

## **Israeli Defence Forces**

### **Order No. 1644**

In the light of the power vested in me as the commander of Israeli forces in the area, I order the following:

The following proceeded by Article 46 of the military orders:

#### **Juvenile Judge**

##### **46. A**

Juvenile military court - the first instance court (single judge) presided by a juvenile judge or a panel of judges presided by a juvenile judge.

“Child” – is anyone under 16 years, and a suspect or accused who has not attained 16 at the time of submitting the list of charges.

##### **46. B**

The head of the military Court of Appeal must appoint judges from the first instant court in the military court. The judges must be prepared to be competent for the post of juvenile judges after the approval of the head of the Court of Appeal to be pointed as juvenile judges for a certain period, which has been identified.

##### **46. C**

- a.** On contrary to what has been found in any law or security order, the accused child must appear before a juvenile military court.
- b.** Orders of the above item above do not apply to extension of detention or release.

##### **46. D**

- a.** No child shall be subjected to trial with an adult unless the consent of the military prosecutor is provided or the consent of any person given this power by the military prosecutor.
- b.** Any child charged with an adult in the same case and appears in court other than a juvenile court, the court has the jurisdiction to proceed with this case. If so, the court must act as if it were a juvenile court and shall have all the jurisdictions granted to the juvenile court. Should the court decide not to examine this case; it must transfer it to the military juvenile court.

##### **46. E**

- a.** If the court, which is not a juvenile court, finds at every stage of the case prior to conviction that the accused person is a child, the case must be transferred to a juvenile court that will examine the case as a new one and from the start. The juvenile court has the right to examine the case from the stage it received from the first court.
- b.** If the military court finds certain and special circumstances that prevent transferring the case to a

juvenile court contrary to (a), then it shall have the jurisdiction to continue the proceedings, given that the next court proceedings until the end of the proceedings must be similar to those proceedings taken by a juvenile court and this court shall have all the powers of the juvenile court.

**c.** If the court, which is not a juvenile court, finds after conviction that accused person is a child, the court then shall examine the case given that the next court proceedings until the end of the proceedings must be similar to those proceedings taken by a juvenile court and this court shall have all the powers of the juvenile court.

#### **46. F**

If the juvenile military court finds throughout the stages of the trial that the accused is not a child, the court shall have the right to transfer the case to an ordinary court, which must examine the case as a new one and from beginning or it has the right to examine the case from the stage it received from the military court. Juvenile court has the right to continue examining the case and deal with it as if it were not a juvenile court.

#### **46. G**

Any decision or ruling issued by a court that is not a juvenile court and prosecutes a child is null and void not because this child did not appear before a juvenile judge or of young age, but if the outcome is serious injustice as a result of not prosecuting the child by a juvenile judge. The head of the Court of Appeal may order retrial of the child in a military court to be appointed.

#### **46. I**

**a.** The juvenile military court must convene its sessions as much as possible in rooms where there are no other cases being reviewed or in the same rooms but not at the same time.

**b.** Not to bring or return accused children to and from court with adults and not to detain them with adults as much as possible.

#### **46. J**

A person is tried for an offense he had committed as a child after two years from committing that offense only with the consent of the military prosecutor, or any person given authority by the military prosecutor.

#### **46. K**

The list of charges against the child must contain his date of birth for further clarifications

#### **46.L.a**

**a.** Juvenile military court has the power to appoint lawyer for the child if it finds that is in the child's interest.

**b.** Based on the content of item (a) for appointing lawyer, such matter is subject to the military order (400)/1970.

**c.** If there is not lawyer for the child, the court must assist the child in cross-examination.

#### **46.L.b.**

- a. The child family has the right to attend the sessions of the juvenile military court at any time.
- b. The accused person (child) is entitled to file any application to the juvenile military court, and has the right to submit the application to his family or any other person after obtaining the approval of the court. Such people have the right to conduct the cross-examination and present their claims with the child or on behalf of him.

#### **46.L.c**

a. If the child is convicted, the juvenile military court may request a written search paper from the probation officer in the civil administration or any person appointed to that to discuss the following matters if the court finds it necessary for the sake of issuing the verdict against the child:

- 1. The child's past
- 2. The status of the child's family by obtaining full information about his family and siblings as much as possible
- 3. Child's economic status
- 4. Health status of the child and his family
  - 5. Personal circumstances, "if applicable", which led to committing the offense
  - 6.

b. The researcher in (a) may recommend that court considers the possibilities for the child to get better and think of what is best for him

- c. a copy of the search paper must not be given to the opponents or the child's lawyer unless the court decides so. The military prosecutor and the lawyer have the right to review documents in the case file.
- ci.

#### **46.L.d**

a. The child must be held only in a juvenile detention center or prison in a separate section that is allocated specifically for children and has no contact with other sections and must not be close to any other section.

b. Despite what is mentioned in item (a), it is allowed to detain a child at a police station only alone and must not have any contact with adult accused or detained persons.

**1. Instructions of this order do not apply to cases in which list of charges were made prior to the entry of this order into force**

**2. This is valid after sixty days from the date of issuance, and the expiry date is one year long**

**3. Number of this order is 1644/2009 amendment number (109)**

**29 July 2009**

**Gadi Shamni**  
**Commander of the IDF in the West Bank**