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**Interim Report on the Implementation  
of the Memorandum of Understanding and  
the Agreement on Operational Arrangements  
Dated 28 November 2005  
Between Magen David Adom in Israel  
and Palestine Red Crescent Society**

**Report prepared by Minister (Hon.) Pär Stenbäck, Independent Monitor  
appointed by the International Committee of the Red Cross (ICRC) and  
the International Federation of Red Cross and Red Crescent Societies  
upon request of the Council of Delegates in Nairobi, November 2009**

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## **The Mandate of the Monitor**

Based on decisions taken at the November 2009 Council of Delegates (CoD) and the November 2007 International Conference (IC), Minister (Hon.) Pär Stenbäck has continued to function as the Independent Monitor for the implementation of the November 2005 Memorandum of Understanding (MoU) and the Agreement on Operational Arrangements (AOA) between the Palestine Red Crescent Society (PRCS) and Magen David Adom in Israel (MDA).

## **Introductory remark**

The implementation process of the MoU and AOA has now entered its sixth year. It would be only natural to assume that enough time has been available to secure the full implementation. However, the Independent Monitor is obliged to report that important steps still remain to achieve full and final implementation.

In his comprehensive report to the 2009 CoD, the Monitor dealt in detail with the specific requirements of the MOU. The conclusion reached was that some commendable results had been achieved flowing from the cooperation between the two National Societies. An update of these results is provided in the present report. It can be stated that the achievements referred to have largely prevailed, even where there have been temporary setbacks. It must be underlined that in an ever changing political landscape, lasting improvement is difficult to guarantee in some cases.

As was stated in the report to the 2009 CoD, the remaining stumbling block is the presence of MDA-marked ambulances in the occupied Palestinian territory. In spite of the understanding reached between the two Societies already in 2007, the final step in this process has not been taken. The same obstacles which were communicated to the Monitor in a letter from MDA, dated November 2nd 2009, seem to remain today:

“...MDA has been informed by the government that MOU does not require MDA to shift legal responsibility [of the ambulances] and that such a shift hides political issues.”

*As has been previously reported, after consulting the leadership of the Movement, the Monitor has strongly refuted this interpretation in discussions with the Israeli Ministry of Foreign Affairs. It is obvious and beyond interpretation that, when signing the MoU, MDA committed itself to cease running ambulances in the occupied Palestinian territory.*

## **Support for the implementation and monitoring process**

Based on the International Conference resolution of 2007, which “calls on all authorities concerned to support the full implementation of the MoU” and the Council of Delegates resolution of 2009 which “requests National Societies to favorably respond to any request for help and support that the Monitor may ask of them in the fulfillment of his task up to the next Council of Delegates”, the Monitor has undertaken to inform National Societies and governments concerned with the outcome of the implementation and monitoring process.

In these discussions, the Monitor has highlighted the progress made thus far and the alternative outcomes possible in the future, stressing the importance of full implementation in order to avoid an inflamed debate at the November 2011 International Conference.

During his missions to the region in 2010, the Monitor met with ambassadors from various countries. In April he conducted high-level talks with the US State Department reminding the Administration of the central role which the US government and the American Red Cross delegation played in brokering the 2005 agreement and the follow up resolution at the 2007 International Conference. In order to address growing levels of concern, the Monitor will appear before the Standing Commission in March 2011. He has also offered direct information to Societies and governments in the Middle East region.

The Monitor is grateful for these opportunities to disseminate and discuss the issues before the Movement and he welcomes the advice he has so far received. He will continue these activities until the International Conference with the full support of the ICRC and the Federation.

## **SUMMARY OF PROGRESS ON IMPLEMENTATION OF THE MoU AND AOA**

### **Geographical scope of activities of the two National Societies**

In the report to the 2009 CoD, the Monitor spelled out the importance of the MoU in defining the respective geographic scope of operations of MDA and the PRCS<sup>1</sup>. The Monitor's first report, submitted to the Council of Delegates in 2007, noted that the two Societies had agreed on a process to fulfill these commitments: MDA would gradually transfer responsibility for services provided to communities within the PRCS geographic scope to entities other than MDA. As mentioned in the previous reports, this is one of the possible ways to respect the Movement Statutes and Rules while adhering fully to the Fundamental Principles.

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<sup>1</sup> *The MOU stipulates that PRCS and MDA will commit to operate in conformity with the legal framework applicable to the Palestinian territory occupied by Israel in 1967, including the Fourth Geneva Convention of 1949 on the Protection of Civilian Persons in Time of War. It further stipulates that PRCS is the authorized National Society in the Palestinian territory, and that this territory is within the geographical scope of the operational activities and of the competencies of PRCS. The Societies agree to conduct their activities in accordance with the provisions of resolution 11 of the 1921 International Conference. Additionally, MDA commits to ensure that it will not have any chapters outside the internationally recognized borders of the State of Israel.*

In order to honor its understanding with PRCS, in early 2009 MDA began the process of transferring responsibility for its emergency medical service operations in the West Bank to the local authorities or other entities<sup>2</sup>. This was to be followed by the modification of the ambulances' appearance and the uniforms worn by emergency medical staff, so that they would not bear identical markings as MDA's vehicles and personnel.

However, in the period since the drafting of the November 2009 Report, there has been no progress with regard to the second step of the process. As previously mentioned, completion of this second step (modification of appearance) is necessary under the agreement reached by the two Societies.

When all the above-described steps have been fulfilled to the satisfaction of the signatories of the MoU, the provisions on geographical scope can be considered as implemented. During individual bilateral meetings held with the two Societies, as well during meetings taking place between MDA and the PRCS and also attended by the Monitor, the Monitor has noted the following:

- The PRCS has repeatedly expressed its dissatisfaction with the fact that, to date, MDA has not been able to address the issue of ambulances' appearance and therefore implement the provisions of the MoU on the geographical scope.
- MDA has reaffirmed to PRCS that it remains committed to fulfill all of its obligations relating to geographic scope that are set forth in the MoU.

If the process resumes, and is implemented according to the manner spelled out above, the Monitor will undertake steps to validate the process and its results.

### **The five ambulances stationed in East Jerusalem**

As was reported to the 2009 CoD in Nairobi, the five PRCS ambulances in East Jerusalem were made fully operational in June 2009 when the Israeli authorities confirmed that with the MDA installation of GPS devices in the ambulances, access is granted to the hospitals of West Jerusalem. The Monitor can report that the five ambulances are still able to serve the residents of East Jerusalem, including the estimated 60 000 residents who live on the other side of the West Bank barrier, and that they have access to all of the hospitals in the city.

The operation of the East Jerusalem ambulance service of PRCS relies on a combination of West Bank and East Jerusalem staff, with West Bank personnel requiring permits from the Israeli Government authorities in order to access Jerusalem. These permits are currently of three-month validity. During September and early October 2010 PRCS was unable to obtain the permit renewals<sup>3</sup> necessary for the 32 West Bank staff, with the result that the service was inoperative for 19 days. MDA's intervention on the matter with Israeli Governmental authorities, following a request from ICRC, helped expedite the issuing of the permits.

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<sup>2</sup> In the 2009 report to the Council of Delegates, the Monitor reported being informed by MDA that the latter had transferred over 90% of its ambulances to local authorities or other entities.

<sup>3</sup> At PRCS' request, ICRC undertakes most of the administration of permit requests, including the dialogue with Israeli authorities.

The lengthy interruption of this service was an unacceptable outcome. This episode highlights the fragile nature of a system requiring renewal of permits every three months, as well as the sometimes inconsistent Israeli Government bureaucracy. The ability and readiness of MDA to intervene, however, should be noted as a positive aspect in this case. Problems such as these notwithstanding, the overall picture of this service, negotiated within the framework of the MoU, can only be described as important and successful.

The two National Societies have now agreed that permits of 6 month validity will be requested in the future. If these can be obtained, it will reduce the risk of interruptions in the ambulance service of the PRCS.

## **Access and movement within the West Bank and passage across the West Bank barrier into East Jerusalem**

### West Bank

The general easing of access through checkpoints was described in the Monitor's report to the Council of Delegates in November 2009. In the period since, the PRCS has continued to monitor the remaining problematic checkpoints or points of passage which hinder the operations of its emergency medical services (EMS). In meetings between the two National Societies, the PRCS has highlighted access problems which the Monitor has understood MDA is committed to raise with the relevant Israeli Government authorities.

The 2009 Report of the Monitor described both the positive impact on the operations of the PRCS EMS which followed the opening or removal of a number of key checkpoints (especially around the Nablus area), as well as the fact that there remain a small number of areas within the West Bank where access by PRCS ambulances is problematic.

Three un-resolved areas of problematic access are:

(i) The difficulties experienced by PRCS utilizing the Bet El DCO checkpoint to exit/enter Ramallah on its northern perimeter.

(ii) The situation affecting the Palestinian enclave of Barta'aresh Shamiya in the far North-Western corner of the West Bank. This village of 5,000 (and those neighbouring comprising a total estimated population of 15,000) is located east (i.e.. on the Palestinian side) of the Green Line, but west (i.e. on the Israeli side) of the West Bank Barrier. PRCS ambulances are not permitted to cross the Reikhan Barta'a checkpoint. In order to access medical services in the West Bank, patients living in this community must take private transport to the checkpoint, before being collected on the other side by PRCS EMS from Jenin.

(iii) The movement of Palestinian vehicles into the old city of the H2 area of the southern West Bank city of Hebron<sup>4</sup> is restricted, including vehicles belonging to the emergency

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<sup>4</sup> Following the signing of the Oslo Accords, in January 1997 the Hebron Protocol established the two distinct zones of H1 and H2 inside the city of Hebron. H1 is under Palestinian control (Area "A" according to Oslo Accords), and H2 is under Israeli control (Area "C", according to Oslo Accords). H2 is itself divided into restricted and non-restricted areas, with the restricted area located in the middle of the narrow H2 area, dividing H2 into three (north is non-restricted, middle restricted, south non-restricted). Approximately 7,000 Palestinians live in the restricted areas of H2, while approximately 20,000 Palestinians live in the non-restricted areas of H2.

medical services (EMS) of the PRCS. Although ambulances can move into the non-restricted areas of H2 without coordination with Israeli authorities, long detours are necessary to move from H1 to parts of H2 and from one part of H2 to another part of H2 due to the restriction of some areas.

Gaining access for ambulances into the old city of Hebron has been, and remains, problematic. As an interim solution the PRCS is in the process of stationing an ambulance inside the restricted area of H2.

The Monitor will follow these three cases closely during 2011.

### East Jerusalem

The Monitor understands that the passage of EMS vehicles transporting patients holding West Bank IDs across the West Bank barrier to the main referral and specialized hospitals of East Jerusalem<sup>5</sup> remains problematic.

As was noted in the last report, the Israeli governmental authorities' protocols governing the transfer of trauma patients are complicated, time consuming and vulnerable to disruption. The triangular coordination with Israeli governmental authorities involving the transmitting hospital in the West Bank and the destination hospital in Jerusalem is regularly delayed by incomplete communication with checkpoint personnel. However, a positive development has been seen during the last year in the transfer of patients by ambulances. Whereas the transfer of patients used to involve a back-to-back transfer from a West Bank- to a Jerusalem-registered ambulance, Jerusalem-based ambulances are now increasingly responsible for the entire journey.

Parallel to the manner in which coordinated transfers are organized, in 2006, MDA and PRCS have agreed on both the definition of emergency cases and the manner in which the passage of emergency cases shall be treated. The two Societies renewed their shared position in discussions during 2010. Aware that the welfare of patients continues to be put at risk, MDA has lobbied the Israeli governmental authorities, in coordination with the Monitor, to advocate respect for the protocol concerning the treatment of emergency cases agreed upon with PRCS.

This advocacy effort has not been successful. The Israeli governmental authorities have insisted on coordination of all access of persons not holding a Jerusalem ID to the city's health institutions, irrespective of the medical condition of the patient.

Consistent with this policy framework, the decisions taken by non-medically qualified personnel of the Israeli governmental authorities to impose restrictions on access to health facilities in Jerusalem remain a concern. Set against the political and security considerations influencing Israeli governmental authorities' practice on the ground, the Monitor believes that the failure to respect the legitimate humanitarian aspirations of both National Societies will continue to be a cause for consternation and disappointment.

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<sup>5</sup> Augusta Victoria Hospital, Maqassed Hospital, Red Crescent Maternity Hospital, St. John's Ophthalmic Hospital, St. Joseph Surgical Hospital, Princess Amira Basma Rehabilitation Center.

## **Patient Transfers at Allenby Bridge**

The phenomenon of variable and often excessive waiting times for medical patients being transferred from the West Bank to Jordan via the Allenby crossing persists. With several actors involved, including the PRCS, different Jordanian ambulance services and the two border authorities, it is challenging to establish where the difficulty lies.

Within the terms of the AOA, MDA committed itself to helping facilitate the PRCS' transfer of patients here. As a practical step towards this goal it was agreed that the two National Societies would convene a meeting at the border point, with the crossing authorities from the Israel and Jordan sides. The meeting would review the current process and seek improvements that should enhance the efficiency and predictability of patient transfers.

The Monitor expects this meeting to take place in the near future and lead to a permanent protocol for patient transfers.

## **Transfer of patients from Gaza through Erez**

The AOA refers to Gaza in relation to the transport of patients between Gaza and the West Bank. However, the main need is to transfer patients from Gaza to the hospitals of East Jerusalem. So far, PRCS has not had a defined role in these activities, other than the possibility to allow the five ambulances stationed in East Jerusalem to transport such patients. MDA has declared its willingness to lobby for a bigger contribution by PRCS ambulances in these transports. In order to enhance the PRCS role, the PRCS must also conclude an agreement with the PA Ministry of Health.

## **Cooperation between the two National Societies**

In several of his reports, the Monitor has commended the two Societies for their commitment to cooperation. No doubt, the leadership of both has opened avenues for cooperation in hitherto uncharted fields. Such efforts were highlighted in the last report.

However, it must be clearly stated that the implementation of plans and ideas is still inadequate or lacking. There are two main reasons for this. First of all, as long as implementation of the key element of the MoU (i.e. geographic scope) is not achieved, doubt seems to remain as to whether MDA has the overall influence to bring about a permanent and meaningful improvement of the working conditions of PRCS.

Secondly, rules and restrictions imposed by the occupying authority do not allow the PRCS to perform its duties in a satisfactory way. It must therefore be remarked that these restrictions of the occupying authority create obstacles for an envisaged deeper and more trustful cooperation between the Societies on all levels. Regardless of humanitarian principles, it will take time for all to accept that MDA and PRCS must be seen as humanitarian actors unconnected with the political and military sphere.

## **Combating Misuse of the Emblems**

The MoU and the AOA both contain references to emblem issues. In the MoU, both Societies committed themselves to working to end misuse of the emblem. In the AOA the Societies commit to engage in awareness-raising programmes that will promote respect for the emblems by weapons carriers, the general public and decision makers. Both Societies have been involved in efforts to improve laws and regulations on the use of the emblems.

Since the issuing of the previous Monitoring Report, in November 2009, there has been no progress on the part of the Israeli Government in amending the MDA law. The law should incorporate the 2006 revisions to the statutes of the Movement to make it a more effective instrument for emblem protection. Although the legislation itself has not advanced, MDA continues to disseminate information about the protective and indicative use of the emblems to different audiences.

Palestinian legislation on the protective emblems would normally depend on the work of the Palestinian Legislative Council, but the Council has not sat since 2007. Thus, the legislative project relies on the issuing of an Executive Decree by the President of the Palestinian Authority. Thus far the law (*decree*) remains unsigned, with the result that there is no clear national legal basis to support emblem protection interventions by the National Society. Efforts by the PRCS to raise awareness among the Palestinian public about the emblems continue as part of the day-to-day activities of the dissemination programme.

## **Conclusion**

The understanding reached by the two Societies, regarding what constitutes a cessation of one National Society's activities in the territory of the other National Society, honors humanitarian principles by not leaving anyone without adequate emergency medical service. In the opinion of the Monitor, this understanding is in line with the MoU and the rules and regulations of the Movement. It is therefore essential that MDA should be confident to change the appearance of the ambulances to reflect their new jurisdiction.

By so doing, the Monitor will acknowledge that MDA has fulfilled its major obligations under the agreements of 2005. The Monitor has already concluded that MDA and PRCS have fulfilled the other requirements in a reasonable way under the prevailing circumstances, with exception of some issues highlighted in this report. However, this does not mean that the overall situation in which PRCS is working would then be satisfactory from a humanitarian point of view. The implementation of the MoU is not a solution to all humanitarian problems, but the process can be properly seen as contributing to the improvement of the humanitarian environment in Israel and the occupied Palestinian Territory.

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