



בצלם - מרכז המידע הישראלי לזכויות האדם בשטחים (ע.ר.)
بتسيلم - مركز المعلومات الإسرائيلي لحقوق الإنسان في الأراضي المحتلة
B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories

1 February 2010

Maj. Gen. Avichai Mandelblit
Judge Advocate General
Office of the Judge Advocate General
The Kirya, Tel Aviv
Via Fax: 03-5694526

Dear Sir,

Re: **Disciplinary prosecution of Brig. Gen. Eyal Eizenberg and Col. Ilan Malka**

The media reported this morning that Gaza Division commander Brig. Gen. Eyal Eizenberg and Givati Brigade commander Col. Ilan Malka were prosecuted in disciplinary proceedings for acting without authority when they approved the firing of phosphorous shells at a UNRWA compound in Gaza during Operation Cast Lead, thereby endangering human life.

The report that Israel delivered to the UN last weekend sufficed with a mention that two officers had been prosecuted in disciplinary proceedings for exceeding their authority, endangering human life, when they permitted shelling of populated areas, in breach of army orders.

It is unclear why Israel chose to conceal details of the incident, which were extensively published in a Human Rights Watch report that dealt with Israel's use of phosphorous during the operation. HRW's report indicated that, on the morning of 15 January 2009, the army began firing artillery shells at the UNRWA compound, in which the headquarters responsible for all the organization's operations in the Middle East were housed.

Food and medical equipment were stored in the compound. Also, at the time of the shelling, some 700 civilians who had fled from their homes were located at the site. Some of the shells contained white phosphorous, which ignited two warehouses, a parking lot for vehicles, and a workshop. The damage, which included, among other things, the destruction of blankets, mattresses, washing kits, preserved meat, sacks of flour, three vehicles burned and 15 vehicles damaged, was estimated at 10 million dollars.

During the shelling there was a fear that the fire would spread to the diesel fuel reserve and six tanks of fuel on the compound, two of which were full. Given the large number of civilians at the site, the potential danger was great.

During the shelling, UNRWA workers, including UNRWA's director in the Gaza Strip, John Ging, placed dozens of calls with senior army officials, in which they warned of the danger and demanded that the firing cease.

In addition to concealing details of the incident, Israel did not take the trouble to explain in the report why it was decided to take measures against the persons responsible specifically for this incident, given that dozens of similar cases took place during the operation, in which many civilians were killed. Israel also did not explain why it was decided to prosecute the officers specifically in a disciplinary proceeding, rather than initiate criminal proceedings against them.

The incident was especially grave: senior officers knew, in real time, of the great danger entailed in firing shells at the compound. Despite this knowledge, the army continued to shell the compound, causing fires and massive damage. The civilians present were at great risk, and only a miracle prevented the loss of life. Taking into account the circumstances of the case, and the information that the officers had, it is clear that prosecution on disciplinary charges was not compatible with the severity of the incident.

Therefore, B'Tselem demands that a criminal investigation be opened against the two officers and against every other official who was involved in the shelling. In addition, I would like to know the considerations that formed the basis for the decision to take measures against the persons involved specifically in this case, and why, in the end, a disciplinary proceeding was chosen.

Your prompt response would be appreciated.

Sincerely,

Yael Stein, Adv.

B'Tselem