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## Andre Rosenthal - Advocate

December 28, 2014  
Reference: 2810/3

To  
IDF Commander in the West Bank  
Through [Pniot-tsibur@mail.idf.il](mailto:Pniot-tsibur@mail.idf.il), Telephone: 02-530533

Dear Sir,

Re: **Appeal against an order prohibiting entry into the West Bank in the name of al Ghul, ID No.**

On December 17, 2014, we turned to you and requested to know whether any open material existed in the matter of my above referenced client and to receive same, if any. Our said request remained unanswered.

The following are appellant's arguments:

1. Holding a "hearing" after an order was issued is not proper. It is always harder to cancel an existing order than refrain from issuing it. This defect undermines the validity of the order itself.
2. The order is improper since it is sweeping, and prevents appellant's entry into the entire West Bank area.
3. It is very difficult to defend against an order which is entirely based on privileged information. The appellant has not been interrogated prior to the issue of the order, he has not been accused of anything, and he has no idea what it is all about.  
There is no indication in the order of the nature of the acts which are, ostensibly, attributed to the appellant, so as to enable an examination as to whether the order "is necessary and required for the purpose of securing security".
4. The order is apparently based solely on privileged information: this is our assumption in view of the fact that our request dated December 17, 2014, remained unanswered. The privileged information derives from intelligence work and is based on dependency relations between the informant and the agent. The weakness of the source, such as his need to obtain certain permits or benefits from the state, or any other weakness, are used by the agent to induce and obligate informants to provide information. Naturally, the source has an inherent interest to provide information, including inaccurate information. Even if the information is obtained from several sources, each source has the same weakness and the reliability of the information is dubious. For as long as the information is based on human sources, such privileged information cannot justify the deprivation or limitation of the freedom of movement of the appellant. The inter-

relations between the source and his agent are essential details which must be taken into consideration, before a determination is made, apparently by the Israel Security Agency (ISA), that the sources are firm and reliable. The consideration received by the source, by way of a benefit or monetary payment, is also a parameter which should be taken into account. Said human sources, in the vast majority of cases, never appeared before a judicial instance which confirmed their reliability. Obviously, it is the judicial instance which is vested with the authority, according to the law, to determine the reliability of a witness, rather than an ISA agent, as was done – apparently – in the case at hand.

5. The length of the order is disproportionate, as it is too long.
6. When the order was issued, the fact that since his conviction by the Judea Military Court in 2006, no charges were pressed against the appellant, was not taken into account.
7. The appellant, a 31 years old bachelor, has been working, prior to the issue of another order which prevents him from entering Jerusalem, in a Not for Profit Association for the promotion of public health, for six years. He intends to get married next May. Three years ago he was interrogated by the ISA. The appellant lived – prior to the issue of the order which prevents him from entering Jerusalem – together with his family in Ras al-Amud.

8. In Conclusion:

The hearing takes place after the issue of the order, rather than before a decision is made as to whether an order should be issued.

A request for the receipt of any open information remained unanswered. We therefore conclude that the order is based solely on privileged information.

The nature of the privileged information is dubious.

The appellant was not interrogated before the order was issued and he was not granted proper opportunity to defend against it, as he has no idea what stands behind the order itself.

The order is sweeping, since it prohibits the appellant from staying in the entire area of the West Bank.

The order does not meet the proportionality test and is too long.

9. In view of the above, it is respectfully requested to revoke the order, or, alternatively, to limit its scope.

Sincerely,

Andre Rosenthal, Advocate