

# **Gaza-Jericho-Agreement**

## **Annex III**

### **Protocol Concerning Legal Matters**

#### **Article I**

##### **Criminal Jurisdiction**

1. The criminal jurisdiction of the Palestinian Authority covers all offenses committed in the areas under its territorial jurisdiction (hereinafter, for the purposes of this Annex, "the Territory") subject to the provisions of this Article.
2. Israel has sole criminal jurisdiction over the following offenses:
  - a) offenses committed in the Settlements and the Military Installation Area subject to the provisions of this Annex; and
  - b) offenses committed in the Territory by Israelis.
3. In exercising their criminal jurisdiction, each side shall have the power, inter alia, to investigate, arrest, bring to trial and punish offenders.
4. In addition, and without derogating from the territorial jurisdiction of the Palestinian Authority, 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 2 and 7 of this Article, who are present in the Territory, in the following cases:
  - 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 Territory by a non-Israeli against Israel or an Israeli, the Palestinian Authority shall take measures to investigate and prosecute the case, and shall report to Israel on the result of the investigation and any legal proceedings.

6.
  - a) Tourists in transit to or from Israel through the Gaza Strip or the Jericho Area, who are present on the Lateral Roads or on the main North-South road crossing the Jericho Area (Route No. 90), may be arrested and questioned only by the Israeli authorities which shall notify the Palestinian Authority. Where the Israeli authorities conclude that an offense under the prevailing law has been committed, and that further legal proceedings in respect of the tourist are required, such proceedings shall be taken by the Palestinian Authority.
  - b) Where such a tourist present outside these areas is detained or arrested by the Palestinian Authority, it shall notify the Israeli authorities immediately 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. Nothing in this Article shall derogate from Israel's criminal jurisdiction in accordance with its domestic laws over offenses committed outside Israel (including in the Territory) against Israel or an Israeli with due regard to the principle that no person can be tried twice for the same offense. The exercise of such jurisdiction shall be subject to the provisions of this Annex and without prejudice to the criminal jurisdiction of the Palestinian Authority.

## **Article II**

### **Legal Assistance in Criminal Matters**

#### 1. General

- a) Israel and the Palestinian Authority shall cooperate and provide each other with legal assistance in criminal matters. Such cooperation shall include the arrangements detailed in this Article.
- b) For the purpose of this Article, "Israeli military forces" may include Israel Police and other Israeli security forces.
- c) Documents served by one Party in the territory under the responsibility of the other, shall be accompanied by a certified translation into the official language of the other Party.

#### 2. Cooperation in Criminal Matters

- a) The Israel 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 or detain Israelis or place them in custody. Israelis can identify themselves by presenting Israeli documentation. However, where 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 immediately notify the Israeli authorities through the relevant DCO. Until the arrival of the Israeli military forces the Palestinian Police may, if necessary, detain the suspect in place while ensuring his protection and the protection of all those involved and shall prevent interference with the scene of the offense, collect the necessary evidence and conduct preliminary questioning.
  - d) Without derogating from the jurisdiction of the Palestinian Authority 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 personal belongings where such vehicle or belongings have been used in 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.
- a) 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 the presence of and with the assistance of the Palestinian Police.
  - b) When an Israeli commits an offense and is present in the Yellow Areas or on the Lateral Roads and their adjacent sides as defined in Annex I, the Israeli military forces may, without derogating from the territorial jurisdiction of the Palestinian Authority, arrest, search and detain the offender and shall notify the Palestinian Police immediately, provide it with all necessary information, and coordinate wherever possible.

4.

When an offense is committed inside a Settlement, and all those involved are Palestinians of the Gaza Strip or the Jericho Area or their visitors, the Israeli military forces shall notify the Palestinian Police immediately and shall hand over the offender and the collected evidence to the Palestinian Police unless the offense is security-related.

#### 5. Restraining Orders

Each side shall execute orders issued by the competent organ of the other side restraining a person under the jurisdiction of that side from travelling 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 Israel 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 Palestinian Authority may request Israel to arrest and transfer the individual to the Palestinian Authority.
- 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 Palestinian Authority to arrest and transfer the individual to Israel.
- c) requests under subparagraphs 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 Palestinian Authority:
  - 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 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 the questioning.
  - 4) Where the presence of the suspect is required for an objective reason such as confronting witnesses and identification of site, 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 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) j. The transfer of foreigners by Israel to the Palestinian Authority 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) 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 Palestinian Authority shall execute orders issued by each others' 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 Palestinian Authority 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 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) Summons and subpoenas issued by an Israeli court in respect of defendants and witnesses present in the Territory, shall be effected through the Palestinian Authority which shall be responsible for the service of summons, and the execution of subpoenas by the Palestinian Police. Subpoenas issued in respect of an Israeli defendant or witness shall be executed by the Israeli military forces in the presence of and with the assistance of the Palestinian Police.

- b) Summons or subpoenas issued by a Palestinian court in respect of defendants and witnesses present in Israel shall be effected through the Israel 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 evidence of the witness shall be taken at a Palestinian court situated at an agreed location close to one of the crossing points, and the witness shall be accompanied by representatives of the Israeli military forces together with the Palestinian Police. Where the evidence of a witness is required in connection with proceedings conducted by a court of one side, such a request will be notified to the authorities of the other side to summon the witness.

### **Article III**

#### **Civil Jurisdiction**

- 1. The Palestinian courts and judicial authorities have jurisdiction in all civil matters, subject to this Agreement.
- 2. Israelis conducting commercial activity in the Territory are subject to the prevailing civil law in the Territory relating to that activity. Nevertheless, any enforcement of judicial and administrative judgments and orders issued against Israelis and their property shall be effected by Israel. Israel undertakes to execute such judgments and orders within a reasonable time.
- 3. The Palestinian courts and judicial authorities have no jurisdiction over civil actions in which an Israeli is a party, except for 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 the 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 which is a written agreement, and the Israeli party has consented to such jurisdiction by a specific provision in this agreement;
  - e) the Israeli party is a plaintiff who has filed an action in the Territory. 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 actions concerning other matters as agreed between the Parties.
- 4. 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.

### **Article IV**

#### **Legal Assistance in Civil Matters**

## 1. Service of Legal Documents

Israel and the Palestinian Authority will be responsible, in the areas under their respective territorial responsibility, for the service of legal documents, including subpoenas, issued by the judicial organs under the responsibility of the other Party.

## 2. Interim Orders

- a) Interim orders (e.g., temporary orders of attachment, the appointment of a receiver, restraining orders) issued by judicial organs under the responsibility of either Party will not have effect in the areas under the territorial responsibility of the other Party.
- b) Judicial organs under the responsibility of both Parties will be authorized to issue interim orders which shall apply in the areas under their territorial responsibility, even in cases in which the primary action was filed with the judicial organs under the responsibility of the other Party.
- c) The judicial organs of each side may issue orders restraining an individual from travelling abroad when the order relates to a matter being tried by that organ, subject to the relevant provisions of the domestic laws.

## 3. Taking of evidence

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

## 4. Enforcement of judgements

- a) Israel and the Palestinian Authority will enforce judgements rendered by the judicial organs under the responsibility of the other Party, provided that the judicial organ concerned had the jurisdiction to render the judgement and further provided that the enforcement is not contrary to public policy. The execution office under the responsibility of Israel and the Palestinian Authority shall execute such judgements as if rendered by their own judicial organs.

- b) In executing any judgement against Israelis the Palestinian execution offices will be authorized to issue orders (e.g., attachments, receivership, eviction) against Israeli property within the Territory.
- c) Orders against the freedom of Israelis (e.g., imprisonment orders, restraining orders) shall only be issued by Israeli execution offices.
- d) All orders issued by execution offices against Israelis or Israeli property within the Territory will be executed by the Israel Police with the assistance of the Palestinian Authority, or where the Israel Police notifies the Palestinian Authority that it has no objection, by the Palestinian Police.