Translation from the Hebrew by Peace Now

November 10, 2026

Gali Baharav-Miara, Adv.
Attorney General
Via the online system

Re: Preventing the opening of the E1 tender box while a caretaker government is in office

On behalf of my clients, the organizations
Peace Now, Bimkom – Planning and Human Rights, and Ir Amim

Dear Attorney General,

1. I write to you on the above matter on behalf of my clients, the organizations Peace Now, Bimkom – Planning and Human Rights, and Ir Amim. I note at the outset that an administrative petition is pending concerning the detailed outline plans approved for construction in the E1 area. My clients are among the petitioners (Administrative Petition 8556-10-25, **Ir Amim v. the Additional Minister in the Ministry of Defense**).

2. Under your directive, which the Supreme Court also upheld (HCJ 66433-09-26, **Ma'ale Adumim Municipality v. the Attorney General**, hereinafter "**Ma'ale Adumim Municipality**"), the tender box for Tender No. 186/2026 for the construction of 1,234 housing units in the E1 area is expected to be opened on November 19, 2026.

3. As matters stand, there is a distinct possibility that, by the scheduled date, Israel will still be under a caretaker government because a new government will not yet have been sworn in. In those circumstances, opening the tender box, and all the more so signing agreements with the successful bidders, could constrain the next government's discretion and have momentous consequences for the country's future, particularly in light of international developments and the real threat of sanctions against those who participate in construction in E1.

4. As you know, under established case law, a caretaker government has less latitude than a regular government in its actions and in the exercise of its powers. It must confine itself to matters for which there is an essential public need (HCJ 5167/00, **Prof. Hillel Weiss v. the Prime Minister of the State of Israel** (January 25, 2001)). The following rule of thumb is well established in the case law: "Measures to preserve the status quo and maintain stability, yes. Nonessential measures, no" (HCJ 5403/22, **Lavi – Civil Rights, Proper Administration and Encouragement of Settlement v. the Prime Minister** (September 22, 2022)). In particular, the courts have made clear that a caretaker government must exercise restraint and forbearance in taking measures with diplomatic implications that could tie the hands of a future government, where those measures do not arise from an essential need. This rule reflects the fact that a caretaker government no longer acts on the strength of the Knesset's confidence. It acts by virtue of the principle of continuity, in a state of "democratic deficit" that affects the proper scope of its discretion.

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5. In his ruling in **Ma'ale Adumim Municipality**, Justice Grosskopf examined the question of opening the tender box at issue here. He concluded that there was reason for concern that opening it on the planned date was intended to create a fait accompli on a matter of exceptional diplomatic sensitivity. He therefore rejected the petitioners' contention that the tender box should be opened immediately after the election.

6. In this connection, we wish to note that the significance of the tender and its diplomatic and economic implications have changed materially since the political leadership decided to advance it more than a year ago. At the time, the government acted on the strength of the confidence placed in it by the Knesset, in marked contrast to the situation now, after the election. In recent months, a number of countries have announced their intention to impose sanctions on anyone who participates in construction in E1. This is a real threat with far-reaching implications for everyone who participates in the construction, and even for the banks and institutional investors that provide guarantees or help finance it.

7. Opening the tender box, and all the more so signing contracts with the successful bidders, therefore has far-reaching diplomatic and economic consequences. A caretaker government that has not received the confidence of the Knesset must not take these steps. In **Ma'ale Adumim Municipality**, the Court also rejected the argument that there was a public need to avoid delays in completing the tender process. It held that the need for restraint in the actions of a caretaker government outweighs any such interest in this context. We therefore demand that you order the tender box to remain closed until a new government is formed.

8. **In light of the foregoing, we ask you to order a further postponement of the opening of the tender box so that the next government can make decisions about the construction project, which, as noted, has very significant diplomatic implications, without being presented with a fait accompli. Indeed, the very reasoning that led you to postpone the opening of the tender box until after the election dictates a further postponement.**

9. As a final point, we wish to note that other tenders beyond the Green Line with significant diplomatic implications are expected to open in the coming days and weeks. In those cases, too, it would be appropriate to halt any further steps in the tender process until a new government is formed. Among these are Tender No. 117/18 for the construction of 550 housing units in Karnei Shomron, Tender No. 177/2026 for 627 in Tel Zion, and Tender No. 155/2024 for the construction of 1,047 housing units under the "Lower Aqueduct" plan. There are many others.

10. Please inform us of your decision on this matter as soon as possible so that our client can decide what further steps to take.

Respectfully,

Michael Sfard, Adv.