

Disclaimer: The following is a non-binding translation of the original Hebrew document. It is provided by **HaMoked: Center for the Defence of the Individual** for information purposes only. The original Hebrew prevails in any case of discrepancy. While every effort has been made to ensure its accuracy, **HaMoked** is not liable for the proper and complete translation nor does it accept any liability for the use of, reliance on, or for any errors or misunderstandings that may derive from the English translation. **For queries about the translation please contact site@hamoked.org.il**

At the Supreme Court
Sitting as the High Court of Justice

HCJ 8134/14

_____ **Abu Jamal et al.**

all represented by Adv. Benjamin Agsteribbe (Lic. No. 58088)
and/or Adv. Noa Diamond (Lic. No. 54665)
of HaMoked Center for the Defence of the Individual, founded
by Dr. Lotte Salzberger
4 Abu Obeida St., Jerusalem, 97200
Tel: 02-6283555; Fax: 02-6276317

The Petitioners

v.

Minister of Interior et al.
by the State Attorney's Office
29 Salah a-Din Street, Jerusalem
Tel: 02-6466590, Fax: 02-6466713

The Respondents

Response on behalf of the Respondents

In accordance with the decision of the Honorable Court on December 9, 2014 the Respondents hereby respectfully submit their response as follows:

1. On December 8, 2014, the State submitted its response to the captioned petition. In its response, the State suggested allowing the Petitioners to submit (in writing) further arguments, in addition to those presented in the petition, "which they believe are important to present to the Minister of Interior", within seven days. The State asked to be granted two weeks from submission of Petitioner's arguments to submit an updating notice.
2. Thus, it is implied that Respondent 1 is prepared to reconsider his decision, made in a summary process and without giving the Petitioner prior notice or the right to make her case.
3. With respect to the outline proposed by the Respondent, the Petitioners suggest the following alternative: The Respondents will provide the Petitioners with the transcript of the meeting held by Respondent 2 with respect to the Petitioner, and the recommendation it made to Respondent 1. The

Petitioners will submit their arguments in writing within ten days from receipt of the transcripts. The Respondents will submit an updating notice within two weeks of submission of Petitioner's arguments. The Respondents' new position will be heard in this petition, which shall remain pending.

4. We note, that the Petitioners' need to review the transcripts and the recommendation made by Respondent 2 (which were never provided to them despite Petitioners' counsel attempts to receive them from Respondent 2 prior to submission of the petition), prior to submitting written arguments stems from the inherent inferiority of the procedure currently offered by the Respondents, a procedure of reconsideration and a type of retroactive hearing. The remarks of the Honorable Court in H CJ 2911/94 **Baki v. Director General, Ministry of Interior**, IsrSC 48(5) 291, are relevant:

A late hearing poses a dual difficulty. First, it is more difficult to get the competent authority to reassess its decision once it has been made than to influence it beforehand. Second, it is difficult to move the competent authority to rescind a decision that it has already made, particularly if the decision was made public, and the competent authority would be seen to be admitting to a mistake. The chance of success at the hearing is inversely proportional to the difficulty: The larger the difficulty, the lower the chance. It has been found that when individuals who are entitled to a hearing before the fact are given a hearing after the fact, their rights are violated.

(**Baki**, para. 18)

5. The Petitioners ask, therefore, to suggest an alternative outline as follows:
 - a. Respondents' counsel will provide Petitioners' counsel with the hearing transcript and the recommendation made by the humanitarian committee;
 - b. Petitioners will submit written arguments for Respondent's reconsideration within ten days of receipt of the transcripts and recommendation;
 - c. Respondents will submit an updating notice within two weeks of receipt of Petitioners' arguments;
 - d. In the event that Respondents' updating notice does not render the petition moot, the decision made by Respondent 1 will be reviewed in this petition.

Today, 9 December, 2014

Adv. Benjamin Agsteribbe
Counsel for the Petitioners

Adv. Noa Diamond
Counsel for the Petitioners