

Last update - 01:58 08/01/2008

## Legal situation / Seven years of inaction

By [Yuval Yoaz](#)

Almost seven years have passed since the Migron outpost was established. The first stage was the erection, without a permit, of a cellular antenna on a hill near the settlement of Kochav Ya'akov. Subsequently, a shipping container was brought to the site, in which the antenna's guard lived. The site was then connected to electricity and other infrastructure.

Five and a half years ago, the Palestinian owners of the land, who lived in the villages of Burka and Dir Dibwan, began to take action to have the settlers evacuated. But by the time the Palestinians, together with Peace Now, petitioned the High Court of Justice in October 2006, Migron consisted of 60 mobile homes and two permanent homes that together housed 43 families.

Two months after the petition was filed, the State Prosecutor's Office said it recognized the justice of the Palestinians' arguments. "The only questions now on the agenda," attorney Aner Helman from the State Prosecutor's Office wrote, "are the timing and the date of the evacuation of the outpost, and whether the outpost will be evacuated, and its structures demolished, voluntarily by its residents, or whether the authorities will have to be called in for this purpose."

Another year went by and nothing happened. But finally, following repeated requests for postponement by the State Prosecutor's Office, the patience of Supreme Court President Dorit Beinisch ran out. She ordered a hearing on the petition set for next month, unless by that time the outpost is evacuated, in which case the hearing will be unnecessary.

The petitioners' representative, attorney Michael Sfard, hopes to take advantage of the precedent that the High Court set with regard to the Amona outpost. In that case, a High Court petition forced the state to demolish nine illegal, permanent homes for which final demolition orders had already been issued by the Civil Administration, but never implemented.

When the petition to dismantle Migron was submitted, however, the State Prosecutor's Office argued that the defense minister - first Amir Peretz and then Ehud Barak - should be allowed to make every effort to reach an agreement with West Bank settlement leaders on a voluntary evacuation, to take place "soon."

Though the brief submitted by the State Prosecutor's Office stated that "there is no legal possibility of coming to terms with the existence of the outpost in the long term," it also said that "the operational timetable for the evacuation is contingent on changes in the

circumstances and relevant exigencies - security, legal and others - whatever these may be."

The problem is that with the West Bank under military rule, decisions on implementing demolition orders rest with the defense minister, and are not carried out automatically.

"When it comes to outposts," Sfarid said yesterday, "all Israeli legal authorities suffer total paralysis. The police do not enforce the law on criminals, the army does not protect the Palestinians whose land has been stolen in broad daylight, and the government does not rule over its citizens. Under such circumstances, the court's task is to shake up the authorities and remind them of what their job and their duty are."

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