Ministry of Justice
State Attorney's Office

23 Av 5774
August 19, 2014

Ref.: 047-99-2014-015572

To:
Mr. Michael Sfard, Adv.
45 Yehuda Halevi Street
Tel Aviv 65157

Dear Sir,

Re: **Response to your letter concerning the Use Policy of Regulation 119**
Reference: Your letters dated July 8, 2014;August 7, 2014 and July 7, 2014

I hereby confirm receipt of your letter to the Attorney General dated July 8, 2014 concerning the policy practiced in connection with the use of Regulation 119 of the Defence (Emergency) Regulations, 1945 (hereinafter: **Regulation 119**). Your letter was transferred to our office and the following is our response:

As is known, the Supreme Court has repeatedly held, throughout the years, that the exercise of the power granted to the military commander under Regulation 119, both in the Judea and Samaria Area and in Israel, was lawful.

It has already been explicitly determined, within the context of a resolution adopted by the IDF Chief of Staff in 2005, to suspend the exercise of the power granted under Regulation 119, and that the exercise of such power may be resumed in extreme cases. Moreover, a substantial change in the security circumstances may also enable the military commander to re-exercise the power vested in him under Regulation 119. Please note, that said issues were discussed and resolved in the past by the High Court of Justice in HCJ 9353/08 **Abu Dheim v. GOC Home Front Command** (reported in the Judicial Authority's website, January 5, 2009). The above issues were recently discussed once again in the judgment which was given on July 1, 2014 in HCJ 4597/14 **'Awawde v. Military Commander of the West Bank Area** (reported in the Judicial Authority's website, July 1, 2014), a petition in which one of the petitioners was represented by you, and in which the court held that in view of the extreme security circumstances which existed lately in the Judea and Samaria Area, the change of the previous policy was legitimate (also see: HCJ 5290/14 **Qawasmeh v. Military Commander of the West Bank Area** (reported in the Judicial Authority's website, August 11, 2014).

The security establishment is well aware of the ramifications of the exercise of the power granted under Regulation 119 to demolish the homes of terrorists, and therefore said power is exercised very prudently. To date, a conclusive decision concerning the exercise of the authority under Regulation 119 was made with respect to the structure in which resided the terrorist who murdered the late Police Commander Baruch Mizrahi in a terror attack last

Passover eve, and with respect to three structures in which resided three terrorists who were involved in the abduction and murder of the late Eyal Yifrah, Naftali Frenkel and Gilad Shaer. A petition concerning the above three structures is currently pending before the High Court of Justice.

It is needless to point out, that beyond the change which occurred in the security circumstances in the Judea and Samaria Area, as specified in the above HCJ 4597/14, the two terror attacks mentioned above – with respect to the homes of the terrorists who executed them a decision to exercise the power under Regulation 119 has already been made – are extremely severe.

Obviously, any other case will be examined according to its specific circumstances.

Sincerely,

Michal Hod, Adv.
Assistant to the State Attorney
[signed]

CC: Attorney General's Office