



16 December 2021

To: General Yehuda Fuchs
Commander of the IDF forces in the West Bank
Via Fax: 076-539-9689

Subject: **Request to Receive Materials of the Declaration**

On behalf of **Addameer – Prisoner Support and Human Rights Association, Defense for Children International – Palestine (DCI-P), the Union of Palestinian Women’s Committees (UPWC), and Bisan Center for Research and Development** (hereinafter: **the Applicants**), represented by Adalah (**Adalah** - The Legal Center for Arab Minority Rights in Israel), and on behalf of **Al-Haq**, represented by the Michael Sfar Law Office, we hereby request disclosure of all the materials forming the basis of the declaration of the aforementioned organizations, as detailed below:

1. On 3 November 2021, you declared our clients to be “unlawful associations”, in accordance with Regulation 84(1)(b) of the Defense (Emergency) Regulations – 1945 (hereinafter: **Defense Regulations**).
2. On 11 November 2021, we requested that you extend the deadline for filing an objection by 60 days, in order to study all of the case files, provide legal advice to our clients, and determine our legal steps in this matter, in light of the parallel action being taken against our clients under the Counter-Terrorism (Anti-Terror) Law – 2016.
3. On 25 November 2021, a response was received from the public inquiries desk in the office of the Commander of the Central Command, granting an extension of time for the submission of objections until 10 January 2022.
4. In the declarations dated 3 November 2021 or in the letter of response dated 25 November 2021, no evidentiary material or information was disclosed that would justify the decision to declare our clients as unlawful associations under the aforementioned Defense Regulations.
5. Access to the substantive information and material that form the factual basis upon which the decision was taken is clearly essential to a fair process of drafting and submitting an objection.
6. Without detailing the allegations or repudiating the general accusation that the organizations are an “arm of the Popular Front” (action, actor, date, place), and without revealing the evidence allegedly substantiating them, the aforementioned organizations are prevented from a genuine or effective opportunity to address and respond to the allegations. A hearing at which the evidence of the case is not disclosed

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- is an unsound and inherently unfair procedure that lacks the most basic elements of due process: the right to access the evidence and materials, which is the basis for the right to present arguments in a hearing.
7. This is further essential when such a hearing involves such a radical and consequential decision, outlawing vital, veteran human rights organizations that are valued and recognized worldwide, some of which have been operating for over 40 years.
 8. The declaration creates a new, normative situation that restricts the freedoms and rights of broad circles of the Palestinian population, and even affects the work of third parties, including foreign states and governments, Israeli and international human rights organizations, and United Nations committees. Undoubtedly, such a significant declaration cannot and should not be based solely on classified material.
 9. The fact that the affected organizations conduct their activities in an area that is now entering its sixth decade of military occupation, and in the service of people who are living under occupation while being denied their civil and political rights, makes their activities critical for their beneficiaries. Thus, the aforementioned declarations entail grave and serious consequences.
 10. Failure to provide access to the evidentiary material required to enable effective objection to the declaration voids any remnants of the right to a fair procedure, a right that has already been eroded in this case. This is so regardless of the other numerous structural flaws of this procedure: the lack of a hearing prior to the declaration of an organization as an unlawful association and the fact that the entity responsible for hearing the objection is the same entity that issued the declarations in the first place. Indeed, the legal community has condemned the issuance of declarations based on undisclosed materials.
 11. Notably, the right to present an argument and a fair hearing (*audi alteram partem*), and within it the right to access evidence forms an integral part of the principles of natural justice, which apply to [the Israeli] military authorities in their operations against the Palestinian population in the occupied territories. On more than one occasion, the Israeli Supreme Court has recognized the Israeli military's obligation to provide individuals affected by its decisions with the right to an effective hearing. In the case H CJ 358/88, *The Association for Civil Rights in Israel, et al. v. The Commander of Central Command, et al.*, relating to Article 119 of the Defense Regulations, the Court ruled that, "The existence of fair rules of procedure in the case of a particular person shall be expressed by the fact that the person who is expected to be harmed in his life or his property shall be given advanced notice and the opportunity to object it in this matter."
 12. As Justice Landau stated many years ago, the claims of the opposing party can only be refuted when they are known, and it is impossible to argue with the unknown. H CJ 111/53, *Kaufmann v. Minister of Interior*, Judgment, 534, 541.
 13. The right to present an argument and a fair hearing entails the right of inspection, even if the material is classified (see, for example, Administrative Appeal 1038/08, *The State of Israel v. Gavitz* (published in the databases, 11 August 2009)). The obligation to provide due process and allow effective inspection of the evidence stems not only from the obligations of administrative law, but also from the obligations under

international human rights law to which the Israeli military, as the occupying power, is subject to.

14. Thus, we request that you provide the material that formed the base for the decision to declare our clients as unlawful associations according to Article 84(1) of the Defense Regulations, alongside any other relevant material related to our clients, their registration or their employee information that were part of the factual basis of the aforementioned declarations.
15. We also request that you freeze the count of the days left for submitting the objection until the materials are disclosed and a detailed, pointed response to this request is submitted.

Hassan Jabareen Rabea Eghbariah Adi Mansour
Applicants' Legal Representatives

Michael Sfar Alon Safir
Al-Haq's Legal Representatives

Copy to:

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