



January 21st, 2021

Government of Israel's Response to Joint Urgent Appeal

Ref: UA ISR 10/2020

Following your communication of November 17, 2020 (Reference UA ISR 10/2020) regarding "*demolitions in Palestinian Bedouin community of Humsa Al Bqai'a*", we would offer the following comments:

1. This communication presents a distorted and partial account of the events in question, notably by focusing on the recent performance of demolition orders, while ignoring altogether their background and circumstances. The assertion that "*Those communities consistently and systematically lack legal avenues to appeal orders of demolition*" is false, and could not be farther from the reality, when in fact the events were preceded by a thorough procedure and full judicial scrutiny. The individuals mentioned in the communication were only evicted after a decade-long process where they fully exhausted their rights and remedies – as will be clarified below.

On the status of the area in question

2. The situation described in your communication refers to the military area of "Firing Zone 903", in the central-northern part of the Jordan Valley. This area has been declared an active firing zone since 1972, and is used for training by the Israel Defense Forces.
3. Article 43 of the 1907 Hague Regulations grants the military commander of the forces in the territories the "power to restore and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country". The laws already in force in the West Bank before the Israeli control, whose application continues by force of Article 43, included provisions allowing the military commander to declare an area or place as closed areas, as provided for in Regulation 125 of the Defense Regulations of 1945.



4. The Military Commander of Judea and Samaria's policy establishes that firing zones in the West Bank may only be declared in non-populated and not cultivated areas. The declaration of Firing Zone 903 in 1972 followed these parameters, and since that declaration, the entry and permanence of civilians has been forbidden by law, and the population must follow these rules.
5. It must be emphasized that the area is an active firing zone, where IDF forces conduct military exercises as a matter of routine, and therefore the prohibition of civilian presence also serves to protect their own personal safety.

On the legal proceedings concerning the removal

6. The information provided in the communication describes the implementation of the demolition orders, while blatantly ignoring that this step was taken following a decade of legal procedures and appeals, including legal petitions to the Israeli Supreme Court by individuals who have been residing illegally in the firing zone and the complete exhaustion of all these proceedings.
7. In fact, the stop-work orders, and the subsequent demolition orders, are dated from 2012 and even earlier. These orders were notified to the illegal residents of Firing Zone 903, who challenged them in court in some petitions and different legal procedures, and had the opportunity to raise arguments and present evidence while represented by lawyers. Their cases were discussed and later rejected during a 10-year process, having even reached the Supreme Court in at least three occasions. It is important to note that some of the petitions to the Supreme Court regarding the illegal structures in Firing Zone 903 were completely baseless, yet they were all presented and discussed by the relevant judicial authorities, as we lay out in the following section.
8. Enforcement procedures dealing with all legal orders were presented to the illegal residents in an orderly manner with regards to all structures in Firing Zone 903. Demolitions have been and are performed only after all legal procedures are exhausted, and the judicial ruling becomes final.

On the merits of the case and execution of the demolition orders

9. In its decisions on the proceedings, the Supreme Court ruled that the illegal residents are not permanent residents of this area, had not been residing in the area for a long and continuous period of time, and certainly not before 1972 – when Firing Zone 903 was



- declared by the Military Commander. It must also be stressed that, throughout the judicial proceedings, the illegal residents of the area did not claim to have any property rights in this area, but rather used it temporarily and intermittently for herding purposes.
10. In its ruling of HCJ 6999/10 (2011), after analyzing photos and aerial images of the structures in the area, among other evidence, the Supreme Court found that “the central question in the present petition is whether the petitioners reside in the firing zone, and we can answer this question in the negative”. In HCJ 5324/13 (2014) the Court stated that “the petitioners did not succeed in proving that they dwelled in the area [as of the declaration of the firing zone in 1972]”. Furthermore, in HCJ 3326/19 (2019), the Court asserts that “there is no contention that the petitioners do not possess recognized property rights in the present lands; in fact, they are trespassers that utilize the area for the purpose of herding”. Not surprisingly, all the petitions were rejected.
 11. It is worth mentioning that, throughout the years of legal discussions, the relevant authorities in the West Bank offered a number of alternatives to provide housing solutions elsewhere, yet they were all rejected, and the illegal residents insisted in remaining in the area. It should be clear that, as the area is an active firing zone for the IDF, it is not feasible to facilitate a residential solution on that area.
 12. After the dismissal of all the judicial challenges, and the residents’ refusal to cooperate with the authorities in attempts to arrange alternative housing, the demolition orders were executed on November 3rd, 2020. The move consisted in the removal of tents, non-permanent structures and animal sheds, which were built illegally. It did not include removal of any permanent structures or buildings.

In conclusion

13. The episode addressed by the communication is the outcome of a long process lasting more than a decade, in which the competent authorities addressed seriously the residents’ claims, offered them alternative solutions, and allowed them to exhaust all the possible judicial remedies – including to repeatedly reach the Supreme Court, where their claims were ultimately rejected.
14. Insofar as the communication completely overlooks the legal proceedings surrounding the demolitions, and gives the impression that the illegal residents in the area were surprised by bulldozers without previous notice, this raises questions about the good faith in which the information is being presented, and the thoroughness of the verification thereof.



15. In light of the above, it can be seen that the conduct undertaken by the Military Commander of Judea and Samaria fully complied with the requirements of international law, including with regards to the respect for due process and the human rights of the illegal residents of the area. Israel rejects any claims of violation of international law.

16. Finally, we wish to emphasize that any communication or press release co-signed by Mr. Lynk, the holder of the inherently biased mandate on the "human rights in the Palestinian territories", cannot be impartial. This mandate, the only perpetual mandate of the Human Rights Council – never subject to renewal – is partial in its very essence, as it was set up exclusively to condemn one side, Israel, under the fundamentally discriminatory "Item 7" of the agenda of the HRC. We would therefore advise any mandate holder wishing to foster a genuine and constructive engagement with Israel to refrain from signing joint communications or press releases with the holder of this mandate, which is not recognized by Israel.