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At the Jerusalem District Court
Sitting as the Court of Administrative Matters

Adm. Pet. 8476/08

In the matter of: HaMoked Center for the Defence of the Individual, founded by Dr. Lotte Salzberger – R.A.

Represented by attorneys Yotam Ben Hillel (Lic. No. 35418) and/or Yossi Wolfson (Lic. No. 26174) and/or Hava Matras-Irron (Lic. No. 35174) and/or Sigi Ben-Ari (Lic. No. 37566) and/or Abeer Jubran (Lic. No. 44346) and/or Ido Blum (Lic. No. 44538) and/or Yadin Elam (Lic. No. 39475) and/or Alon Margalit (Lic. No. 35932)
Of HaMoked Center for the Defence of the Individual, founded by Dr. Lotte Salzberger
4 Abu Obeida Street, Jerusalem 97200
Tel: 02-6283555; Fax: 02-6276317

The Petitioner

-Versus-

- 1. The Minister of the Interior**
- 2. The Commissioner of the Freedom of Information Law in the Ministry of the Interior**

Represented by the Jerusalem District Attorney's Office
7 Mahal St., Jerusalem
Tel: 02-5419555; Fax: 02-5419581

The Respondents

Petition in accordance with the Freedom of Information Law

A petition is hereby filed in accordance with Section 17 of the Freedom of Information Law, 5758-1998 (hereinafter: the **Freedom of Information Law** or the **Law**). The Honorable Court is moved to require the Respondents to reply to the Application that discusses the matter of receiving information with respect to revocation of residency status from permanent residents in East Jerusalem in the years 2006-2007 (hereinafter: the **Application**). The description of the requested material is in the letter that was attached to the Application, and it is attached and marked **P/1**.

The Application was sent to Respondent 2 as far back as February 11, 2008. Although more than four months have passed since, the Application has not yet been answered, in gross violation of the Law.

The Factual Infrastructure

The Parties

1. The Petitioner (hereinafter also: the **Center for the Defence of the Individual** or **HaMoked**) is a non-profit association that acts to promote the human rights of the residents of the Territories and of Eastern Jerusalem. The Center for the Defence of the Individual was founded in 1988 in light of the events of the First Intifada, and since then and until this day has handled tens of thousands of applications, through approaching the State Authorities and through legal activity, whether by representing others and whether as a public petitioner. In addition, HaMoked issues periodical reports and subject reports as part of its public objectives, and its desire to realize the democratic principle of the public's right to know.
2. *Inter alia*, HaMoked assists the residents of Eastern Jerusalem in fighting a variety of human rights' violations relating to the residents' civil status and to their right to a family life. In this respect, HaMoked takes care of East Jerusalem residents whose status was revoked; applications for family unification, filed by East Jerusalem residents for their spouses; applications to register the children of those residents; and the cases of people with no status who live in the city.
3. In many of the cases, the specific petitions of those residents also include matters of principle. Matters which can amount to a broad impact on the issue of the status of the residents of East Jerusalem. Thus was the case, for example, in the matter due to which HCJ 2227/98 *The Center for the Defence of the Individual et al. v. the Minister of the Interior et al.* was filed. In that case, HaMoked petitioned to the HCJ, with other human rights organizations as well as residents whose status was revoked due to the policy of the Ministry of the Interior. In the course of the conduct of that petition, in March 2000, the Minister of the Interior at the time, Natan Sharansky, filed an affidavit to the HCJ which "softened", to some extent, the policy of revocation of residency. In accordance with the language of the affidavit, whoever of those residents whose residency had been revoked, could reacquire his residency, had he met certain conditions. In addition, the Ministry of the Interior undertook not to revoke the residency of a person who stayed outside of Israel for more than seven years – if that person met certain conditions.
4. HaMoked also files petitions in the matter of receiving information from the authorities. Thus, for example, HaMoked filed a petition in the matter of receiving the Respondents' procedures with respect to restricting East Jerusalem residents from going abroad via the Allenby Bridge. (Adm. Pet. (Jerusalem) 750/05 *The Center for the Defence of the Individual v. The*

Minister of the Interior et al., a petition in accordance with the Freedom of Information Law). Following the filing of the petition, the Respondents transferred a copy of the procedures to HaMoked. That was the case recently as well, when HaMoked petitioned, with other human rights organizations, for the receipt of the complete compilation of the Population Administration's procedures, for allowing the petitioners to review it, and to publish all of the Population Administration's procedures on the Ministry of the Interior's website. In this petition the judgment given fully granted the petition. (Adm. Pet. (Jerusalem) 530/07 *The Association for Civil Rights in Israel et al. v. The Ministry of the Interior, Takdin-District Courts* 2007(4), 10803).

5. As aforesaid, The Center for the Defence of the Individual also publishes reports on various issues. With respect to the civil status of residents in East Jerusalem, HaMoked published three reports between the years 1997-2004: **The Quiet Transfer – Revocation of the Residency Status of Palestinians in East Jerusalem; The Quiet Deportation Continues: Revocation of Residency and Denial of Social Rights of East Jerusalem Palestinians; Forbidden Families: Family Unification and Child Registration in East Jerusalem.**

The reports can be found on The Center for the Defence of the Individual's website: www.HaMoked.org.il

6. According to Section 3 of the Freedom of Information Law, the Respondents are the ones responsible to provide a reply to enquiries according to the Law.

The Subject Matter of the Application

7. This Petition, as aforesaid, concerns the receipt of data about the revocation of the residency status from residents in East Jerusalem during each of the years 2006 and 2007.
8. It shall be noted that part of the Application is a follow-on-application to the application handled by Respondent 2 during 2007, an application filed by the 'B'Tselem' organization. In the context of that application indeed data were received with respect to the magnitude of the revocation of residency in 2006, however those are partial data that do not paint the complete picture in regards to that year. A request carried out by 'B'Tselem' for more detailed information remained unanswered.

B'Tselem's enquiries to Respondent 2, and Respondent 2's replies are attached hereto, marked **P/2-P8**.

9. In the Petitioner's enquiry, the subject matter of this Petition, the Respondents were requested to provide the following information:
 - A. How many of East Jerusalem's residents were revoked of their residency status in 2006, and how many were revoked of it in 2007? How many of them are minors (separately for 2006 and for 2007)?

- B. What were the causes for the revocation of residency in each of those years? More specifically (in accordance with **Section 11a of the Entry into Israel Regulations, 5734-1974**):
1. How many residents were revoked of their status due to staying outside of Israel for at least seven years?
 2. How many residents were revoked of their status due to the receipt of a license for permanent stay in a foreign country?
 3. How many residents were revoked of their status due to the receipt of citizenship in a foreign country?
- C. How many residents were revoked of their status **only due to one reason** of the reasons described in Section B, and what is that specific reason?
- D. How many residents were revoked of their status **due to more than one reason** of the reasons described in Section B, and what are the reasons?
- E. How is the Ministry of the Interior informed about the receipt of citizenship or a permanent license in a foreign country by the residents of East Jerusalem?
- F. Will the status also be revoked from an East Jerusalem resident, who received a foreign citizenship or permanent residence, but spent only a few years abroad and is now living in Israel?
- G. Did the Ministry of the Interior notify whoever's residency allegedly 'expired' that he is welcome to file an appeal on the decision? If so – how many people were notified, and how was the notice carried out? How many people approached the Ministry of the Interior following such notice and appealed the decision? How many of them had a hearing held for them?
- H. To how many East Jerusalem residents did the Ministry of the Interior notify in retrospect that it decided to revoke their status? How was the notice carried out?
- I. How many East Jerusalem residents were revoked of their status while they were outside of Israel, in each of the years 2006-2007? Of these people, how many tried to return to Israel and were not permitted to enter, and how many of them entered into Israel by use of non-Israeli documentation (meaning by the use of a tourist visa)?
- J. With respect to the countries in which those who were revoked of their residency received citizenship and/or permanent residence, we shall request a numerical description – how many people were revoked of their residency due to receipt of status in each and every country, and what type of status did they receive? Are there any people who were

revoked of their status due to immigration to the Territories? If so, how many people?

10. As is known, the right to receive information does not depend on proving the applicant's interest in the information (see Section 7(a) of the Law and also: (see Adm. Pet. 717/02 *Rabbi Adv. Uri Regev v. Yad Vashem, Takdin – District Courts* 2002(3) 6893, p. 6896; Z. Segal, *The Right to Know in Light of the Freedom of Information Law*, p. 221). However, and superfluously, we shall request to somewhat describe the vitalness of receiving the aforesaid information.
11. The requested information can shed light on the legality and the propriety of the residency revocation procedure. The information can also clarify to residents what they are required to do in order to maintain their status, or in other words – in which situations will the Ministry of the Interior stop seeing them as permanent residents. The requested information can also provide an answer with respect to the scope of the phenomenon of revocation of residency in the relevant years, something which may indicate a change in the Ministry of the Interior's policy. It shall be noted that in 2006 the status of 1,363 of East Jerusalem residents was revoked – 6 times as many as in 2005. Receipt of accurate information on this matter with respect to 2007 may enable the Petitioner to understand whether this is a trend of a significant increase in the scope of residency revocation, or a one-time act.
12. Therefore, the requested information can assist in the preservation of Israeli residents' rights, whether in the material aspect and whether in the procedural aspect.

The Filing of the Application and the Absence of Response to the Application

13. As aforementioned, on February 11, 2008, the Application was sent to Respondent 2, attached with a check in the sum of NIS 86 to the order of the Ministry of the Interior's comptroller. The Application was attached to this Petition as Exhibit P/1.
14. On February 25, 2008, the Petitioner received Respondent 2's letter, according to which the Application is being reviewed.
A copy of the Respondent's letter is attached hereto, marked **P/9**.
15. After no additional reply was received on behalf of the Respondents, on March 20, 2008, the Petitioner sent a first reminder letter to Respondent 2.
A copy of the Petitioner's letter is attached hereto, marked **P/10**.
16. On April 16, 2008 the Petitioner sent an additional reminder letter to Respondent 2. In the letter, the Petitioner emphasized that Respondent 2's failure to reply violates the provisions of **The Freedom of Information Law, 5758-1998**.

A copy of the Petitioner's letter is attached hereto, marked **P/11**.

17. On May 18, 2008, the Petitioner sent an additional reminder letter to Respondent 2. In the letter, the Petitioner emphasized again that Respondent 2's conduct is contradictory to the Law.

A copy of the Petitioner's letter is attached hereto, marked **P/12**.

18. And from the Respondents' bureau – no reply.
19. **Thus, more than four months have passed from the day of filing the Application without it receiving any response from the Respondents, and therefore there is no choice but to file this Petition.**

The Legal Argumentation

The Public's Right to Know and to Receive Information from a Public Authority

20. The freedom of information is a chief principle in a democratic state, and it constitutes a primary source for supervision over the governmental authorities and for protection of human rights.

The purpose of the Freedom of Information Law is to enable transparency of the public authority's actions and to enable informed control of its functioning. "Enhanced accessibility to information will assist the promotion of social values including equality, rule of law and the honoring of the human rights, and will also enable the public to have better control over the government's actions". (Freedom of Information Bill, 5756-1996). (Adm. Pet. 717/02 *Rabbi Adv. Uri Regev v. Yad Vashem, Takdin – District Courts* 2002(3) 6893, p. 6896).

21. In Administrative Appeal 9135/03 *The Council of Higher Education et al. v. Ha'aretz Newspaper Publishing et al.*, *Takdin-Elyon* 2006(1), 697, p. 704, it was stated that:

True to the purposes which the Freedom of Information Law is intended to fulfill, in Section 1 the Law opens with a general and broad declaration with respect to the existence of the right to receive information from the public authorities by determining: each Israeli citizen or resident has the right to receive information from a public authority in accordance with the provisions of this Law. In his book "The Right to Know in Light of the Freedom of Information Law" Professor Segal states that this section is "the key section on which the entire Law leans. It constitutes the 'Foundation Stone' on which the legal right to receive information from a

public authority leans” (see Segal, *The Right to Know in Light of the Freedom of Information Law*, 97).

22. The Petitioner is requesting the provision of information which has a direct implication on the rights of Israeli residents, chiefly, the basic right to regulated status in the state. Indeed, the Freedom of Information Law enables the public authority to deny a request for receipt of information. However, this authority is available on specific grounds, which (at least apparently) are not fulfilled in our case (see Sections 8 and 9 of the Law). The Respondents also did not argue that the application to receive information should be denied (as is known, the Petitioner did not receive any relevant response to its Application). Therefore, the Petitioner reserves the right to address any argument that is raised for the first time, if any, by the Respondents after the filing of this Petition.

The Ministry of the Interior’s Conduct is a Gross and Continuous Breach of the Law

23. The actions of the Ministry of the Interior in our matter constitute a gross and continuous breach of the law. As is known, the Law requires the authority to notify the applicant without delay, and at most within a **30 day** period, on its decision with respect to his application. The Respondents did not meet this obligation. The authority may extend this period by another thirty days for reasoned grounds (Section 7(b) of the Law). The Respondents did not extend the period in accordance with this provision. Section 7(c) of the Law determines that “the head of the public authority is entitled to extend the period aforementioned in Sub-section (b) an additional extension, by a reasoned decision that will be sent to the applicant within the aforesaid period, if due to the scope or complexity of the requested information there is a need to extend the period; The additional extension will not exceed the required period for the said reasons, and in any case will not exceed 60 days”. This was also not done by the Respondents. And even if the Respondents had used the opportunity granted to them by the Law for the extension of the date, indeed even the maximal period permitted by the Law has already passed.
24. The Application which is the subject matter of the Petition was filed on February 11, 2008, more than four months ago, and till this day, despite three reminders that were sent to the Respondents, the Petitioner did not received any reply to the Application.

In light of all the aforesaid, the Honorable Court is moved to require the Respondents to reply to the Petitioner’s Application and to hand over to the Petitioner the requested information in full. In addition, the Court is moved to order the Respondents to pay the Petitioner’s costs and legal fees.

Counsel for the Petitioner

[T.S. 31490]