State of Israel
Ministry of Justice

The Office of The Deputy Attorney General (International Law)

Date: Tevet 1, 5780

December 29, 2019

Ref: 1255

Dear Sir/Madam,

Re: Mr. Mordechai Vanunu

We received your enquiry regarding Mr. Mordechai Vanunu, and would like to address your concerns, according to information forwarded to us by the relevant authorities.

1. Mr. Vanunu was prosecuted and subsequently convicted for transmission of secret information with the intent to harm state security, collecting secret information with the intent to harm state security, and aiding the enemy during a state of war. In 1986, he was sentenced to 18 years of imprisonment. Mr. Vanunu was released from prison on April 21, 2004. Following his release and due to the risk that he may travel abroad and expose additional confidential information in his possession, certain limitations were imposed on him. These limitations were published in orders that were issued by the Head of the Home Front Command, after receiving a supportive opinion by the Attorney General.

2. These limitations were the subject of Mr. Vanunu's subsequent petitions to the High Court of Justice, requesting their revocation:
   a. H.C.J. 5211/04 *Mordechai Vanunu V. Head of the Home Front Commander,*
   b. H.C.J. 6358/05 *Mordechai Vanunu V. Head of the Home Front Commander,*
   c. H.C.J. 4624/06 *Mordechai Vanunu V. Head of the Home Front Commander.*
   d. H.C.J. 6565/08 *Mordechai Vanunu V. Head of the Home Front Commander et. al.*
   e. H.C.J. 6767/10 *Mordechai Vanunu V. Head of the Home Front Commander.*
   f. H.C.J. 5296/11 *Mordechai Vanunu V. Head of the Home Front Commander.*
   g. H.C.J. 5198/13 *Mordechai Vanunu V. The Attorney General et. al.*
   h. H.C.J. 4949/14 *Mordechai Vanunu V. The Attorney General et. al.*
   i. H.C.J. 5113/15 *Mordechai Vanunu V. The Attorney General et. al.*

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j. H.C.J. 6960/17 *Mordechai Vanunu V. The Attorney General et. Al.*

k. H.C.J. 8927/18 *Mordechai Vanunu V. The Attorney General et. Al.*

l. H.C.J 5881/19 *Mordechai Vanunu V. The Attorney General et. Al.*

3. In all of the above mentioned cases, the Court rejected Mr. Vanunu's arguments, and confirmed the validity of the orders issued against him.

4. During the court hearings, the Supreme Court judges learned about some of the secret information held by Mr. Vanunu, and based on this information, determined that Mr. Vanunu aspires, with high level of persistence, to publish the information in his possession abroad. The judges also found that this constitutes a relevant threat to the security of the State of Israel, despite the time elapsed.

5. On April 30, 2007 Mr. Vanunu was convicted of 14 violations of the Limitation and Supervision Orders, and one attempted violation of these orders. Mr. Vanunu was convicted on the basis of conversations in which he revealed details concerning his knowledge in the nuclear field. The Court acknowledged that the orders are an onerous option for Mr. Vanunu, but stated that Mr. Vanunu had displayed complete contempt for the orders. Consequently, on July 2, 2007, Mr. Vanunu was sentenced to six months imprisonment and six months' probation for a period of three years.

6. Mr. Vanunu appealed to the District Court and most of his appeal was rejected. The Court noted that the offences Mr. Vanunu committed are not trivial, both in regard of the number of offences and by the fact that he committed some of them even after his appeal to the High Court of Justice was rejected and even after he was arrested and interrogated. The Court stated that Mr. Vanunu took the law into his own hands in defiance which deserves a proper punitive response. The great sensitivity of the District Court to Mr. Vanunu's rights may be seen in the fact that the Court examined profoundly the 14 cases in which Mr. Vanunu violated the orders, and found him not guilty in three of the cases. The Court however affirmed Mr. Vanunu's conviction in the other 11 violations of the orders, but mitigated his sentence from six to three months. Mr. Vanunu's request to file an appeal to the Supreme Court was rejected by the Supreme Court on December 15, 2009.

7. In 2011, Mr. Vanunu appealed again to the High Court of Justice against the restriction orders against him, claiming, *inter alia*, that these restrictions do not coincide with the values of the State of Israel and are disproportionate. The Court

noted that the cancellation of the orders may lead to real threat to security interests that any State would have protected, and that the evidence show many contacts with unauthorized foreign figures contrary to the orders' restrictions. The Court added that the State must protect itself from the threat posed by Mr. Vanunu, and that the restrictions are not disproportionate and therefore rejected the appeal.

8. In 2013, Mr. Vanunu appealed once more to the High Court of Justice against the restriction orders. On December 29, 2013, after reviewing all the materials presented to it, the Court decided that there are no reasons to intervene in the respondents' decisions to extend the orders by an additional year. It was further noted that there is no dispute that the orders harm Mr. Vanunu's rights, however, they do not constitute a punitive measure. The Court noted that the evidential materials show that the appellant still holds confidential information and did not change his intention of revealing this information.

9. The Court also noted that the respondents position, according to which, there is a need to re-examine the necessity of these orders with a view of the passing time, in order to ensure that the infringement of Mr. Vanunu's rights, is proportionate and not excessive. Finally the Court rejected Mr. Vanunu's appeal.

10. In 2014, Mr. Vanunu appealed yet again to the High Court of Justice against the restriction orders. After hearing both sides, the Court held an ex-parte hearing with the State's representatives in which it requested response in regard to several issues.

11. In a State notification dated December 28, 2014, the State notified the Court that following a discussion headed by the State Attorney, it was decided to further narrow the limitations imposed on Mr. Vanunu in regard to meetings with foreign citizens or residents.

12. The Court noted that at the present stage, Mr. Vanunu should try the solution offered by the State. The Court noted that it is aware of the difficulties imposed on Mr. Vanunu; however, his history warrants extreme caution. The Court noted that, without setting any obligations on the matter, as long as the appellant will respect, for a long period, the limitations in their new settings, which are narrower, this might serve as an opening for further reduction of the limitations. The Court therefore rejected Mr. Vanunu's appeal.

13. In July 2015 Mr. Vanunu appealed once again to the High Court of Justice against the restriction orders. However on May 2016, a criminal indictment that included three counts of violation of a legal order due to his violation of the restriction orders against him was filed against Mr. Vanunu to the Jerusalem Magistrate Court. These violations included, *inter alia*, meeting with two U.S. citizens despite am order restricting him from meeting with foreign nationals without prior approval and conveying information during a television interview also contrary to a restriction order against him. Due to this indictment, the High Court of Justice postponed the decision regarding Vanunu's appeal as not to influence the lower Court's decision. Note that Mr. Vanunu confessed to the fact and acknowledged the existence of the orders against him. On January 18, 2017, the Court convicted Mr. Vanunu of one count of violation of a legal order, and acquitted him from the other two charges, and on July 10, 2017 sentenced him two months suspended imprisonment for the period of three years and to 120 hours of community service (Cr.C 17212-05-16 *The State of Israel v. Mordechai Vanunu* (10.7.17)).

14. Following this decision, the High Court of Justice resumed its deliberations on Mr. Vanunu's Appeal. In the frame of this petition Mr. Vanunu referred to the passage of time since the previous petition, and claimed that he no longer poses a threat to national security. The Court mentioned that as time passes, the burden of proof for the restrictions on Mr. Vanunu's liberty rises. Yet, the relevant authorities' decision to prolong the orders is not conducted automatically and these consideration are reviewed each time based on an updated information materials. It was further noted that alongside the courts desire to reduce the scope of the restriction orders, lays Mr. Vanunu's manner of conduct which does not justify such actions. As he did not respect these orders in the past, the High Court did not find reason to alter or cancel the orders at this time (6.4.17).

15. On April 11, 2019 the High Court of Justice rejected an additional appeal of Vanunu to remove the restriction orders. The Court was presented with two confidential reports containing information which Vanunu continues to posses, and an assessment of the risk that Vanunu will expose the information to foreign bodies. The Court noted it is convinced that Vanunu remains a security risk which justifies maintaining the orders against him. The Court emphasized that this case has been excessively discussed by the courts, and due to Vanunu's own actions, the state must

act in restraint and caution in assessing the risk of him exposing additional classified information. The Court reiterated that the state should reexamine periodically the continued necessity of the restrictions.

16. On December 16, 2019 the High Court of Justice rejected an additional appeal regarding the limitations enforced on Vanunu. While the Court acknowledged the importance of reviewing the continued legitimacy of the limitations imposed, it was convinced that due to Vanunu's online activity as well as classified information, he still posses a risk to the security of the State of Israel. Thus, his appeal was denied.

Sincerely yours,

Assaf Radzyner, Adv.

Cc. Hila Tene-Gilad, Adv.