



2 March 2024

The Hon Andrew Giles MP
Minister for Immigration, Citizenship and Multicultural Affairs

Senator the Hon Penny Wong
Minister for Foreign Affairs

Via email

Dear Minister for Immigration and Foreign Minister,

URGENT: Request to cancel the visa of Israeli national, Doron ALMOG

The Palestinian Centre for Human Rights (**PCHR**) and the Australian Centre for International Justice (**ACIJ**) write to alert you of the intended presence in Australia of Israeli national, Doron Almog, a former General of the Israel Defence Forces (**IDF**), and General Officer Commanding (**GOC**) of the South Command of the IDF between 2000 and 2003. Almog is scheduled to speak in a number of events in cities across Australia between 3 and 7 March 2024.¹

Minister for Immigration, we urge you to refuse to grant a visa to Almog on the basis that he does not pass the 'character test' under s 501(1) of the *Migration Act 1958* (Cth) (**the Act**) nor the Public Interest Criteria under the *Migration Regulations 1994* (Cth). In the alternative, if Almog has already been issued with a visa, we request that you exercise your powers to cancel his visa under s 501(2) of the Act.

Relevantly in respect of Almog, you may refuse or cancel a visa, to a person whom you reasonably suspect has been or is involved in conduct constituting:

the crime of genocide, a crime against humanity, a war crime, a crime involving torture or slavery, or a crime that is otherwise of serious international concern.²

Minister for Foreign Affairs, we urge you to consider exercising one of your statutory powers relevant in assessing Almog's visa to Australia, that is, determining whether Almog's presence would be contrary to Australia's foreign policy interests. Public Interest Criterion 4003 provides that you as Minister for Foreign Affairs may determine that a person's presence in Australia would be contrary to Australia's foreign policy interests. Australia's foreign policy interests relevantly include ensuring accountability for serious international crimes and ending impunity for serious violations of human rights – particularly where atrocities are part of official state policy and involve the complicity of senior military leaders.

War crimes allegations against Almog

We draw your attention to the following matters which are relevant in exercising your powers to refuse or cancel a visa to Almog (Minister for Immigration) or declare that Almog's presence is contrary to Australia's foreign policy interests (Minister for Foreign Affairs). Almog was the GOC of IDF South Command from 8 December 2000 to 7 July

¹ United Israel Appeal Australia, 'About Us', <<https://www.uiaaustralia.org.au/keren-hayesod-ua>>.

² *Migration Act 1958* (Cth), s 501(6)(ba)(iii).

2003.³ He is credibly accused of a series of war crimes in his capacity as GOC during this time. Almog had command responsibility for the planning and conduct of all military operations in Gaza at the time and as such bears individual criminal responsibility for any such crimes committed. In particular, Almog is accused of the following war crimes: wilful killing; wilfully causing serious injury to body or health; and destruction and appropriation of property.⁴

The allegations of these war crimes stem from violations of international humanitarian law by the IDF committed during Almog's time in command in Gaza in respect of four separate incidents. These incidents represent destruction of property in refugee camps which amount to collective punishment; the killing of civilians in indiscriminate aerial attacks; and the use of weapons which cause superfluous injury and unnecessary suffering. Detailed factual accounts of these incidents are included in a dossier of evidence (**attached**) which sets out the allegations against Almog, including certain statements made by Almog which evidence his culpability.

The Israeli authorities have failed to genuinely investigate these credible allegations, to prosecute Almog and others responsible or to provide justice and remedies to the Palestinian victims. Such failures place Israel in breach of its obligations to investigate, prosecute and provide remedy under international humanitarian law, international criminal law and international human rights law.

Evasion of justice

On 10 September 2005, the Bow Street Magistrates' Court in London issued a warrant for the arrest of Almog who was due to arrive in London on 11 September 2005 as a guest at a series of fundraising events in the UK. At least in relation to one incident, Chief Magistrate Workman held there were reasonable grounds for suspicion that the grave breach of '*extensive destruction of property carried out unlawfully/wantonly*' did occur. A court date was set for 27 October 2005.

Almog was due to arrive at Heathrow airport on 11 September 2005 on an El Al Flight from Tel Aviv. London's Metropolitan Police planned to intercept Almog at the Heathrow immigration desk, where he would then be escorted to Heathrow police station to await a decision regarding the execution of the warrant. Information about the arrest warrant was leaked to the Israeli Embassy, and an Israeli military attaché was sent to Heathrow to warn Almog to remain on the plane. Almog refused to leave the plane, remaining onboard for two hours until it departed for a return flight to Tel Aviv.⁵

Almog's successful evasion of justice represents continued impunity for the serious and credible allegations of crimes committed under his command in Gaza. Furthermore, Israel's use of collective punishment, punitive home demolitions, the use of destructive indiscriminate weaponry, such as one-tonne bombs, in attacks that violate key IHL principles of distinction, precaution and military necessity, have been hallmarks of Israel's numerous military assaults on Gaza since that period. **Israeli impunity for these serious violations of IHL, which amount to war crimes, and separately also constitute crimes against humanity, have led to entrenched and chronic impunity. This impunity has culminated in the catastrophic situation we are seeing unfold in Gaza today, a plausible case of genocide as determined by the International Court of Justice.**⁶

Australia's legal obligations

We remind the Australian Government that the crimes alleged were either offences under Australia's Commonwealth Criminal Code, or the *Geneva Conventions Act 1957* (Cth), at the time of their occurrence, and that Almog does not enjoy immunity from prosecution before Australian courts.

³ Israel Defense Forces, 'Regional Commands: Southern Command', <https://www.idf.il/en/mini-sites/regional-commands/southern-command/southern-command/>, accessed 27 February 2024

⁴ PCHR, 'Israeli War Crimes Suspect Evades British Justice After UK Court Issues Warrant', 11 September 2005, <<https://pchr.org/en/israeli-war-crimes-suspect-evades-british-justice-after-uk-court-issues-warrant-2/>>.

⁵ Vikram Dodd, 'Papers reveal how alleged war criminal escaped UK arrest', *The Guardian*, 20 February 2008, <<https://www.theguardian.com/uk/2008/feb/20/uksecurity.israelandthepalestinians>>.

⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel) Order on Application by South Africa for Provisional Measures (Order on 26 January 2024)* [2024] ICJ Rep 1.

As a State Party to the 1949 Geneva Conventions, Australia has a positive, international legal obligation under Common Article 1 'to ensure respect for' the Conventions 'in all circumstances', and thereby should not host suspected war criminals in its territory where it is not possible to prosecute them.

Furthermore, Article 146 of the Fourth Geneva Convention (common to the four Geneva Conventions) requires that not only must each Party enact legislation that provides effective penal sanction for grave breaches, but they are also, "*under the obligation to search for persons alleged to have committed, or to have ordered to be committed such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts.*"⁷

The ICRC Commentary on the Fourth Geneva Convention refers to the legal obligations contained in Article 146 as the 'cornerstone' of the system used for the repression of grave breaches.⁸ The Commentary classifies the 'duty to search' as an *active* duty.⁹ It states that:

As soon as a Contracting Party realizes that there is on its territory a person who has committed such a breach, its duty is to ensure that the person concerned is arrested and prosecuted with all speed. The necessary police action should be taken spontaneously, therefore, not merely in pursuance of a request from another State. The court proceedings should be carried out in a uniform manner whatever the nationality of the accused. Nationals, friends, enemies all should be subject to the same rules of procedure and judged by the same courts.¹⁰

Proposed action by the Australian Government

In light of the information set out in this correspondence and the attached dossier, Almog does not satisfy the requirements of good character to be the holder of an Australian visa.

Foreign Minister, we request that you determine Almog's presence would be contrary to Australia's foreign policy interest as Almog's presence in Australian territory, without any requisite action to investigate and prosecute the allegations against him, may jeopardise Australia's foreign policy interests, which include ensuring accountability for serious international crimes and ending impunity for violations of international law and human rights – particularly where atrocities are part of official state policy and involve the complicity of senior government and/or military leaders.

Minister for Immigration, we request that you refuse a visa to Doron Almog or cancel any visa issued to him because of the credible allegations of his involvement in international crimes.

Conclusion

If Almog is allowed to remain in Australian territory, and despite the information brought to your attention in this correspondence, no steps are taken to refer the matter to the Australian Federal Police to open an investigation into these alleged crimes and, where appropriate, bring him before an Australian court, Australia will be in breach of the Geneva Conventions.

We look forward to receiving your prompt response and clarification of steps taken by the Australian government in relation to the urgent and serious matters raised above.

Sincerely,

⁷ *Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War* (Fourth Geneva Convention), 75 UNTS 287, 12 August 1949, (entered into force 21 October 1950), art 146.

⁸ Jean S. Pictet, *Commentary on the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (ICRC Commentary), International Committee of the Red Cross, 1958, p 590.

⁹ *Ibid* p 593.

¹⁰ *Ibid*.



Rawan Arraf
Executive Director
Australian Centre for International Justice



Raji Sourani
Director
Palestinian Centre for Human Rights

Attachment:

Dossier in Relation to Doron Almog

Copy:

The Hon Claire O'Neil MP
Minister for Home Affairs

Commissioner Reece Kershaw APM
Australian Federal Police

About the Palestinian Centre for Human Rights

The Palestinian Centre for Human Rights (**PCHR**) is an independent human rights organisation based in Gaza City, dedicated to the protection of human rights, the promotion of the rule of law, and the upholding of democratic principles in the Occupied Palestinian Territory. Most of the Centre's activities and interests concentrate on the Gaza Strip due to the restriction on movement between the West Bank and Gaza Strip imposed by the Israeli government and its military apparatus.

PCHR represents numerous Palestinian victims in relation to the crimes alleged in this request.

About the Australian Centre for International Justice

The Australian Centre for International Justice (**ACIJ**) is an independent not-for-profit and specialist legal centre working to develop Australia's capacity to investigate and prosecute international crimes offences, including those outlined in the Commonwealth Criminal Code. ACIJ has established a dedicated legal service that works with survivor groups and affected communities and engages with Australian authorities through legal action, submissions and policy advocacy.