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Date: July 20, 2016

In your response please note: 37230  
40670  
31708  
31250

To  
Brigadier General Achvat Ben Hur  
Head of Civil Administration

By Fax: 02-9977341

Dear Sir,

Re: **Failure to Respond to Applications in a Timely Manner**

1. HaMaoked: Center for the Defence of the Individual turns to the Civil Administration in a host of areas for the purpose of protecting the rights of Palestinians, residents of the Occupied Palestinian Territories (OPT). In all areas handled by us, the phenomenon of failure to respond to applications within a reasonable time frame is unfortunately prominent.
2. In view of the extended handling time, HaMoked is forced to turn time and time again to the judicial authorities. Frequently the permit/response is received shortly after a petition is filed, even before a hearing in court was held to the crux of matter.
3. This was the case only recently in the matter of \_\_\_\_\_ Ali (HCJ 3764/16) who wanted to remove the preclusion which was placed against his travel abroad. Mr. Ali's petition was filed in the absence of any response to objection and applications which were submitted in his matter within the time frame prescribed for this purpose in the "Procedure for handling applications of Palestinian residents wishing to find out whether security preclusion exists against their travel abroad and for its removal". After the petition had been filed notice was initially given that the security agencies insisted on the security preclusion, but following an examination of factual arguments which were raised by the petitioner, the preclusion was removed. In the judgment for the deletion of the petition Justice Rubinstein demanded to receive a statement supported by an affidavit of the head of the Civil Administration concerning the question of why the respondents fail to respond to the applicants in a timely manner, as a result of which they are forced to file petitions and waste resources. It was also demanded to include in the statement a mechanism for the prevention of recurrent situations of this sort.

The decision of Justice Rubinstein is attached hereto – Exhibit A.

4. There seems to be a substantial need to conduct an examination as ordered by the court and change the current situation by a mechanism which would make redundant the need to repeatedly turn to judicial instances for the purpose of receiving response. The

following are data gathered in the different areas handled by HaMoked, attesting to the frequency of the phenomenon of failure to provide response on time, including cases which concern failure to comply with time frames which were established in the procedures of the Civil Administration itself. The data refer to the period between January 1, 2015 – June 30, 2016.

Travelling abroad from the West Bank

Total No. of applications for removal of preclusion	236	100%
Applications in which no response was received within eight weeks	84	35%
No. of petitions which were filed after response was not received within 8 weeks	48	20%
No. of petitions which were filed after no response was received despite of their urgency	10	4%
No. of petitions which were filed after no response was received and as a result of which the preclusion was removed	34	14% (58% of the total No. of the petitions which were filed due to failure to respond)

5. According to the "Procedure for handling applications of Palestinian residents wishing to find out whether security preclusion exists against their travel abroad and for its removal", the Civil Administration should respond to objections submitted against a ban on travel abroad within a (quite long) time period of eight whole weeks. Nevertheless, in more than one third of the applications in the relevant period no response was received in the above prescribed time period.
6. In addition, no reference is made in the above procedure to the manner by which urgent matters should be handled, where it is impossible to wait for an answer for such a long time. In the absence of any mechanism for an expedited processing of applications the circumstances of which require an immediate response, petitions in these cases are also filed with the court.

Accordingly, for instance, in the matter of Mrs. \_\_\_\_ Samara (HCJ 7875/15, an urgent objection was submitted on October 27, 2015, to DCO Ramallah to enable her to travel to a professional convention in Jordan, in the framework of her employment with the UNDP. The convention was scheduled for December 2, 2015, and we have therefore clarified ahead of time that Mrs. Samara would not be able to wait eight weeks for having her objection processed. After several reminders and telephone conversations with DCO representatives, we were informed that the processing of the objection had commenced only on November 8, 2015 (about two weeks after its submission). For lack of any other option, an urgent petition was filed on November 19, 2015, with the Supreme Court. On

November 25, 2015, before a hearing was held in the petition, respondents' representative notified that the preclusion had been removed.

7. As indicated from the above data, more than half of the petitions which were filed with the court in the absence of response resulted in the removal of the preclusion.
8. It should also be noted that in many cases the Civil Administration started to handle the objection more than one whole month after the objection's submission date. Such a delayed commencement in handling objections, which has no justification, explains the failure to meet the reply schedule established in the procedure.

Permits in the Seam Zone

9. Agriculture and Agricultural Employment Permits

Total No. of applications	194	100%
Applications in which no response was received within four weeks	111	57%

Section 5(a) of the part "Schedule for Processing Different Applications" of the collection of Standing Orders stipulates that response to permit applications for agricultural needs will be given within four weeks. In fact, in more than half of the cases which were handled by HaMoked no response was received within the above time frame. In the vast majority of the applications submitted in these cases response was received months after the date on which the application had been delivered to the DCO.

10. Trade & Commerce and Trade & Commerce Work Permits

Total No. of applications	47	100%
Applications in which no response was received within two weeks	29	48%

Section 6 of the part "Schedule for Processing Different Applications" of the collection of Standing Orders stipulates that the maximal response time to trade & commerce permit applications and trade & commerce work permit applications is two weeks. In fact, in about half of the cases which were handled by HaMoked no response was received within the above time frame. Most of the applications were answered only after more than two months and several applications were answered only after four whole months(!).

11. Status Clarification Requests

Total No. of applications	73	100%
Applications in which no response was received within two weeks	61	84%

Section 11(c) of the part "Schedule for Processing Different Applications" of the collection of Standing Orders stipulates that the civil administration public liaison officer may be contacted and requested to conduct an inquiry regarding the transfer of the application by the Palestinian coordination office to the Israeli DCO and that the response to the inquiry request will be given within no more than two weeks.

The obligation to respond to such requests expeditiously is *prima facie* clear, in view of the fact that if no application was transferred by the Palestinian coordination office to the Israeli FCO the applicant waits in vain instead of resubmitting his application. In addition, it is a request which requires a very simple factual examination. Nevertheless, the vast majority of the requests for status clarification receive no answer whatsoever. HaMoked's letters on this issue dated November 8, 2015 and December 17, 2015, which include examples of delayed answers to requests for status clarification, were also answered only recently, after more than six months (!)

The letters of Advocate Yadin Elam on behalf of HaMoked are attached hereto – Exhibits B & C.

The response letter of Captain Eliran Sasson is attached hereto – Exhibit D.

12. Summons for Inquiry by the Head of the DCO

Section 2(d) of the part "Inquiry by the Head of the DCO" of the collection of Standing Orders stipulates that "the applicant will be summoned for inquiry within two weeks from the date of his application".

We do not have in our possession precise data but the vast majority of the applications on this issue are not answered in a timely manner. On April 14, 2016, a pre-HCJ letter was sent to the State Attorney's office, in view of the prevalence of the phenomenon, specifying in detail some examples.

The letter to the HCJ department is attached hereto – Exhibit E.

13. Appellate Committee

Sections 5(f) and 5(h) of the part "Appellate Committee" of the collection of Standing Orders stipulate that the chair of the committee will examine the application within one week from the date of its receipt and will decide whether a hearing is required. To the extent a decision is made that the committee should be convened, the applicant should be summoned to a hearing within three weeks from the date of the decision. Namely, according to the provisions of the Standing Orders an applicant in whose matter an appellate committee should be convened must be summoned within four weeks at the utmost from the date of the application.

In addition, according to section 6(e) the decision of the appellate committee shall be delivered to the applicant within one week from the date on which the committee had convened.

In fact, the number of times in which the committee convenes is very low and the failure to respond to requests to be summoned to a hearing before the appellate committee is very common.

The data in our possession pertain only to applicants who were eventually summoned to the appellate committee:

Total No. of summons to the appellate committee	23	100%
Summons sent in deviation from the time frame established in the collection of Standing Orders	17	74%

Decisions made not within the time frame established in the collection of Standing Orders	23	100%
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On April 21, 2016, a general pre-HCJ letter was sent which contained many examples of applicants who received no answer whatsoever to their request to be summoned to a hearing before the appellate committee

The pre-HCJ letter on this issue is attached hereto – Exhibit F..

14. In the context of handling applications regarding seam zone permits, HaMoked had to send to the State Attorney's Office pre-HCJ letters in 50 cases, in the absence of any response. In addition, seven petitions were filed with the High Court of Justice in the absence of any response to the applications.
15. In this area of responsibility the Civil Administration's failure to meet the reply schedules which were established by it in the collection of Standing Orders is prominent. A speedy and efficient processing of applications should have limited the damage to the fabric of life of the residents of the seam zone and of Palestinians wishing to enter it for work purposes and for the purpose of farming their lands. In fact, these applicants are forced to deal with a multi staged bureaucracy within the framework of which they must wait, time and time again, long and unreasonable periods of time without receiving answers to their applications.

#### Passage from the West Bank to the Gaza Strip

In the relevant period 51 applications for permits to enter Israel for the purpose of traveling from the Gaza Strip to the West Bank were submitted. In eight cases petitions were filed due to failure to receive response. In all eight cases permit was granted before the hearing was held.

#### Entry permit into Israel to visit an incarcerated relative

Total No. of applications	555	100%
Applications in which no response was received within 45 days	380	68%
No. of petitions which were filed in the absence of any response	57	10%
No. of petitions which were filed in the absence of any response following the filing of which permits were granted	49	8% (86% of all petitions which were filed for failure to receive response)

16. It should be noted that HaMoked submits to the Civil Administration applications of this sort only after the elapse of two months and a half from the date on which the applicant had placed a visit application with the Red Cross. Namely, in fact, the processing time of a permit application is longer than mentioned above, contrary to the undertaking which was given in the framework of HCJ 7615/07 **Barghuti v. The Military Commander for the West Bank Area**, according to which a reply to an application of a family

member to make a prison visit would be given within a period ranging between two months and two months and a half.

17. However, according to the data in our possession a considerable improvement has occurred in the response time to applications of this sort over the last year.

### Conclusion

18. The data specified above indicate that there is, in fact, a problem of failure to respond to applications and that there is a need to examine and improve the working procedures of the Civil Administration.
19. We shall be happy to hold a professional meeting with the Administration's representatives who work *vis-a-vis* HaMoked on different issues for the purpose of examining additional issues, other than the handling and response issues, which were not specified in this letter. Similar meetings which were held in the past contributed significantly to the creation of more efficient working relations between the parties.

Sincerely,

(Signature)  
Dalia Kerstein  
Executive Director

Copies:

Advocate Osnat Mendel, Head of HCJ Department  
Advocate Yonatan Berman, State Attorney's Office