received 19 visits by two different lawyers representing him on separate matters. A request to meet a person purporting to be an additional lawyer representing Mr. Kayed was rejected by the IPS, a decision upheld by the Be'er Sheva Administrative Court on August 24, 2016. The Court noted that Mr. Kayed already has extensive legal representation, and that he failed to alleviate security concerns by presenting evidence demonstrating the existence of a lawyer-client relationship with the intended visitor. No visitation requests were received from Mr. Kayed's family during his hunger strike.
13. On August 24, 2016 the Supreme Court erased a petition filed by Mr. Kayed against his administrative detention following a settlement between the Mr. Kayed and the State of Israel on all of the issues surrounding his detention. As mentioned, Mr. Kayed concluded his hunger strike within a few days of that decision.
14. In light of Mr. Kayed's resolution to stop the hunger strike, it is unnecessary to address speculations regarding force-feeding in his particular case. However, it must be emphasized that the State of Israel reserves the right to utilize any legal means necessary to save the lives of hunger strikers. Unfortunately, inmates in Israeli custody occasionally opt to go on hunger strike in order exploit their condition for publicity, and pressure the Israeli authorities for their release. While the State of Israel respects a person's desire for autonomy over his/her body, its primary responsibility is to protect the life and health of those in its custody. That being said, the State of Israel handles these cases with utmost sensitivity to the prisoners' rights, while protecting their health and lives, in accordance with medical, professional and ethical standards, and the individual circumstances of each and every inmate.

Sincerely,

  
Michele Nagar, Adv.

Cc. Hila Tene-Gilad, Adv.