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At the Supreme Court
Sitting as the High Court of Justice

HCJ 7984/11

HaMoked: Center for the Defence of the Individual,
founded by Dr. Lotte Salzberger
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The Petitioner

v.

Israel Prison Service
Represented by the State Attorney's Office,
Ministry of Justice, Jerusalem
Tel: 02-6466590; Fax: 02-6467011

The Respondent

Updating Notice on Behalf of the State

An updating notice on behalf of the state is hereby submitted as follows:

Background

1. The above petition concerns the holding conditions of security detainees incarcerated for interrogation at the Petah Tikva detention facility (hereinafter: “**the facility**”). It must be clarified that the holding conditions of detainees at the facility are the responsibility of the Israel Prison Service (hereinafter: “**the Respondent**” or the “**IPS**”); while interrogations carried out while the detainees are held at the facility are the responsibility of the Israel Security Agency (ISA).
2. In the petition filed on October 31, 2011, the Petitioner, HaMoked: Center for the Defence of the Individual founded by Dr. Lotte Salzberger– RA (hereinafter: “**the Petitioner**”) contended, *inter alia*, that the holding of Palestinian detainees, residents of the Area, in the facility allegedly takes place “in conditions that are unacceptable and violate their lawful rights”. In addition it was claimed that Palestinian detainees are held at the facility long after their interrogation is concluded, allegedly without justification, thus violating their rights (see and compare: paragraph 1 of the petition).
3. In the State’s Response of 24.7.12, it was noted, *inter alia*, that the Respondent “disputes the contention of the Petitioner concerning the existence of inappropriate holding conditions at the

detention facility”, and that, in any event, there was no justification for deliberating the petition in its form at the time due to the planned renovation of the facility. The response states the following:

1. **“...in accordance with the declaration of the Respondent and the Israel Security Agency (ISA), at this time, the detention facility that is the subject of the petition is undergoing renovation which will continue for several months. Said renovation will include the improvement of the infrastructure at the facility including the installation of an air conditioning system in all of the cells, the renovation of the plumbing system, the installation of new sanitary fixtures, painting the cells and more. It must be indicated that during said renovation, detainees are not held at the detention facility that is the subject of the petition.”**
4. The state’s response also emphasized that should **future** grievances concerning the holding conditions in the facility arise, they could possibly be deliberated in the framework of a Prisoner’s Petition submitted by a specific detainee who wishes to argue against conditions of his confinement and, therefore, this petition must also be dismissed as there is an alternate remedy.
5. In the Petitioner’s response of July 25, 2012, the Petitioner opposed the dismissal of the petition and requested that the Honorable Court instruct the state to provide an update regarding the results of the renovation of the facility.
6. In its decision of August 28, 2012, the Honorable Court (Honorable Justice Joubran) ordered the state to submit an updating notice by January 1, 2013. The designated date for submission of the notice was postponed on consent several times. The updating notice on behalf of the state is hereby submitted

Updating Notice on behalf of the State

7. In the years 2012-2013 a comprehensive renovation of the facility was undertaken. As stated in the preliminary response of the state to the petition, detainees were not held in the facility during the renovation.

We further update that the total cost of the renovation was approximately 9 million NIS and it included replacing the internal ventilation system in the cells and interrogation rooms; the installation of new showers and toilets, and the installation of new pipelines in all of the facility’s cells. During the renovation a new air control system was also installed making it possible to control the temperature in each and every cell and the suction of air in case of fire. The renovation also included the construction of a partial partition separating the toilet and shower area from the remainder of the cell; painting all of the detainees’ cells and the replacement of the electricity system.

8. On September 17, 2013 representatives of the Ministry of Justice headed by Adv. Raz Nizri, Deputy Attorney General for Criminal Matters, conducted an official visit to the facility. In a report issued following the visit (hereinafter: the “**2013 report**”) it was indicated, *inter alia*, that “it is difficult to dispute the fact that the detention cells in the facility are not a pleasant place to be in because of their small size, dark color and the lack of natural light”. However – as clearly stated in the report – “the detention cells were clean. There was no noticeable foul odor, and the air conditioning system worked in all of them”. It was further written that “almost no complaints were heard from detainees regarding

the issue of holding conditions or the behavior of the staff towards them, apart from a specific complaint regarding the food”.

The report summary indicated four principal issues that needed attention:

- (a) Providing each detainee with a double mattress in keeping with regulation 22(b)(2) of the Criminal Procedure Regulations (Enforcement Powers – Detention) (Detention Holding Conditions) 5756-1997;
- (b) Better cleaning and ventilation of the prison wing shower;
- (c) Examination of the possibility of reducing the intensity of the lights in the cells during the night, without compromising security;
- (d) Diligence in ensuring minimal time for transfer from the above facility to IPS facilities following the conclusion of a detainee’s interrogation.

- Report of the official 2013 visit is attached hereto and marked **R/1**

9. Another official visit to the facility took place on July 13, 2014, this time by the Deputy Central District Attorney. The report written following this visit (hereinafter: **“the 2014 report”**) reveals that the visiting official received the impression that the facility was clean, hygienic and run in a professional and appropriate manner. The report also stated that **“the overall impression is that the detainees in the facility are fairly calm (considering the difficult circumstances). As far as I was able to discern, this is a facility where conditions, treatment of detainees, and management are absolutely acceptable”**. In the course of the tour, separate conversations were held with detainees (an adult Palestinian detainee suspected of activity in the Hamas and a minor Jewish detainee suspected of murder). Following these individual conversations the report stated that **“in general both detainees painted a picture of an absolutely adequate situation”**.

- The 2014 official visit report is attached hereto and marked **R/2**

10. Furthermore, regarding the issue of mattresses raised in the 2013 report, we wish to note that following the report each detainee was given two mattresses. This matter was specifically raised in the 2014 report in the framework of the issue of “sleep” where it was clarified that **“each detainee is given two mattresses and as many warm blankets as he requests”**.

Regarding the issue of the prison wing shower, it should be indicated that following the 2013 report, special attention was given to the matter of its ventilation (by way of leaving the shower door open when there is no movement in the hall); regarding the matter of the cleaning of the shower by designated cleaners who work in the facility, it must be noted that in contrast to common practice in ordinary criminal detention centers and prisons where the detainees and prisoners themselves are responsible for maintaining personal hygiene and cleaning public areas in the facility, a full time cleaner is employed in this facility (see page 5 of the 2014 report, **R/2**).

The issue of lighting was also given special attention, subject, of course, to security constraints. In this regard we request to refer to the 2014 report under the heading “Lighting” where it was written: **“There is no natural light in any of the cells....there is electric lighting that is externally controlled (without switches). The lighting is not blinding and is, on one hand, sufficient for reading, and on the other does not to interfere with sleep. In general, no complaints were made**

by interrogees that the permanent lighting interferes with their sleep, although at times interrogees hang clothing on the lighting fixtures to further dim the light” (see page five of the 2014 report R/2).

11. And finally, an issue that is also on the agenda of the competent officials - the issue of the interval between the conclusion of the interrogation procedures and the detainees’ transfer from the facility to other facilities. In this context, it must be clarified that the explicit position of the state is that the time a security detainee whose interrogation is completed is held in the facility must be reduced as much as possible. This issue was discussed between the IPS and the ISA and there is an agreed operating procedure that relates, among other matters, to the issue of the transfer of detainees from an ISA unit to a regular prison wing after their interrogation is concluded. Thus, at the conclusion of the interrogation, notice is sent by the competent ISA official to the Prisoner Department in the IPS requesting to allocate a space for the detainee in a general wing at an IPS facility. This request must be submitted no later than five days prior to the detainee’s court hearing, this without prejudice to the basic assumption that, as aforementioned, steps must be taken to shorten the stay as much as possible.

In this context we further add that from a recent examination that was conducted regarding the months of September – November 2014, it appears that apart from some delays that were principally due to the Jewish high holidays and the summoning of certain detainees to court hearings, as a rule there were no delays in the transfer of detainees to a general wing of an IPS facility after notice was given regarding the completion of their interrogation. It must be noted that the data that was collected points to the fact that the aforementioned transfer to general wings in IPS facilities was carried out within several days, usually one to three days from the date of notification of the conclusion of the interrogation.

12. All the above demonstrates that the factual infrastructure on which the petition was based changed significantly following its submission. Under these circumstances, and subject to all the aforesaid, it appears that the petition has exhausted itself (see and compare for example: HCJ 1254/10 **A. v. Population, Immigration and Border Authority – Ministry of the Interior** (delivered on April 4, 2012), paragraph 6 of the ruling of (then) Honorable Justice Grunis). In addition, should a specific detainee have any complaints regarding the conditions of his incarceration, the state believes that they should be raised in the framework of an individual Prisoner’s Petition (see and compare for example: HCJ 4531/09 **Barghouti v. IPS** (delivered on 16.6.10)).

13. All that is stated the notice is supported by an affidavit on behalf of the IPS.

Today: 11 Kislev 5775
3 December 2014

[signed]
Nohi Ben Or
Senior Deputy A’ to the State Attorney