

1. The petitioner (hereinafter also **HaMoked**) is a registered non-profit organization dedicated to promoting the human rights of residents of the Occupied Palestinian Territories (OPT). HaMoked: Center for the Defence of the Individual was established in 1988 against the background of the first intifada and has since provided assistance in tens of thousands of complaints. HaMoked's assistance includes contacting the authorities and taking legal action on behalf of individuals and as a public petitioner. HaMoked also issues reports, both periodic and on specific issues, as part of its public objectives and its desire to uphold the democratic value of the public's right to know.
2. Among its activities, HaMoked assists Palestinians living in the Gaza Strip in their struggle against a variety of human rights violations restricting their freedom of movement. In this context, HaMoked addresses the issue of registering OPT residents' addresses in the Palestinian population registry and the impacts of such registration.
3. The Respondents are entrusted with providing responses to requests pursuant to the Freedom of Information Act under Section 3 thereof.

The Application

4. As aforesaid, this petition concerns information regarding the issue of removals from the West Bank to the Gaza Strip by reason of registered address in the Gaza Strip.

5. In the Petitioner's application, the Respondents were requested to provide the following information:

- (i). a. The number of Palestinian Authority residents who reside in the West Bank or are present therein whose registered address in the Israeli copy of the Palestinian population registry is in the Gaza Strip.

In the absence of exact figures on the total number of aforesaid Palestinian Authority residents, the Petitioner requested the number known to the Respondents (even if there are additional cases which may not be known to them).

- b. Of the aforesaid group, how many were born in the West Bank.
- c. Of the aforesaid group, how many moved from the Gaza Strip to the West Bank prior to October 2000.
- (ii). a. How many notices of/applications for change of registered address **from the Gaza Strip to the West Bank** have been transferred from the Palestinian Authority to the civil administration since October 2000 (if there are no figures for the entire period and the Respondents only have figures relating to a portion of this period, they were requested to provide these figures while noting the relevant time period).
- b. Of the aforesaid cases, in how many was the registered address changed in the Israeli copy of the population registry.
- (iii). a. How many notices of/applications for change of registered address **from the West Bank to the Gaza Strip** have been transferred from the Palestinian Authority to the civil administration since October 2000 (if there are no figures for the entire period and the Respondents only have figures relating to a portion of this period, they were requested to provide these figures while

noting the relevant time period).

- b. Of the aforesaid cases, in how many was the registered address changed in the Israeli copy of the population registry.
- (iv). The following information was sought with respect to each of the time periods listed below:
- (1). The number of Palestinian Authority residents who were removed from the West Bank to the Gaza Strip because their registered address in the Israeli copy of the population registry was in the Gaza Strip.
 - (2). How many of all individuals removed during that time period had moved from the Gaza Strip to the West Bank prior to October 2000.
 - (3). How many of all individuals removed during that time period had been present in the West Bank for at least ten years prior to being removed.
 - (4). How many of all individuals removed during that time period had been present in the West Bank for at least five years prior to being removed.
 - (5). In how many cases during that time period was a deportation order issued pursuant to the Order regarding Prevention of Infiltration (Judea and Samaria) (No. 329) 5729-1969.

The time periods regarding which the information sought in this section (each separately) are as follows:

- a. From October 2000 to the present time.
- b. 2004.
- c. 2005.
- d. 2006.
- e. 2007.
- f. 2008.
- g. 2009 (until the time the application is answered)

The Petitioner asked to receive the information sought in this section in the Data Collation Table attached to the application.

- (v). The Petitioner requested a copy of the existing procedure for removing Palestinian Authority residents from the West Bank to the Gaza Strip by reason of registered address in the Gaza Strip.

A copy of the application of June 10, 2009 is attached hereto and marked **Exhibit P/1**.

- 6. As known, the right to receive information is not subject to proof of the applicant's interest in the information (see Section 7(a) of the Act; see also AP (Jerusalem) 717/02 **Rabbi, Adv. Uri Regev v. Yad VaShem**, TakDC 2002(3), 6893, p. 6896; Zeev Segal, **The Right to Know in Light of**

the Freedom of Information Act, p. 221). Despite this, and beyond requirement, we wish to elaborate on the clear necessity of receiving the aforesaid information.

7. HaMoked provides assistance to many Palestinians who reside in the West Bank but are registered with Gaza Strip addresses in the Israeli copy of the population registry. This situation is a result of Israel's refusal to update changes of Palestinian residents' addresses between the West Bank and Gaza Strip in its copy of the Palestinian population registry. This refusal has been in effect since October 2000. OPT residents whose addresses are erroneously listed in the Gaza Strip are subject to various sanctions and restrictions, beginning with delays at roadblocks, continuing with difficulties getting into and out of the West Bank, arrests and ending with deportation to the Gaza Strip.
8. HaMoked has provided assistance in a myriad of applications by residents of the OPT in the aforesaid circumstances and continues to do so. These applications include assistance to Palestinians whom security forces are currently seeking to remove from their homes and families and expel to the Gaza Strip because of their registered address, as well as applications by Palestinians who have already been deported from the West Bank to the Gaza Strip because of their registered address and who wish to return to their homes and families in the West Bank. The scope of the phenomenon, the relevant procedures and the manner in which the authorities operate in this context remain a mystery.

Submission of the application and lack of response

9. As stated, the application was sent to Respondent 2 on June 10, 2009 along with a confirmation from the Postal Bank regarding payment of an 86-shekel processing fee. The application is attached hereto as Exhibit P/1. Receipt of the application was confirmed in a telephone call by a soldier by the name of Eyal from the office of Respondent 2.
10. After no response was received from the Respondents for close to two months, on August 8, 2009, Petitioner sent Respondent 2 a reminder in which it emphasized that under Section 7 of the Freedom of Information Act 5757-1998, the Respondent was to notify the applicant of his decision on the application within 30 days of receipt. Receipt of the reminder was confirmed in a telephone call by a soldier by the name of Matan from the office of Respondent 2.

A copy of the reminder dated August 8, 2009 is attached hereto as Exhibit **P/2**.
11. Nevertheless, the Respondents' silence persisted and on November 30, 2009, Petitioner sent a further reminder in which it emphasized that it had been over five months since the application was sent and that this was a grave breach of the provisions of the Freedom of Information Act. Receipt of the reminder was confirmed in a telephone call by a soldier by the name of Max from the office of Respondent 2.

A copy of the reminder dated November 30, 2009 is attached hereto as Exhibit **P/3**.
12. The Respondents' initial response was finally received on December 29, 2009, over six months after the application was filed. In his response, Respondent 2 stated that "The Coordinator of Government Activities in the Territories is taking steps towards formulating a response to your application" and requested a copy of the "fee payment, in order to complete the response process". Note that a copy of the fee payment was attached to the original application, six months earlier.

A copy of the Respondents' letter dated December 9, 2009 (received December 29, 2009) is attached hereto as Exhibit **P/4**.

13. On January 4, 2010, the matter reached new heights when, only days after the Respondent claimed he was “taking steps towards formulating a response to [the] application” and that he only required a copy of the fee payment in order to complete the response, suddenly, Respondent 2’s office telephoned **requesting the full original application be resent!**
14. The Petitioner sent the original application to the Respondents once again, emphasizing that the Respondents’ conduct was incomprehensible and that:

It is unacceptable for authorities which are legally required to provide responses within a specified period of time and conduct in a manner befitting good governance to do as they please and treat applications frivolously and disrespectfully.

It is superfluous to note that one can safely presume that had you responded to the application within the time frame specified in the law, you would not have to attempt to locate documents received seven months ago.

A copy of the Petitioner’s letter dated January 4, 2010 is attached hereto as Exhibit **P/5**.

15. It has now been over eight months since the application was submitted without any pertinent response by the Respondents. There is therefore no recourse but to file this petition.

The Legal Argument

The public’s right to know and to receive information from a public authority

16. Freedom of Information is a pivotal value in a democratic country and constitutes a supreme avenue for monitoring the authorities and defending human rights.

The purpose of the Freedom of Information Act is to enable transparency with respect to the actions of public authorities and allow educated monitoring thereof. “Increased access to information will assist in promoting social values such as equality, the rule of law and respect for human rights. It will also allow the public to better monitor government activities.” (Freedom of Information Bill, 5756-1996). (AP (Jerusalem) 717/02 **Regev v. Yad VaShem**, TakDC 2002(3), 6893, p. 6896) (2002)).

17. In AAA 9135/03 **Council for Higher Education v. HaAretz Newspaper Publishing**, TakSC 2006(1) 697, 704 (2007), the Court stated:

True to the purposes that the Freedom of Information Act is designed to fulfill, the Act begins with a broad and general declaration about the existence of a right to receive information from public authorities by stating in Section 1: Every Israeli citizen or resident has a right to receive information from a public authority pursuant to this Act. In his book “The Public’s Right to Know in Light of the Freedom of Information Act”, Prof. Segal notes that this section is the linchpin of the entire law. It is the cornerstone of the legal right to receive information from public authorities”.

18. The Petitioner is seeking information that directly impacts the rights of some million and a half individuals living in the Gaza Strip. The Freedom of Information Act does allow a public

authority to reject a request for information. However, this can be done for specific reasons which, (at least at face value), do not exist in the case at hand (see Sections 8 and 9 of the Act). The Respondents have made no claim that the application must be rejected (as noted, the Petitioner received no pertinent response to its request). Therefore, the Petitioner reserves the right to address any argument first raised, if indeed such is raised, by the Respondents following submission of this petition.

The Interior Ministry's conduct is a flagrant breach of the Act

19. As known, the Act instructs the authority to notify an applicant of its decision on the application without delay and within no more than **30 days**. The Respondents did not meet this obligation. The authority may extend this period by a further 30 days **providing detailed reasons** for the extension (Section 7(b) of the Act). The Respondents did not extend the period pursuant to this provision, and even had they done so, this additional period has also passed.
20. The application which is the subject of this petition was sent on June 10, 2009 **over eight months ago** and still, the Petitioner has received no pertinent response.

In light of the foregoing, the Honorable Court is requested to instruct the Respondents to respond to the Petitioners' application and provide it with the requisite information in its entirety. The Honorable Court is also requested to instruct the Respondents to pay the Petitioner's costs and legal fees.

[signed]

Ido Bloom, Adv.
Counsel for the petitioner

February 17, 2010

[File 63921]