



**State of Israel
Ministry of Justice**

The Office of the Deputy Attorney General (International Law)

Date: Nissan 2, 5777
March 29, 2017
Ref: 1235

To:

Mr. Karim Ghezraoui
Chief a.i.
Special procedures branch
OHCHR

Excellency,

Re: **Response to Joint Urgent Appeal from Special Procedures dated 27 January 2015, regarding the arrest of Mr. Abdallah Abu Rahma**

We have received your enquiry dated January 27, 2015, regarding the arrest of Mr. Abdallah Abu Rahma (hereinafter: Mr. Abu Rahma) on May 13, 2012, and would like to address your concerns, according to information forwarded to us by the relevant authorities:

General – Military Justice System

1. The Military Courts in the West Bank were established in accordance with international law (specifically Article 66 of the 4th Geneva Convention). Ever since its establishment, the Military Courts system has opted for maximum transparency, as befitting a judiciary system. Its hearings are conducted openly, cases in deliberation are provided for review and reports on its operations are issued regularly. It should be clarified that the Courts System is an independent system. The independent discretion of a judiciary system is one of its most important principles.
2. The military justice system is an independent system and military judges maintain their independence and personal discretion in their decisions. According to the law, military judges are not subject to any authority except the authority of the law. True, the judges are appointed by the regional commander, but this is only a confirmatory signature similar to appointment by the President of the State

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of Israel. The military commander has no say regarding their decisions. The entity that appoints judges is an independent and external committee that operates solely for that purpose.

3. Since 2004, the committee is an independent entity, and it examines each candidate thoroughly, both in active service and in reserve service. The position of the Israeli Bar's representative in the committee is significant, as is the position of any other member of the committee.
4. Additionally, Military Court judges are subject to the similar ethical and professional standards applicable to all criminal and civil judges in Israel, in order to guarantee the right to due process and fair trial. Military Courts are bound by the same evidentiary rules and procedural principles as courts in Israel; during all judicial proceedings suspects and defendants are entitled to representation by an attorney of their choice; defendants are notified of the charges by a written indictment read out in their native language and they are entitled to receive a copy of all evidence against them and to summon witnesses on their behalf.
5. Since 2000, the Military Courts System has led great many changes, some institutional and some legal, which have greatly promoted the rights of the accused and those persons brought before the courts for judgment.
6. Appointment of Attorney - The Military Courts do not avoid appointing a defense attorney, and this is done not only in severe cases, but also in minor cases where there is no obligation to appoint a defense attorney. Palestinian defense attorneys are granted full access to the Military Courts.
7. In light of the abovementioned information, we reject any claim that Israeli Military Courts fall short of international human rights standards, and such claims are completely false.

Mr. Abdallah Abu Rahma

8. On 10 May, 2012 IDF forces set up transportation barriers near the Bituniya Checkpoint in order to facilitate the transfer of goods into the West Bank during the expected "Nakba day" demonstrations. Subsequently, a group of 25–30 demonstrators, including Mr. Abu Rahma, arrived at the scene, and actively

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prevented the placement of the barriers, as well as the entrance of trucks transferring goods.

9. Mr. Abu Rahma refused to comply with orders to evacuate and was subsequently arrested after being warned that such refusal would be seen as disturbing a soldier in the performance of his duties.
10. After hearing testimonies of both the prosecution and the defense, Mr. Abu Rahma was convicted by the Court of the aforementioned offence. The Court acquitted Mr. Abu Rahma of the charge of resisting arrest. In finding him guilty, the Court made no reference to Abu Rahma's previous record of arrest and detention. Subsequently, the Court sentenced Abu Rahma to a four month suspended imprisonment, and a fine of 5,000 NIS (approximately 1,250 USD).
11. Please note that the judicial proceedings against Mr. Abu Rahma and which lead to his conviction complied with recognized judicial standards, including the right to a fair trial and due process guarantees.

Yours Sincerely,


Assaf Radzyner, Adv.

Cc. Adv. Hila tene-Gilad