

**Decisions of the IDF Military Advocate General regarding Exceptional Incidents
during Operation 'Protective Edge' – Update No. 3**

Press Release – 18 March 2015

In accordance with the IDF's policy to ensure transparency with regard to the examination and investigation of exceptional incidents that allegedly occurred during Operation 'Protective Edge' (8 July – 26 August 2014; the 'Operation'), and further to previous Press Releases dated September 10th and December 4th, additional information has been cleared for publication concerning decisions the MAG has reached with regard to several individual incidents.

The Military Advocate General' (the 'MAG') Corps continues to receive complaints regarding exceptional incidents alleged to have occurred over the course of the Operation. Many of these complaints are filed on behalf of Palestinian residents from the Gaza Strip or by non-governmental organizations ('NGO') – Israeli, Palestinian and international. In addition, the MAG Corps actively works to identify incidents warranting examination or investigation. Each complaint or piece of information suggesting a fault in the conduct of IDF forces undergoes an initial examination, in order to determine the credibility and concrete nature of the allegation. If the allegation is deemed credible, *prima facie*, and is sufficiently concrete, it is referred to the MAG, who shall decide whether a criminal investigation is warranted without further examination or whether a factual examination is required by the General Staff Mechanism for Fact-Finding Assessments prior to such a decision.

As previously publicized, soon after the commencement of Operation 'Protective Edge', and whilst the hostilities were ongoing, the previous IDF Chief of General Staff, Lieutenant Colonel Benjamin (Benny) Gantz, ordered that a General Staff Mechanism for Fact Finding Assessments (the 'FFA Mechanism'), headed by a Major General, examine exceptional incidents allegedly occurring during the operation. The FFA Mechanism was tasked with collating information and relevant materials in order to assess the facts of individual incidents. These efforts are intended to provide the MAG with as much factual information as possible in order to enable the MAG to reach decisions regarding whether or not to open a criminal investigation, as well as for the purpose of a 'lessons-learned' process and the issuance of operational recommendations that will assist in preventing exceptional incidents in the future. Recently, Major General (Res.) Yitzhak Eitan was appointed to head the FFA Mechanism, replacing Major General Noam Tibon who had previously filled this position and who has retired from the IDF.

To date, allegations with regard to approximately 126 incidents have been referred by the MAG for examination by the FFA Mechanism. Sixty-five of these incidents have already been examined and referred to the MAG for decision. Of these incidents, six have been referred for criminal investigation by the MAG. With regard to an additional 17 incidents, the MAG decided to close the case without opening a criminal investigation, after the MAG reviewed the findings and materials collected by the FFA Mechanism and did not find that the force's actions gave rise to reasonable grounds for suspicion of criminal behavior. However, in relation to some of these cases, the MAG recommended changes to operational methods. In relation to a few of the cases that were closed, the MAG found that no involvement of IDF forces was identified with regard to the incident. In regard to some of the incidents that were examined and referred to the MAG, the MAG considered that further information was

needed in order to reach a decision, and accordingly these incidents were referred back to the FFA Mechanism for further examination. Tens of additional incidents are still in various stages of examination by the FFA Mechanism, and their findings will be provided to the MAG in due course.

In addition, on the basis of allegations that indicated *prima facie* grounds for a reasonable suspicion of criminal misconduct without the need for prior examination by the FFA Mechanism, at the time of publication, the MAG has ordered the opening of 13 criminal investigations. Of these criminal investigations, the MAG decided to close two without undertaking any criminal or disciplinary proceedings, as will be detailed herein. The remainder of the investigations are still ongoing, or have been completed and their findings are awaiting review by the MAG.

All criminal investigations are carried out in a thorough and prompt fashion by a special investigation team assembled by the Military Police's Criminal Investigation Division in order to investigate incidents alleged to have occurred during Operation 'Protective Edge'. This team has collected testimonies from many IDF soldiers and commanders, as well as from a substantial number of Palestinians who were witnesses to some of the incidents in question. The investigations undertaken by the MPCID are progressing at a rapid pace.

Where a complaint had been submitted in a written form, a reply has been sent to the complainant organization or individual.

Below is information which has been cleared for publication regarding decisions the MAG has reached with regard to specific incidents.

Cases Closed by the MAG Following a Fact-Finding Assessment by the FFA Mechanism

1. Allegation Concerning the Deaths of Members of the Abu Itta Family in Tel Al-Za'atar (24 July 2014) –

In media reports, as well as complaints received by the MAG Corps from NGOs, it was alleged that on 24 July 2014, as a result of an air strike on the house of the Al-Ajrami family in Tel Al-Za'atar, five members of the Abu Itta family who were in an adjoining building were killed. Subsequently, and in accordance with the MAG's investigation policy, the incident was referred to the FFA Mechanism for examination.

According to the factual findings collated by the FFA Mechanism and presented to the MAG, at the time in question, a weapons cache was struck that was located in the house of a senior military operative in Hamas, Ahmad Al-Ajrami. Prior to the strike on the cache, the IDF issued a number of detailed warnings over the telephone, wherein the residents of the building in which the weapons cache was located, and the residents of a number of surrounding buildings that were expected to be damaged as a result of the strike, were asked to vacate the premises. Additionally, a warning strike was executed on the roof of the building in which the weapons cache was located, as well as on the roof of the adjoining building which was expected to be significantly impacted as a result of the strike, as part of the "knock on the roof" procedure. During this time, many people were seen leaving these buildings. The strike was carried out after it was assessed that it was possible to conclude that civilians were not expected to be harmed in the building targeted and the adjoining buildings, as a result of the strike.

After the event, it appears that as a result of the strike, five civilians, members of the Abu Itta family, were killed, and others were injured. It was not fully determined whether those deceased had been present in an adjoining building whose evacuation was specifically asked for, or whether they were in another adjoining building that had been damaged more significantly than had been expected.

After reviewing the factual findings and the material collated by the FFA Mechanism, the MAG found that the targeting process in question accorded with Israeli domestic law and international law requirements. The decision to strike was taken by the competent authorities, and was aimed at a military objective – a weapons cache. The strike complied with the principle of proportionality, as at the time the decision was taken, it was considered that the collateral damage expected from the strike would not be excessive in relation to the military advantage anticipated from it, and it appears that this estimation was not unreasonable under the circumstances. Moreover, the strike was carried out while undertaking a series of precautionary measures which aimed to minimize civilian harm. *Inter alia*, a specific warning was provided to the residents of the buildings which were expected to be impacted as a result of the strike, and ongoing visual surveillance of the event was used to confirm their evacuation.

In light of these findings, the MAG did not find that the actions of IDF forces raised grounds for a reasonable suspicion of criminal misconduct. As a result, the

MAG ordered the case to be closed, without opening a criminal investigation or ordering further action against those involved in the incident.

2. Allegation Concerning Strikes on a School in Al-Bureij and an UNRWA School in Nusseirat (25 July 2014) –

In an operational report received by the MAG Corps, it arose that on 25 July 2014, IDF forces struck a school in Al-Bureij and an UNRWA school in Nusseirat (in an initial report it was alleged that as a result of one of these strikes, five civilians were injured, however, from a later report it arose that there were no individuals harmed in this incident). Subsequently, and in accordance with the MAG's investigation policy, the incident was referred to the FFA Mechanism for examination.

According to the factual findings collated by the FFA Mechanism and presented to the MAG, the incident started with an attack carried out on 25 July 2014 against IDF forces in the Gaza Strip that were located in an area to the East of Al-Bureij, by means of mortar shells and anti-tank missiles. During this incident, first sergeant Guy Levi was killed, and another Israeli soldier was injured. Concurrently, high-trajectory fire was also being launched at other forces that were located within the same area of operations, including fire which resulted in a direct hit on a structure in which one of the brigade's companies was located. IDF technological systems identified the source of this fire in real-time as emanating from two sites – the mortar fire and anti-tank rockets from the area of Al-Bureij, very close to a school; and mortar fire from the area of Nusseirat close to an UNRWA school and next to (at a distance of a few meters away) an UNRWA center which provided sanitation, aid, welfare, food distribution and employment services. This area, which is normally a residential area, was known to the IDF forces as a hub of Hamas' and Palestinian Islamic Jihad's military activity over the course of the Operation.

In an attempt to stop the attack and suppress the fire, IDF forces carried out targeted tank fire towards certain spots in the vicinity of the school in Al-Bureij, which were identified as the sources of the fire, all the while being careful to avoid hitting the school itself. Apparently, as a result of one of the projectiles fired, the wall surrounding the school was struck (though no shells landed within the school). As mentioned, a later report did not allege that any civilians were injured by this strike.

At the same time, the IDF carried out targeted aerial strikes in Nusseirat against individuals who had been identified as directly participating in the aforementioned high-trajectory fire on IDF forces. Apparently, as a result of one of these strikes, carried out against a militant who was at a distance of a few tens of meters from the UNRWA school in Nusseirat, the wall surrounding the school was struck (though no fire hit the school itself). Again, a later report did not allege that any civilians were injured by this strike.

After reviewing the factual findings and the material collated by the FFA Mechanism, the MAG found that the targeting processes in question accorded with Israeli domestic law and international law requirements. The decisions regarding the strikes were taken by the competent authorities. The strikes were

aimed against lawful targets – militants who were directly participating in hostilities, and who fired on IDF troops. The strikes complied with the principle of proportionality, as at the time the decision was taken it was considered that the collateral damage expected from the strikes would not be excessive in relation to the military advantage anticipated from the strikes. Moreover, the strikes were carried out while undertaking precautionary measures which aimed to mitigate the risk of civilian harm and damage to UNRWA facilities, the existence of which were known to the forces, despite what appears to be an attempt by terror organizations to misuse these sites in order to fire upon IDF forces.

In light of these findings, the MAG did not find that the actions of IDF forces raised grounds for a reasonable suspicion of criminal misconduct. As a result, the MAG ordered the case to be closed, without opening a criminal investigation or ordering further action against those involved in the incident.

3. Allegation Concerning the Deaths of 31 Individuals as a Result of Strikes on the House of the Al-Salak Family and Its Surroundings in Shuja'iyya (30 July 2014) –

In reports published in various media sources, it was alleged that on 30 July 2014, IDF forces fired upon the marketplace in Shuja'iyya, at a time when a ceasefire was in place, and as a result of these strikes, between 15 to 17 people were killed, including children, emergency services personnel, and reporters. Subsequently, and in accordance with the MAG's investigation policy, the incident was referred to the FFA Mechanism for examination.

After the incident was referred to the FFA Mechanism for examination, the MAG Corps received an additional complaint from an NGO, in which a different account of the event was provided. According to the account provided in the complaint, the incident described above actually took place in an area that was at a distance of around 150 meters from the market in Shuja'iyya, and not within the market itself. According to the allegations, the event commenced with a strike by a shell on a number of individuals from the Al-Salak family, who were up on the roof of their house, a fact which resulted in the death of seven members of the family. After the strike, a large number of people started to gather in the open area next to the family's house, including medical personnel, reporters, and others. While people were gathered there, another two shells struck the area, resulting in the deaths of 21 of those present. Additionally, it was alleged that as a result of additional shell strikes, an individual in an adjacent building was killed, along with two individuals part of Hamas' Civil Defence. All total, according to this account, 31 people were killed in the course of this incident. It was further alleged, that over the course of the incident, a total of 16 shells were fired at the area.

According to the factual findings collated by the FFA Mechanism and presented to the MAG, the events associated with the incident started at approximately 16:10, when an anti-tank (AT) missile was fired at IDF forces operating in an open area on the outskirts of the Shuja'iyya neighborhood. Immediately after the anti-tank missile was fired, there commenced an intense and ongoing burst of mortar fire, emanating from a built-up area in the neighborhood, targeting the forces. As a result of this fire an IDF soldier was injured and the rest of the soldiers at the scene were placed in real danger. Further, in light of this use of fire, and the situation in which the forces found themselves (including a tank that

could not move due to malfunction), the conclusion drawn by the commanders in the field was that this fire could provide cover for an attempt to abduct a soldier. During this episode of mortar fire, five sites in a built-up area were identified as points from which shells had been fired at IDF forces. Nevertheless, IDF forces did not return fire towards the sources of this fire, because of their proximity to "sensitive sites" (in the IDF, "sensitive sites" are civilian sites that receive special protection from attack under the law of armed conflict (such as medical facilities), as well as other civilian sites that warrant special consideration for policy reasons, even when there is no legal obligation (such as schools); such sites are identified in advance by the IDF and integrated into IDF's operational systems).

At approximately 16:40, when the mortar fire had not yet ceased, IDF forces fired a number of rounds of smoke-screening shells, in order to screen the troops, and frustrate the enemy fire. At approximately 17:00, as the mortar fire upon the troops from the built-up area continued, and in light of the ongoing threat to the lives of the troops, the forces were able to identify two additional sources of fire, from which most of the fire towards them was originating at that time. After it was concluded that one of these points was sufficiently distant from sensitive sites, it was decided to return a limited amount of fire, of five mortar shells, with the aim of suppressing the fire targeted at IDF forces. The IDF fire was carried out using mortars, since there was no available alternative for carrying out the strike, including aerial alternatives, which would allow the necessary operational effect to be achieved. In this context, the possibility of using 155 mm high-explosive artillery shells was also considered, in order to address the danger faced by the forces. This possibility was dismissed for the reason that the collateral damage expected from mortar shells was more limited.

Approximately 18 minutes after the initial mortar fire was carried out by the forces, towards the source of the fire, and after the fire emanating from that site had not ceased, it was decided to fire an additional ten mortars towards it. After this round of fire, the mortar fire on IDF forces ceased. Only around 40 minutes after the execution of the above-mentioned fire were reports received by the IDF regarding the hit on civilians in this area.

The FFA Mechanism's findings further revealed that at the time of the incident, the forces had believed that the likelihood of civilians being harmed as a result of the fire was low. Before the start of the ground incursion in Shuja'iyya, a widespread warning to evacuate had been provided, which, according to the information in the force's possession, had resulted in the evacuation of the vast majority of the civilian population in the neighborhood. An additional warning to evacuate was made two days prior to the incident, on 28 July, in order to keep the civilian population at a distance from the area of hostilities. Moreover, during the ongoing aerial surveillance carried out in the area in the period leading up to the incident, no civilian presence was identified on the roads and in the open areas of the neighborhood – which are the areas in which the danger posed by mortar shells is generally greater than the danger to those inside a building. In real time, no aerial surveillance capabilities were available to the forces. Thus, even if the possibility of civilian presence in the area had not been entirely ruled out, in consideration of the assessment that most of the population had evacuated and

that no civilian presence was identified in the area prior to the incident, the understanding was that the risk of harm as a result of the limited fire was low.

After the event, by comparing the actions taken by IDF forces with the allegations contained in the complaint received by the MAG Corps, it can be concluded that one of the shells from the first round of fire carried out by IDF forces apparently struck the roof of the Al-Salak family, at a time when the family was on the roof, and killed seven family members; and that two shells from the second round of fire carried out by IDF forces apparently struck the crowd which had gathered next to the Al-Salak house in the wake of the first strike. At the same time, the possibility that the harm to civilians during this incident resulted from a misfire by a Palestinian terror organization has not been ruled out, in light of the extensive enemy mortar fire emanating from the area at the time.

In addition to the above, intelligence information indicated that six of the deceased in this incident appear to have been militants, and thus the total civilian fatalities is lower than that alleged in the complaint.

The FFA Mechanism's findings further concluded, that the incident in question did not take place during a ceasefire in Shuja'iyya. The IDF announced a unilateral humanitarian ceasefire between the hours of 15:00 and 19:00 on that day, but clarified that this would not apply in a number of specific areas in which IDF forces were operating at that time, including Shuja'iyya (along with a number of other areas). This was transmitted in the media and in messages that were passed to the Palestinian side.

After reviewing the factual findings and the material collated by the FFA Mechanism, the MAG found that the fire was carried out in a manner that accorded with Israeli domestic law and international law requirements. The fire was aimed towards mortars and their operators, with the aim of neutralizing their capacity to continue carrying out ongoing and intensive fire on IDF forces, who found themselves in a situation of clear and present mortal danger. Prior to the execution of the fire, and during it, IDF forces acted in a restrained and calculated manner, and undertook a number of precautions which were intended to avoid, and in any event to minimize, harm to civilians. Initially the forces refrained entirely from returning fire, and thereafter they attempted to frustrate and cause the cessation of this fire by creating a smoke screen. After the fire did not cease, a number of alternatives were considered for returning fire to the sources of the fire, and out of the available and effective alternatives, they chose the means that was expected to result in the least collateral damage. Even then, the return fire was carried out in a measured and limited fashion.

As regards the strike's compliance with the principle of proportionality, the MAG considered the reasonableness of the commander's decision, taking into account the information that he had at his disposal at that time, both as regards the imperative military necessity of stopping the fire and neutralizing the danger posed to the forces, as well as in regard to the harm expected to result to civilians as a result of the strike. The MAG found, that in the incident in question, there occurred a number of coincidences and series of events that a military commander should not be expected to predict – the shell that resulted in the first

instance of extensive harm to civilians (members of the Al-Salak family) landed on a roof, at a time where there was a group of people on the roof (while the chance that the shell would penetrate the building and cause similar harm to persons inside, was lower); and the second instance of extensive harm was caused to a group who had gathered outside the house of the Al-Salak family, in the wake of the previous strike. At the time when the decision was made to carry out the second round of fire, IDF forces were not aware of the hit on the Al-Salak house as a result of the first round of fire, nor of the crowd which had gathered outside the Al-Salak house. In light of the above, the MAG found that the commander's assessment that the collateral damage expected from the strike would not be excessive in relation to the military advantage anticipated from it, was not unreasonable under the circumstances, in light of the information that was at his disposal at that time. As such the MAG found that there had been no misconduct on the part of IDF forces in regards to the incident in question, and that even though the ultimate outcome of the action was tragic, it does not affect the legality of the fire *post facto*.

In light of these findings, the MAG did not find that the actions of IDF forces raised grounds for a reasonable suspicion of criminal misconduct. As a result, the MAG ordered the case to be closed, without opening a criminal investigation or ordering further action against those involved in the incident.

4. Allegation Concerning the Injury of 10 Individuals as a Result of a Strike on an UNRWA School in Jabalia (next to the Omar Ibn Al-Khattab Mosque) (31 July 2014) –

According to various media reports, as well as a report from OCHA (United Nations Office for the Coordination of Humanitarian Affairs), it was alleged that on 31 July 2014, IDF forces shot a number of shells at the Omar Ibn Al-Khattab mosque in Jabalia. According to the reports, shrapnel from these shells hit an UNRWA school, and caused injury to 10 civilians who were using the school as a shelter (two of whom were severely injured). Subsequently, and in accordance with the MAG's investigation policy, the incident was referred to the FFA Mechanism for examination.

According to the factual findings collated by the FFA Mechanism and presented to the MAG, no such strikes were identified as having been carried out by IDF forces. However, the path of a rocket fired from inside the Gaza Strip, apparently by Hamas or Palestinian Islamic Jihad, was identified by the IDF in real time, and which struck in the immediate vicinity of the mosque at the exact time in question. In light of the fact that the injury to the individuals in the school resulted from rocket fire by Palestinian terror organizations, the MAG ordered the case to be closed.

5. Allegation Concerning the Deaths of 10 Individuals During a Strike on the House of the Abu Najam Family in Jabalia (3 August 2014) –

According to a report received by the MAG Corps from an NGO, it was alleged that on 3 August 2014 eight persons were killed as a result of an IDF strike on the home of the Abu Najam family. In other reports in the media, it was alleged that ten people were killed, including two who were Palestinian Islamic Jihad

militants – Danian Mansour and Abd Al-Nasser Al-Ajouri. It was further claimed in these reports, that during this strike five civilians were killed (members of the Abu Najam family) who were staying in the house where the two aforementioned Palestinian Islamic Jihad militants were located, while in an adjacent house, three civilians were killed. Subsequently, and in accordance with the MAG's investigation policy, the incident was referred to the FFA Mechanism for examination.

According to the factual findings collated by the FFA Mechanism and presented to the MAG, the strike in question was directed at Danian Mansour, a very senior commander in the Palestinian Islamic Jihad terror organization, with a rank equivalent to that of a brigade commander, responsible for the organization's operations in the northern Gaza Strip, and with overall responsibility for the organization's intelligence service. At the time of the strike, Mansour was staying in the home of Mohammad Abu Najam. During the planning stages of the strike, it was assessed that there might be civilians present in the building, but that the extent of the harm to those civilians would not be excessive in relation to the significant military advantage anticipated to be achieved as a result of the strike. In this context, it should be noted that the building in question was thought to consist of only one residential apartment – the apartment in which Mansour was staying. The strike on the building was planned for execution by means of a precise munition, and in a way in which would allow achieving the aim of the strike whilst minimizing harm to the surrounding buildings. Likewise, a number of different checks were conducted in order to assess the extent of expected harm to civilians in the surrounding buildings.

After the event, it appears that as a result of the strike the target, Danian Mansour, was killed, along with Abd Al-Nasser Al-Ajouri, a senior Palestinian Islamic Jihad military operative. Immad Al-Masri, Danian Mansour's deputy, was injured, along with two additional terror operatives (Mohammad Al-Masri of Palestinian Islamic Jihad and Vaal Kassam of Hamas). Likewise, according to the above-mentioned reports, it appears that as a result of the strike an additional eight civilians were killed – five in the Abu Najam house that was struck, and three in the house adjacent to it.

After reviewing the factual findings and the material collated by the FFA Mechanism, the MAG found that the targeting process in question accorded with Israeli domestic law and international law requirements. The decision to strike was taken by the competent authorities and aimed at a lawful target – a very senior commander in Palestinian Islamic Jihad. The strike complied with the principle of proportionality, as at the time the decision was taken, it was considered that the collateral damage expected from the strike would not be excessive in relation to the military advantage anticipated from it. Moreover, the strike was carried out while undertaking precautionary measures which aimed to mitigate the risk of civilian harm, with an emphasis on those who were present in the surrounding buildings. Such measures included, *inter alia*, the choice of munition to be used, as well as the deployment of real-time visual coverage. Additionally, it was found that the provision of a specific warning prior to the attack, to the people present in the structure in which the target was located, or to those in adjacent buildings, was not required by law and was expected to result in the frustration of the strike's objective.

In light of these findings, the MAG did not find that the actions of IDF forces raised grounds for a reasonable suspicion of criminal misconduct. As a result, the MAG ordered the case to be closed, without opening a criminal investigation or ordering further action against those involved in the incident.

6. Allegation Concerning the Deaths of Six Individuals During a Strike on the House of the Al-Bakri family in Gaza City (4 August 2014) –

In media reports, as well as complaints received by the MAG Corps from NGOs, it was alleged that on 4 August 2014, five members of the Al-Bakri family were killed, along with one additional person who was staying at their home, as the result of an IDF strike on the house. According to some of the reports, two of the deceased – Ramadan Al-Bakri and Ibrahim Al-Masharawi – were militants in the Palestinian Islamic Jihad, while the remaining four deceased were civilians. Subsequently, and in accordance with the MAG's investigation policy, the incident was referred to the FFA Mechanism for examination.

According to the factual findings collated by the FFA Mechanism and presented to the MAG, the strike in question was aimed at Omar Al-Rahim, a senior commander, at a rank equivalent to that of a deputy brigade commander, in the Palestinian Islamic Jihad terror organization. Al-Rahim was staying in the house of Ramadan Al-Bakri, a Palestinian Islamic Jihad militant. During the target planning process, it was assessed that there might be a number of civilians present in the building, but that the extent of the harm expected to these civilians would not be excessive in relation to the significant military advantage anticipated to result from the strike. It was planned that the strike on the building would be carried out using a precise munition, and in a way in which would allow achieving the aim of the strike whilst minimizing harm to the surrounding buildings.

After the event, as a result of the strike, the target, Omar Al-Rahim, was severely injured, and Ibrahim Al-Masharawi, who was a senior commander at a rank equivalent to a battalion commander in the Palestinian Islamic Jihad, was killed, along with Ramadan Al-Bakri, a Palestinian Islamic Jihad militant, and four civilians.

After reviewing the factual findings and the material collated by the FFA Mechanism, the MAG found that the targeting process in question accorded with Israeli domestic law and international law requirements. The decision to strike was taken by the competent authorities and aimed at a lawful target – a senior commander in Palestinian Islamic Jihad. The strike complied with the principle of proportionality, as at the time the decision was taken, it was considered that the collateral damage expected from the strike would not be excessive in relation to the military advantage anticipated from it. Moreover, the strike was carried out while undertaking precautionary measures which aimed to mitigate the risk of civilian harm, with an emphasis on those who were present in the surrounding buildings. Such measures included, *inter alia*, the choice of munition to be used, as well as the deployment of real-time visual coverage. Additionally, it was found that the provision of a specific warning prior to the attack, to the people present in the structure in which the target was located, or to those in adjacent buildings, was not required by law and was expected to result in the frustration of the strike's objective.

In light of these findings, the MAG did not find that the actions of IDF forces raised grounds for a reasonable suspicion of criminal misconduct. As a result, the MAG ordered the case to be closed, without opening a criminal investigation or ordering further action against those involved in the incident.

7. Allegation Concerning the Deaths of Members of the Abu Dahrouj Family in the Al-Zuwayda Village (23 August 2014) –

In media reports, as well as complaints received by the MAG Corps from NGOs, it was alleged that on 23 August 2014, five members of the Abu Dahrouj family were killed in the Al-Zuwayda village, as a result of an air strike carried out by the IDF. In a report published by an NGO, it was mentioned that one of the deceased, Hayel Abu Dahrouj, was a militant with the Palestinian Islamic Jihad organization. Subsequently, and in accordance with the MAG's investigation policy, the incident was referred to the FFA Mechanism for examination.

According to the factual findings collated by the FFA Mechanism and presented to the MAG, at the time in question, around midnight, an IDF fighter jet dropped a bomb which was aimed at a weapons cache located in an open area, at a distance of around 100 meters from the building in which the Abu Dahrouj family stayed. As part of the strike, a number of precautionary measures were taken in order to prevent any harm to civilians, such as the deployment of real-time visual coverage, and the utilization of a relatively small and precise munition. This notwithstanding, it appears that as the result of an unforeseen technical failure, during the course of the strike the bomb diverged from its intended trajectory and struck the home of the Abu Dahrouj family. A short time later, an additional bomb was dropped, which struck the weapons cache.

As noted above, it was revealed, *post facto*, that one of the five deceased, Hayel Abu Dahrouj, was a military operative in the Palestinian Islamic Jihad organization; nonetheless, he was not the object of the strike.

After reviewing the factual findings and the material collated by the FFA Mechanism, the MAG found that the targeting process in question accorded with Israeli domestic law and international law requirements. The decision to carry out the strike was made by the competent authorities, and the strike was aimed at a military objective – a weapons cache. At the time that the decision was made, the strike was not, according to the assessment of the operational authorities, expected to result in any collateral damage to individuals or to property that was not the military objective (and was, as such, in accordance with the principle of proportionality). Several precautionary measures were undertaken as part of the strike in order to realize that expectation. Such measures included, *inter alia*, the choice of munition to be used, as well as the timing of the strike and real-time visual coverage on the weapons cache that was targeted.

The fact that in practice there occurred an unforeseen failure, which resulted in it going off-trajectory and causing harm to civilians and to property, is regrettable, but does not affect the legality of the attack *post facto*.

Consequently, and in light of the above, the MAG did not find that the actions of IDF forces raised grounds for a reasonable suspicion of criminal misconduct. As a result, the MAG ordered the case to be closed, without opening a criminal investigation or ordering further action against those involved in the incident.

Incidents into Which the MAG has Ordered Criminal Investigations Following an Assessment by the FFA Mechanism

Allegation Concerning a Strike on an UNRWA School in Jabalia, which Resulted in the Deaths of Approximately 20 Individuals (30 July 2014) –

The MAG Corps received reports, as well as complaints from NGOs, wherein it was alleged that as the result of an IDF strike on 30 July 2014, approximately 20 people were killed, and tens more were injured in an UNRWA school located in Jabalia, which was serving as a shelter at the time of the incident. Subsequently, and in accordance with the MAG's investigation policy, it was decided to refer the incident to the FFA Mechanism for examination.

The factual findings collated by the FFA Mechanism and presented to the MAG, indicated the existence of grounds for a reasonable suspicion that the strike was not carried out in accordance with the rules and procedures applicable to IDF forces. As a result, the MAG has ordered the opening of a criminal investigation into the incident.

Incidents Regarding Which the MAG Ordered Criminal Investigations without Prior Fact-Finding Assessment

1. Allegation Concerning an Abuse of a Resident of Khuza'a under Detention (23 July 2014) –

The MAG Corps received a complaint, on behalf of a resident of Khuza'a, alleging that after his capture by IDF forces, he was struck by IDF soldiers without provocation, whilst he was handcuffed and blindfolded. In response to these reports, the MAG ordered the opening of a criminal investigation into the incident.

2. Allegation Concerning an Abuse of a Resident of Khuza'a under Detention (23 July 2014) –

The MAG Corps received a complaint, on behalf of another resident of Khuza'a, alleging that after his capture by IDF forces, he was struck by IDF soldiers, without provocation, whilst he was handcuffed and blindfolded. In response to these reports, the MAG ordered the opening of a criminal investigation into the incident.

3. Allegation Concerning Looting in Deir Al-Balah (the second half of July 2014) –

The MAG Corps received a complaint, on behalf of a resident of Deir Al-Balah, alleging that IDF soldiers looted his property, allegedly during the period in which he and his family had evacuated their home, during the second half of the month of July. Subsequently, the MAG ordered the opening of a criminal investigation into the incident.

4. Allegation Concerning Looting in Khan Yunis (the second half of July 2014) –

The MAG Corps received a complaint, on behalf of a resident of Khan Yunis, alleging that IDF soldiers looted his property, allegedly during the period in

which he and his family had evacuated their home, during the second half of the month of July. Subsequently, the MAG ordered the opening of a criminal investigation into the incident.

5. Allegation Concerning Abuse of Detainees in Rafah (1 August 2014) –

The MAG Corps received a complaint, on behalf of two residents of Rafah, alleging that after their arrest by IDF forces, they were struck by IDF soldiers, without provocation, and whilst they were handcuffed and blindfolded. Subsequently, the MAG ordered the opening of a criminal investigation into the incident.

Criminal Investigations which were Completed and in Regard to which the MAG has made a decision

1. Allegations Concerning Looting in Khuza'a (the second half of July 2014) –

The investigation file was closed after the complainant failed to appear to provide testimony before MPCID investigators. The complainant failed to appear despite the fact that in the wake of the complaint made by his legal representative, he was provided with a document guaranteeing him immunity from arrest at the time of his arrival to provide testimony. Under these circumstances, and in the absence of evidence to support his claim and thus provide a basis for a suspicion of criminal misconduct by IDF soldiers, it was decided to close the case.

2. Allegations Concerning Looting in Khuza'a (the second half of July 2014) –

The investigation file was closed after the complainant failed to appear to provide testimony before MPCID investigators. The complainant failed to appear despite the fact that in the wake of the complaint made by his legal representative, he was provided with a document guaranteeing him immunity from arrest at the time of his arrival to provide testimony. The mother provided testimony to MPCID investigators, yet her testimony was essentially hearsay. Under these circumstances, and in the absence of evidence to support his claim and thus provide a basis for a suspicion of criminal misconduct by IDF soldiers, it was decided to close the case.