

April 30, 2024

To:

Adv. Gali Baharav-Miara

The Attorney General

Adv. Amit Isman

Chief Prosecutor

**RE: Urgent Appeal Regarding Suspicions of Violations of Local and International Law
in Recent Comments by Minister Bezalel Smotrich dated April 29, 2024**

We are contacting you in accordance with our professional duty, to alert you to the following:

1. On April 29, 2024, Minister Bezalel Smotrich was hosted at the Mimouna celebration in the town of Ofakim, during which he spoke. Among other things, Minister Smotrich said - regarding the war in Gaza - that "there is no half-baked work. Rafah, Deir al-Balah, Nuseirat - total annihilation. Wipe out the memory of Amalek from under the sky."
2. It goes without saying that the "total destruction" of cities in Gaza is a war crime. Therefore, Minister Smotrich's words may rise to the "inducing" others to commit a war crime (Article 25(3)(b)) to the Rome Statute of the International Criminal Court). Furthermore, these sayings may amount to the offense of incitement to violence or terrorism according to Israeli law, bearing in mind that under the circumstances, during a war in general and in the context of the current war in particular, there is a real possibility that some person will act in accordance with Minister Smotrich's statements. In this context, consideration should be given to Minister Smotrich's senior position as a cabinet member and minister in the Ministry of Defense, and as a prominent leader of a sector in Israeli society.
3. Furthermore, the call for the complete destruction of entire Palestinian cities may even amount to incitement to genocide (Article 25(3)(e) of the Rome Statute of the International Criminal Court, as well as Article 3(a)(2) of the domestic law regarding the prevention and punishment of the crime of genocide, 1950).
4. It should be noted, in this context, that on January 9, 2024, the Attorney General and the Chief Prosecutor announced that "statements that call for, among other things, intentional harm to uninvolved citizens, are against the current policy and may constitute criminal offenses, including incitement offenses" and that several cases of this type are under examination by the relevant authorities.
5. Furthermore, on January 26, the International Court of Justice (ICJ) issued a provisional order instructing Israel to take all measures in its power to prevent and punish incitement to genocide. This order binds Israel on the international level, and administrative discretion must be exercised in its light, *inter alia* in the context of initiating criminal proceedings.
6. We therefore call for an immediate and effective investigation of all the above suspicions.

Sincerely,

Prof. Orna Ben-Naftali
Dr. Natalie Davidson
Prof. Aeyal Gross
Prof. Guy Harpaz
Prof. Tamar Hostovsky-Brandes
Prof. Alexandre (Sandy) Kedar
Prof. David Kretzmer
Prof. Eliav Lieblich
Dr. Doreen Lustig
Prof. Itamar Mann
Dr. Tamar Megiddo
Prof. Yael Ronen
Dr. Ariel Zemach