

## **Justice Ministry Statement on High Court of Justice Petitions Regarding the Gaza Flotilla**

(Communicated by the Justice Ministry Spokesman)

The State Attorney's Office earlier today (Tuesday), 1 June 2010, submitted, to the High Court of Justice, the State's response to two petitions regarding the Gaza flotilla. The response was submitted by State Attorney Moshe Lador and other senior officials. The main points of the reply are as follows:

1. The Gaza Strip is controlled by the Hamas terrorist organization, which has set as its goal, and has consistently and systematically worked towards its realization, to attack the citizens and residents of the State of Israel – mainly those residing in the cities and communities in the south of the country, in proximity to the Gaza Strip. Deliberate attacks on a country's civilian population are perpetrated mainly via rockets, and the Hamas terrorist organization's ability (as well as that of its parallel organizations), is based mainly on the infiltration of war materiel into the Gaza Strip by any means possible and by any channel at the organization's disposal.
2. One of the main routes by which weapons and ordnance have been infiltrated into the Gaza Strip up to now is tunnels dug under the border with Egypt into the area of the Strip. Against these, as it is known, the State of Israel has done its utmost to thwart their being used to transfer war materiel. In addition, as part of the struggle to block the smuggling of weapons, the State of Israel has imposed a naval blockade on the Gaza Strip. The blockade is not intended to harm residents of the Strip. It is designed to prevent direct and free access to the Gaza Strip, not via Israel, in order to thwart, minimize, block and hinder the Gaza Strip from becoming a giant arsenal for the terrorist organizations to use in deliberately targeting Israelis in the framework of murderous terrorist actions that have been perpetrated over the years. Free access to Gaza – were it to be allowed (and were it to become possible in the future) – would obviate any possibility whatsoever of preventing the realization of this unbearable scenario.
3. No state that wishes to survive could agree to put itself before such a reality. No rational state would knowingly close its eyes to such an outstanding strategic threat. Therefore, Israel decided not to remain indifferent to such a crude attempt to violate the naval blockade which was imposed in the framework of the security measures taken following Operation Cast Lead, and acted to interdict the flotilla, the true goal of which was "to break the blockade on the Gaza Strip" and to create a new and accessible route for the delivery of war materiel for terrorist purposes.
4. There is no doubt that if Israel had taken a naïve approach regarding "clearing the sea route" towards the Gaza coast by the aforesaid flotilla, and if it had conceded on its determined enforcement of the naval blockade in this case, merely because the ships flew the "flag of peace", the State would have thereby allowed the creation of a new reality (which would have been impossible to halt), according to which any vessel, whatever its cargo (such as that of the Karine A, for example), would find its way – without oversight – to the coast of the Gaza terrorist authority, as long as it flew the "flag of peace" and on its decks were found the "spokespeople" of a "peace lobby" from somewhere in the world.
5. While the Gaza flotilla was publicly "marketed" as being for humanitarian purposes, the reality indicates a different goal. The organizers of the flotilla scorned Israel's efforts to prevent the vessels from reaching Gaza, via diplomatic dialogue, announcements in

advance and declarations over the radio. The organizers of the flotilla similarly rejected Israel's offer to transfer the aid on board directly to Gaza via Israel, thereby attesting that their goal was to "break the blockade."

6. As is known, the violent "welcome" which the "peace activists" gave the IDF soldiers, who had been ordered to prevent the flotilla participants from violating the blockade in order to guard the State of Israel's most vital security interests, created a tangible danger to the soldiers who were compelled to defend themselves and take the necessary action to protect life and limb. The flotilla participants engaged in this severe violence despite their arrogance in calling themselves "peace activists." The lynching that they sought to perpetrate on IDF soldiers, which included – inter alia – attacks with knives, clubs iron bars, Molotov cocktails, the throwing of heavy objects and the throwing of a soldier from one of the decks, compelled the IDF soldiers to defend themselves and take the necessary action to protect life and limb. As a result, regrettably, nine flotilla participants were killed and people were injured, both flotilla participants and soldiers.

7. Thus may be seen the true, violent and provocative, nature of the flotilla, which bears no resemblance whatsoever to "humanitarian aid" to the Gaza Strip. Thus the claimants' veil of hypocrisy is lifted.

8. The IDF is a moral army and IDF soldiers are trained in the purity of arms and scrupulous upholding of human rights. However, the State of Israel and the security establishment will not neglect their duty to maintain the safety of citizens who have been under attack for many years by the terrorist organizations. These act continuously, diligently and deviously to build up vast stocks of war materiel – the hindering of which is sanctioned by international customary law – in order to deliberately shoot at Israeli communities.

The action was, therefore, legal:

The petition is without any factual or legal basis. Factually, the petition is riddled with crude and harsh distortions, baseless accusations and the tendentious defamation of the State, while using inflammatory language that ill befits this honorable Court. The foregoing alone justifies its outright dismissal.

Legally, the petition ignores central provisions of international law that permit the imposition of a naval blockade and the capture of vessels that are in violation, or are about to violate said blockade, and claims – without any basis in law – that these actions were carried out in the absence of authority. The State's actions were carried out according to law, both customary international law and the Entry into Israel Law. As for the petition's being directed at the detention of flotilla passengers who are not required for investigation regarding the events at issue, or for perpetrating severe violent offenses against IDF soldiers, there is full readiness to facilitate their immediate departure from the State of Israel. In any event, regarding the claim on the issue of detention under the Entry into Israel Law, there is an alternative remedy, in the form of judicial review of the orders under the Entry into Israel Law.