

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](mailto:site@hamoked.org.il)**

Unclassified

-1-

[Emblem]

Israel	Defense	Forces
Military	Advocate	General
Legal Advice &	Legislation	Department
Legal Advice to the Home Front	Command	
Tel:		08-9784244
Fax:		08-9784134
<u>AR</u>	<u>38</u>	<u>- 29756</u>
Iyar	11	5775
April	30	2015

**Advocate Andre Rosenthal**  
**By Fax No. 02-6221148**

Re: al-Ghul ID No. - Extension of Removal Order

Reference: Ours dated April 16, 2015  
Yours dated April 20, 2015

1. On April 16, 2015, you were informed by the undersigned that the GOC Home Front Command had reviewed the privileged information concerning the matter of your client, Mr. \_\_\_\_\_ al-Ghul (ID No. \_\_\_\_\_) (hereinafter: **your client**), and consequently considered the issue of an additional removal order in the matter of your client according to which he would be removed from the city of Jerusalem for an additional four month period.
2. In said notice you were advised that the door was open before your client to present his arguments before the GOC Home Front Command regarding this possibility, before a final decision was made in this regard.
3. On April 20, 2015, a document was submitted on your behalf which consisted of your client's main arguments against the issue of an additional limitation order against him. On April 21, 2015, the arguments of your client were also presented verbally before Lieutenant Colonel Ronnie Kazir, who was appointed for this purpose by the GOC Home Front Command, in the presence of your client. In said hearing, you reiterated the arguments which were submitted in writing on behalf of your client and added

additional arguments. After all said arguments were presented before the GOC Home Front Command, I hereby notify you of his decision.

4. It should be firstly stated that having examined all of your arguments, the GOC Home Front Command decided to reject them and order of the removal of your client from the municipal area of Jerusalem for an additional four month period, on the grounds specified below.

#### **Background and legal framework of the decision**

5. The decision to issue the additional order in the matter of your client was made by virtue of the authority of the GOC Home Front Command according to sections 6, 108 and 109 of the Defence (Emergency) Regulations, 1945 (hereinafter: the **Regulations**), after the GOC Home Front Command reached the conclusion that it was necessary for the purpose of securing state security and public safety and for the purpose of maintaining public order.
6. Prior to making his decision, the GOC Home Front Command had examined the information accumulated in the matter of your client and found that solid administrative evidence existed which indicated of the danger currently posed by your client should he be permitted to stay in the municipal area of Jerusalem. The GOC Home Front Command found that under the circumstances of the matter, the issue of the order creates a proper balance between the need to prevent the threat posed by your client and the violation of his rights.
7. In view of the fact that the information in your client's matter is confidential, naturally, we will not be able to transfer it for your review. However, as you know, the paraphrase which was transferred to you contains the information which may be disclosed at this time.

#### **The paraphrase in your client's matter**

8. In the hearing it was argued that to the extent new information had been received in your client's matter, it was not reflected in the paraphrase which was transferred for your review. It was further argued that to the extent new intelligence information existed, then, according to the court's judgment in HCJ 978/15 **al-'Awal v. GOC Home Front Command**, your client should have been interrogated about said information, also taking into consideration the nature of the interrogation which was conducted in his matter after the previous order had been issued against him.
9. As noted in our above referenced letter, before the possibility to issue an additional removal order against your client was considered, the privileged information accumulated in his matter was presented before the GOC Home Front Command. It should be emphasized that this case concerns diverse information, some of which was in the possession of the GOC Home Front Command when the previous order in your client's matter was issued.

10. It should be clarified that due to the privileged nature of the information accumulated in your client's matter an additional paraphrase, beyond that which has already been transferred for your review in our above referenced letter, may not be transferred.
11. It should also be noted that in view of the privileged nature of the additional information which was accumulated since the interrogation of your client by the Police, your client could not be interrogated of said additional information.

#### **The nature of the information underlying the order**

12. In the hearing you argued that to the extent the intelligence information upon which the GOC Home Front Command relied derived from a human source, its credibility should be evaluated by a neutral party outside the Israel Security Agency (ISA).
13. The GOC Home Front Command is of the opinion that this argument has no merit in view of the fact that, as a general rule, the credibility of evidence is also evaluated by the administrative authority which was empowered to make the decision. Such authority may make decisions which require an examination of the credibility of intelligence information, and in this context may also evaluate the credibility of the evidence.<sup>1</sup>
14. Beyond the above it should be noted that the privileged information in your client's matter is vast and diverse, and that the decision of the GOC Home Front Command to issue an additional removal order against your client based thereon is well founded.

#### **Using the Defence Regulations**

15. In the hearing it was also argued that the use of the Defence Regulations which were enacted before the establishment of the state was "troubling" and inappropriate.
16. In connection with this argument it should be reminded that the Supreme Court has emphasized more than once the validity of the Defence Regulations, and that the arguments of your client have already been considered and rejected in the petition in HCJ 978/15. It should be added that the GOC Home Front Command uses the Defence Regulations cautiously and proportionately and only in special cases in which the exercise of said authority is required.

#### **The personal circumstances of your client**

17. In the hearing it was noted that your client intended to marry shortly and that in the last few years he has not been detained by the security forces. Your position is that said data attest to the fact that your client changed his ways and that he was dedicated to establish a family. Beyond that, in the hearing your client described the difficult separation from his home and work, and the health condition of his father who required a significant care and his availability to provide him with such care.

---

<sup>1</sup> See LCrimA 4393/11 **Musali v. State of Israel**; HCJ 1227/99 **Malevski v. Minister of Interior**.

