

Israeli-Palestinian Interim Agreement

Annex IV - Protocol Concerning Legal Affairs

Article I

Criminal Jurisdiction

1. a. The criminal jurisdiction of the Council covers all offenses committed by Palestinians and/or non-Israelis in the Territory, subject to the provisions of this Article.

For the purposes of this Annex, "Territory" means West Bank territory except for Area C which, except for the Settlements and the military locations, will be gradually transferred to the Palestinian side in accordance with this Agreement, and Gaza Strip territory except for the Settlements and the Military Installation Area.

b. In addition, the Council has criminal jurisdiction over Palestinians and their visitors who have committed offenses against Palestinians or their visitors in the West Bank and the Gaza Strip in areas outside the Territory, provided that the offense is not related to Israel's security interests.

c. Notwithstanding the provisions of subparagraph a. above, the criminal jurisdiction of each side over offenses committed in Area B shall be in accordance with the provisions of paragraph 2.a of Article XIII of this Agreement.

d. Individuals arrested by the Palestinian Police in Area B for public order and other reasons shall be tried before the Palestinian courts, provided that these courts have criminal jurisdiction.

2. Israel has sole criminal jurisdiction over the following offenses:

- a. offenses committed outside the Territory, except for the offenses detailed in subparagraph 1. b above; and
- b. offenses committed in the Territory by Israelis.

3. a. In exercising the criminal jurisdiction of their courts, each side shall have the power, inter alia, to investigate, arrest, bring to trial and punish offenders.

b. Activities of the Palestinian Police and the Israeli military forces for the implementation of subparagraph a. above shall be as set out in the Agreement and Annex I thereto.

4. In addition, and without derogating from the territorial jurisdiction of the Council, Israel has the power to arrest and to keep in custody individuals suspected of having committed offenses which fall within Israeli criminal jurisdiction as noted in paragraphs 1.c, 2 and 7 of this Article, who are present in the areas under the security responsibility of the Council, where:

- a. The individual is an Israeli, in accordance with Article II of this Annex; or

b. (1) The individual is a non-Israeli suspected of having just committed an offense in a place where Israeli authorities exercise their security functions in accordance with Annex I, and is arrested in the vicinity in which the offense was committed. The arrest shall be with a view to transferring the suspect, together with all evidence, to the Palestinian Police at the earliest opportunity.

(2) In the event that such an individual is suspected of having committed an offense against Israel or Israelis, and there is a need for further legal proceedings with respect to that individual, Israel may retain him or her in custody, and the question of the appropriate forum for prosecuting such a suspect shall be dealt with by the Legal Committee on a case by case basis.

5. In the case of an offense committed in the areas under the security responsibility of the Council by a non-Israeli against Israel or an Israeli, the Council shall take measures to investigate and prosecute the case, and shall notify Israel of the result of the investigation and any legal proceedings.

6. When a suspicion arises against a tourist in transit to or from Israel through the Territory in the West Bank and the Gaza Strip, that the tourist has committed an offense in the Territory and that tourist is present on roads or in Jewish holy sites specified in Article V, paragraph 7, Article VII, paragraph 9 and Appendix 4 of Annex I, the Palestinian Police may detain him in place and immediately notify the Israeli military forces which shall be authorized to arrest and question him. Where an offense has been committed by a tourist in violation of the prevailing law and further legal proceeding in respect of the tourists are required, such proceedings shall be taken by the Council.

Where such a tourist present outside these areas is detained or arrested by the Council, it shall notify the Israeli authorities within a reasonable time, not exceeding 24 hours, and shall enable them at the earliest opportunity to meet the detainee and to provide any necessary assistance, including consular notification, requested by the detainee.

7. a. Without prejudice to the criminal jurisdiction of the Council, and with due regard to the principle that no person can be tried twice for the same offense, Israel has, in addition to the above provisions of this Article, criminal jurisdiction in accordance with its domestic laws over offenses committed in the Territory against Israel or an Israeli.

b. In exercising its criminal jurisdiction in accordance with subparagraph a. above, activities of the Israeli military forces related to subparagraph a. above shall be as set out in the Agreement and Annex I thereto.

Article II

Legal Assistance in Criminal Matters

1. General

a. Israel and the Council shall cooperate and provide each other with legal assistance in criminal matters. Such cooperation shall include the arrangements detailed in this Article.

b. Documents served by one side in the territory under the responsibility of the other, shall be accompanied by a translation into the official language of the other side.

2. Cooperation in Criminal Matters

a. The Israeli Police and the Palestinian Police shall cooperate in the conduct of investigations. Subject to detailed arrangements to be agreed upon, such cooperation shall include the exchange of information, records and fingerprints of criminal suspects, vehicle ownership registration records, etc.

b. Where an offense is committed in the Territory by an Israeli acting jointly with an individual under Palestinian personal jurisdiction, the Israeli military forces and the Palestinian Police will cooperate in conducting an investigation.

c. The Palestinian authorities shall not arrest Israelis or place them in custody. Israelis can identify themselves by presenting Israeli documentation.

However, when an Israeli commits a crime against a person or property in the Territory, the Palestinian Police, upon arrival at the scene of the offense shall, if necessary, until the arrival of the Israeli military forces, detain the suspect in place while ensuring his protection and the protection of those involved, prevent interference with the scene of the offense, collect the necessary evidence and conduct preliminary questioning, and in any case shall immediately notify the Israeli authorities through the relevant DCO.

d. Without derogating from the jurisdiction of the Council over property located or transported within the Territory, where the property is being transported or carried by an Israeli, the following procedure shall apply: The Palestinian authorities have the power to take any measures necessary in relation to Israeli vehicles or property where such vehicle or property has been used in the commission of a crime and present an immediate danger to public safety or health. When such measures are taken, the Palestinian authorities shall immediately notify the Israeli authorities through the relevant DCO, and shall continue to take the necessary measures until their arrival.

3. When an Israeli is suspected of committing an offense and is present in the Territory, the Israeli military forces shall be able to arrest, search and detain the suspect as required; in areas where the Palestinian Police exercise powers and responsibilities for internal security and public order, such activities shall take place in coordination with the Palestinian Police, in its presence and with its assistance.

4. Israel shall hand over to the Palestinian Police the Palestinian offenders to whom Article I, paragraph 1.b applies, together with any collected evidence.

5. Restraining Orders

Each side shall execute orders issued by the competent organs of the other side restraining a person under the jurisdiction of that side from traveling abroad.

6. Summons and Questioning of Witnesses

a. Where the statement of a witness who is an Israeli or other person present in Israel is required for a Palestinian investigation, the statement shall be taken by the Israeli Police in the presence of a Palestinian Police officer in an Israeli facility at an agreed location.

b. Where the statement of a non-Israeli witness present in the Territory is required for an Israeli investigation, the statement shall be taken by the Palestinian Police in the presence of an Israeli Police officer in a Palestinian facility at an agreed location.

c. In exceptional cases, each side may take a statement requested by the other side itself, without the presence of the requesting side.

7. Transfer of Suspects and Defendants

a. Where a non-Israeli suspected of, charged with, or convicted of, an offense that falls within Palestinian criminal jurisdiction is present in Israel, the Council may request Israel to arrest and transfer the individual to the Council.

b. Where an individual suspected of, charged with, or convicted of, an offense that falls within Israeli criminal jurisdiction, is present in the Territory, Israel may request the Council to arrest and transfer the individual to Israel.

c. Requests under subparagraph a. and b. above shall specify the grounds for the request and shall be supported by an arrest warrant issued by a competent court.

d. Where the request is for the transfer of a suspect who is not a Palestinian requested by the Council;

(1) the arrest warrant shall only be issued pursuant to an application made by or on behalf of the Attorney-General, confirming that there is a reasonable evidentiary basis that the offense was committed by the suspect;

(2) the offense must be punishable by not less than 7 years imprisonment under the law of the requesting side.

e. (1) Individuals suspected of offenses punishable by less than 7 years' imprisonment shall be interrogated by the investigating side in a facility of the other side or at an agreed location.

(2) Interrogation shall take place in the presence of a police officer of the other side.

(3) Upon the request of the investigating side the other side may detain the suspect in custody pending and during questioning. Where the presence of the suspect is required for an objective reason, such as confronting witnesses and identification of sites the suspect shall be transferred for that purpose only.

f. (1) Both sides, upon receipt of a request in accordance with this Article, shall effect the arrest and transfer requested.

(2) If the individual requested is detained in custody or is serving a prison sentence, the side receiving the request may delay the transfer to the requesting side for the duration of the detention or imprisonment.

g. No person shall be transferred in respect of an offense punishable by capital punishment unless the requesting side undertakes that capital punishment shall not be imposed in the case.

h. (1) Both sides shall take all necessary measures to ensure that the treatment of the individuals transferred under this article complies with the applicable legal arrangements in Israel and in the Territory and with internationally-accepted norms of human rights regarding criminal investigations.

(2) suspects transferred under this paragraph shall have the right to be assisted during the investigation period by an advocate of their own choice.

i. Each side may, upon the request of the other side, detain, for no more than seven days, an individual in respect of whom a request for arrest and transfer is to be made, pending the submission of such a request.

j. The transfer of foreigners by Israel to the Council under this Article shall be subject to the applicable conventions to which Israel is a party and in coordination with the foreigner's state of origin.

k. Both sides may agree that an individual convicted in the courts of one side shall serve his sentence in a prison of the other side, subject to arrangements and conditions to be agreed between the sides.

8. Assistance in the Execution of Court Orders for the Purposes of Investigation

a. Israel and the Council shall execute orders issued by each other's courts for the purposes of investigations (e.g., search warrants, orders for the production of documents and seizure orders), subject to the provisions of local law.

b. Where, for the purposes of an investigation, Israel or the Council requires that tests or examinations (such as fingerprinting or blood analysis) be effected in relation to an item situated in territory under the responsibility of the other side, that side shall effect the tests or examinations required and transfer the results to the side conducting the investigation, where feasible.

Where these results are not sufficient for the purposes of the investigation, arrangements shall be made for the transfer of the item to the side conducting the investigation.

9. Legal Assistance in the Conduct of Judicial Proceedings

a. (1) Summons and subpoenas issued by an Israeli court in respect of defendants and witnesses present in the Territory, shall be effected through the Council, which shall be responsible for the service of summons, and the execution of subpoenas by the Palestinian Police.

(2) Subpoenas issued in respect of an Israeli defendant or witness present in the Territory shall be executed by the Israeli military forces. In areas where the Palestinian Police exercise powers and responsibilities for internal security and public order, such activities shall take place in the presence and with the assistance of, the Palestinian Police.

b. Summons and subpoenas issued by a Palestinian court in respect of defendants and witnesses in Israel shall be effected through the Israeli Police who shall be responsible for the service of summons and the execution of subpoenas.

c. Where the evidence of an Israeli witness is required in connection with proceedings conducted by a Palestinian court, the witness shall testify at a Palestinian court sitting at an agreed venue and the witness shall be accompanied by representatives of the Israeli military forces together with the Palestinian Police.

d. Where the evidence of a witness is required in connection with proceedings conducted by a court of one side, a notice of such a request will be given to the authorities of the other side to summon the witness.

10. Nothing in this Annex shall derogate from each side's powers and responsibilities as detailed in Annex I.

Article III

Civil Jurisdiction

1. The Palestinian courts and judicial authorities have jurisdiction in all civil matters, subject to this Agreement.

2. In cases where an Israeli is a party: the Palestinian courts and judicial authorities have jurisdiction over civil actions in the following cases:

a. the subject matter of the action is an ongoing Israeli business situated in the Territory (the registration of an Israeli company as a foreign company in the Territory being evidence of the fact that it has an ongoing business situated in the Territory);

b. the subject matter of the action is real property located in the Territory;

c. the Israeli party is a defendant in an action and has consented to such jurisdiction by notice in writing to the Palestinian court or judicial authority,

d. the Israeli party is a defendant in an action, the subject matter of the action is a written agreement, and the Israeli party has consented to such jurisdiction by a specific provision in that agreement;

e. the Israeli party is a plaintiff who has filed an action in a Palestinian court. If the defendant in the action is an Israeli, his consent to such jurisdiction in accordance with subparagraphs c. or d. above shall be required, or

f. actions concerning other matters as agreed between the sides.

3. The jurisdiction of the Palestinian courts and judicial authorities does not cover actions against the State of Israel including its statutory entities, organs and agents.

4. Israelis, including registered companies of Israelis, conducting commercial activity in the Territory are subject to the prevailing civil law in the Territory relating to that activity. Enforcement of judicial and administrative judgments and orders issued against Israelis and their property shall be effected by Israel, within a reasonable time, in coordination and cooperation with the Council.

Article IV

Legal Assistance in Civil Matters

1. Service of Documents

a. Israel and the Council will be responsible for the service of legal documents, including subpoenas, issued by the judicial organs under the responsibility of the other side.

b. Documents served by one side in the territory under the responsibility of the other, shall be accompanied by a translation into the official language of the other side.

2. Taking of Evidence

Israel and the Council will make arrangements for taking evidence from witnesses when necessary, when such evidence is sought in connection with proceedings conducted by the judicial organs under the responsibility of the other side.

3. Enforcement of Judgments

a. Israel and the Council will enforce judgments rendered by the judicial organs under the responsibility of the other side, provided that the judicial organ concerned has the jurisdiction to render the judgment and further provided that the enforcement is not contrary to public policy. The execution offices under the responsibility of each side shall execute such judgments as if rendered by their own judicial organs.

b. In executing any judgment against Israelis, the Palestinian execution offices may issue orders (e.g., attachments, receivership, eviction) against Israeli property within the Territory. The Palestinian Police shall effect the execution of such orders jointly with the Israeli Police, which undertakes to respect the said orders.

This subparagraph does not relate to attachments effected by the service of documents without requiring any physical actions, such as attachments of bank accounts.

c. Without derogating from the civil jurisdiction of the Palestinian courts and judicial authorities in accordance with Article III, imprisonment orders against Israelis, and orders restraining Israelis from traveling abroad (excluding interim orders before a judgment was given), shall only be issued by Israeli execution offices and effected by the Israeli police.