

**Translated Excerpt from letter sent to Osnat Mandel, Director of HCJ
Petition Department at State Attorney's Office, October 13, 2009:**

**RE: The Gaza DCO's Notice that It is Cutting Contacts with Human Rights
Organizations**

Referencing: DCO 192690 of September 13, 2009 (received on September 14, 2009), Minister's Aide 6616-011009 of October 1, 2009, DCO 192979 of October 6, 2009; Yours: K254/09 and 257/09 of October 1, 2009; Ours 10008 of September 17, 2009 and October 2, 2009

1. In your response referenced here, of October 1, 2009, regarding the two pre-petition letters that were filed by Gisha and HaMoked: Center for the Defence of the Individual, you wrote: "It is understood that contacting the High Court Department at the State Attorney's Office cannot constitute an alternative to contacting the authorities competent to deal with each particular request." Needless to say, we agree with you completely on this point. As you know, the High Court Department is only approached as a result of the unlawful refusal of those "competent authorities" to respond to our appeals.
2. The Gaza DCO Commander's letter, referenced here, of October 6, 2009, states that the DCO's refusal to respond to our appeals remains unchanged. The DCO Commander went even further and determined in his letter that human rights organizations can contact the DCO only "when fundamental difficulties arise in working with the Civil Affairs Committee" (emphasis in the original), ignoring the duties imposed on him by administrative law and contradicting the referenced letter from the Minister's Aide of October 1, 2009.
3. A perusal of the referenced letters from the Gaza DCO Commander and the Defense Minister's Aide reveals internal inconsistencies and inaccuracies. We believe, therefore, that it would be beneficial to set the record straight as follows:
 - a. At this time, contact between human rights organizations and DCO officials is cut off. **DCO officials refuse to respond to our appeals, even those addressing "exceptional, humanitarian and life-and-death cases."** This contradicts the statement in paragraph 3 of the DCO Commander's letter of October 6, 2009 and the statement in paragraph D of the Minister's Aide's letter.
 - b. The Minister's Aide's letter, which spoke of "position of the Coordinator of Government Activities in the Territories," revealed that the change in working procedure with human rights organizations, relates only to cases regarding **"the transfer of people requiring medical treatment from the Gaza Strip to Israel... due primarily to considerations of the cost of the treatment in Israel."** This statement contradicts the DCO Commander's letter of September 13, 2009, which stated that "all your appeals relating to the entry of Palestinians residing in the Gaza Strip to Israeli territory should be directed to the Palestinian Civil Affairs Committee." This was reiterated in his letter of October 6, 2009. It is unclear why the DCO Commander, who is subordinate to COGAT, is not

acting in accordance with COGAT's policies as they were described in the Minister's Aide's letter.

- c. Regarding policies related to Gaza residents requiring medical treatment, "considerations of the cost of the treatment in Israel" are irrelevant. Over the past month and in general, all applications by Physicians for Human Rights – Israel to the Gaza DCO have been on behalf of patients who had applications submitted for them by the Palestinian Authority as well as financial commitments by the PA on their behalf – however there was either no response or a negative response. In each one of these cases, the Gaza DCO refused to respond to PHR-Israel's written and verbal applications and refused to receive essential information from it about those patients' need for medical treatment.
 - d. It should be noted that although DCO officials are refusing to address applications from human rights organizations, they continue to respond to applications sent to them by other sources, even where no approach through the Palestinian Civil Affair Committee was made. Applications from local and international organizations, diplomatic envoys and others are addressed this way. Could it be that the real reason for the cutting of contact was revealed in the statement to the newspaper *Haaretz* by a "high-ranking security official" that "in recent times the work of the Israeli organizations has been even more intensive than in the past and that is not acceptable"?
 - e. The attempt to claim that this is a "long-standing" policy is inconsistent with reality. As we noted in our letter of September 17, 2009, sent on behalf of eight human rights organizations, until the notice that contact was being cut was sent, the Gaza DCO responded directly to our approaches and we have thousands of examples of such responses, gathered over a period of many years.
 - f. We must bring you attention to paragraph 3 of the DCO Commander's letter of October 6, 2009, where he said "**our letter in no way notified you of the cutting of contacts between the Gaza DCO and the human rights organizations**, as proved by the fact that the Gaza DCO's humanitarian hotline, which aims to respond to the various organizations, is still operational." It is sufficient to point to the gap between the rhetoric and the reality, since the "humanitarian hotline" which is supposed to "respond to organizations," refuses to respond to our appeals. On every single working day since the DCO Commander's letter of September 13, 2009 was received, representatives of the human rights organizations have made sure to call the "humanitarian hotline" at least once, in the hope that something had changed and that someone there would agree to respond to our appeals, but to no avail.
4. As is known, as administrative agencies, both the Minister of Interior and DCO officials, in their capacity as the ones empowered to grant entry permits to Israel, are required to fulfill basic duties borne by administrative agencies.

"And they are, for example: the duty to act with reasonableness and proportionality (HCJ 389/80 *Dapei Zahav Ltd. V. The Israel Broadcasting Authority*, IsrSC 35(1) at pp. 421, 435 (1980); HCJ 5016/96 *Horev v. The Minister of Transportation*, IsrSC 51(4) at pp. 1, 53 (1997)); the duty to act with integrity, without arbitrariness or bias (HCJ 6163 *Eisenberg v. The Minister of Construction and Housing*, IsrSC 47(2) at pp. 229, 259 (1993)) and the duty to act efficiently and

fairly (HCJ 685/78 *Muhammed v. The Minister of Education and Culture*, IsrSC 33(1) at pp. 767, 777 (1979).”

AAP 1369/06 *Halevitz v. The Local Planning and Building Committee Hadera*, unpublished, handed down on July 9, 2008.

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15. In conclusion, even if the competent authority is entitled to demand that applications be submitted to it via the “channel” of the Palestinian Civil Affairs Committee, as soon as the resident has submitted his/her application with the Palestinian Civil Affairs Committee or as soon as the Committee refuses to accept his/her application or does not pass it on to the competent authority, the resident is entitled to representation by human rights organizations before the competent authorities. The competent authority has a duty to receive from the resident, via his/her representative, all the relevant information required to make a decision on his/her application.
16. Unfortunately, the DCO Commander’s current stance is that he is not obligated to honor the right to representation, argument and hearing of the residents who contact him. **This stance is in total violation of his duties under the law.**
17. So long as there is no change in the Gaza DCO Commander’s stance on these issues, we will be forced to continue to bring the cases of those who contact us directly to the State Attorney’s Office and the Supreme Court, despite the waste of resources that this entails for us, the State Attorneys and the justices of the Supreme Court.

(signed)

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Hadas Ziv, Executive Director, Physicians for Human Rights - Israel

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