

Date: January 11, 2017
Our ref: 31490

For the attention of
Attorney General
Advocate Dr. Avichai Mandelblit
Ministry of Justice, 29 Salah a-Din Street
Jerusalem 91010

Per fax: 02-6467001



Urgent!

Dear Sir,

Regarding: **Complaint and scathing protest against the violation of the right to due process**

Notices of the Ministry of Interior about an intention to revoke the permanent residency status of

Mrs _____ al-Qanbar, ID No. _____

Mr. _____ al-Qanbar, ID No. _____

Mrs _____ al-Qanbar, ID No. _____

Mr. _____ al-Qanbar, ID No. _____

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شارع أبو عبيده ٤
القدس ٩٧٢٠٠
هاتف. ٠٢. ٦٢٨٣٥٥٥
فاكس. ٠٢. ٦٢٧٦٣١٧

mail@hamoked.org.il
www.hamoked.org.il

1. On behalf of HaMoked: Center for the Defence of the Individual (hereinafter: **HaMoked**), representing the al-Qanbar family members the details of which are specified above, a complaint and scathing protest are hereby submitted as well as a demand for your immediate interference with the inappropriate conduct of the Ministry of Interior which yesterday initiated proceedings for the revocation of the status in Israel of the al-Qanbar family members. It should already be emphasized at this point that it is a fundamentally inappropriate conduct running contrary to fundamental principles of due process and good governance, all as specified below in detail.

Powers of attorney are attached.

2. **Yesterday afternoon** the managing director of the population authority office in East Jerusalem, Mrs. Hagit Zur, informed the above captioned al-Qanbar family members that the Minister of the Interior, Mr. Aryeh Machlouf Deri, directed his subordinates to examine the possibility to revoke their status in Israel and that they were summoned for a hearing which was scheduled for them in his East Jerusalem office on the following morning, January 11, 2017, at 09:00.
3. It should also be emphasized that contrary to the directives of the Supreme Court in AAA 1038/08 **State of Israel v. Ghabitz** and contrary to the procedures of the Ministry of Interior – Procedure on Security Agencies Comments No. 5.2.0015 – in the context of the notices given to the above

family members they were not given the opportunity to submit written arguments in addition to the presentation of oral arguments.

4. Upon receiving the notice, HaMoked turned to the managing director of the above population authority office – in writing and by telephone – and made it clear to her that it was a scandalous and inconceivable notice in view of the fact that it would be unreasonable to expect a person that the Minister of the Interior sought to revoke their status, to attend a hearing in such a crucial matter one day after having received a notice in that regard without a reasonable prior warning and without an opportunity to consult with their legal counsels, who wanted to prepare their arguments in an orderly manner.
5. It should be further noted that in the telephone conversation between the undersigned and the managing director of the office which preceded the letter that was thereafter sent, the managing director of the office clarified that the instruction came directly from the Minister's office.
6. In view of the above, and in a bid to properly prepare for the hearing, HaMoked requested the managing director of the office to postpone the hearing by several days. However, until the date of this letter no response has been received to HaMoked's request to postpone the hearing.

The right to due process: the right to a hearing

7. The importance of the right to have a hearing cannot be overstated. The Supreme Court regards the preliminary hearing in the area of administrative law as one of the rules of natural justice (HCJ 3/58 **Berman v. Minister of Interior**, IsrSC 12 1493, page 1503; HCJ 290/65 **Alhajar v. Mayor of Ramat-Gan**, IsrSC 20(1), 29, page 33; CrimApp 768/80 **Shapira v. State of Israel**, IsrSC 36(3) 337, page 363 and many others).
8. The more severe and irrevocable the governmental decision, the more important it is that the involved person would be able to present his arguments and respond to the allegations raised against him in an attempt to refute them (HCJ 5973/92 **Association for Civil Rights in Israel v. Minister of Defence**, IsrSC 47(1) 267, pages 285-286).
9. The Honorable Justice (as then titled) Barak stressed the importance of the right to have a hearing in *Gingold*:

A basic right of a person in Israel is that a public authority which prejudices the status of a person will not do so before granting such person the opportunity to voice his opinion. With respect to this basic right, it is irrelevant whether the public authority is acting by virtue of legislation or by virtue of an internal directive or by virtue of an agreement. The issue of whether the power which was exercised is judicial, quasi-judicial or administrative and whether the discretion granted to such authority is broad or narrow is also of no importance. In any event in which a public authority seeks to change a person's status, it is required to treat him fairly, and this duty imposes upon the authority the obligation to grant such person the opportunity to voice his opinion. (HCJ 654/78, **Riva Gingold v. The National Labor Court et al**, IsrSC 35(2) 649, pages 654-655).

10. Furthermore. The right to have a hearing does not refer only to a **formal proceeding** of summons and hearing. **The right to a hearing means the right to a fair hearing** (HCJ 598/77 **Eliyahu Deri v. The Parole Committee**). **This right means giving a fair opportunity to respond to information which was received and which may affect the decision in petitioner's matter** (see: HCJ 361/76 **Hamegader v. Shlomo Refaeli**).
11. Therefore, and independent of many substantive arguments which will be raised in due course against the inappropriate notices mentioned above, it is already clear now that granting only several hours in a bid to establish and raise arguments against the intention to deny such crucial rights is not fair, to say the least, and undermines the great importance of the right to be heard. The chain of events until now points at the fact that there is no intention to conduct, not even for the sake of appearance, a due and fair process.
12. In view of the above described inappropriate conduct, we request that you urgently interfere with the matter including by instructing the Ministry of Interior to act according to the law and summon the above persons who received notices to submit their written and oral arguments within a reasonable period of time that will enable them to prepare their arguments in the matter in an orderly manner. We also request that you instruct to freeze the proceedings instituted yesterday by the Minister of the Interior against the above mentioned al-Qanbar family members for as long as the hearings are not conducted properly as required.
13. Your interference with the matter and your response to this letter are appreciated.

Sincerely,

(Signature)
Benjamin Agsteribbe,
Advocate

enc:
Powers of attorney

cc:
Office of the Minister of the Interior, Mr. Aryeh Machloulf Deri
Legal advisor, Population Authority, Advocate Daniel Salomon