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The Magistrates Court in Jerusalem
Civ. 16529/95
Motslah v. The State of Israel
Opening date: September 18, 1995

At the Magistrates Court in Jerusalem

In the matter of:

_____ **Muslih**

represented by attorney Badrah G. Huri
of HaMoked: Center for the Defence of the Individual
founded by Dr. Lotte Salzberger
4 Abu Obeidah Street, Jerusalem 97200
Tel. 02-283555; Fax 02-276317

The Plaintiff

v.

The State of Israel

represented by the Tel Aviv District Attorney's Office
1 Henrietta Szold Street, Tel Aviv

The Defendant

Nature of the claim: **Tortious**

Amount of the claim: **NIS 23,255**

Complaint

1. The Plaintiff hereby respectfully submits his complaint to the Honorable Court, while stating that all of his arguments are asserted severally and/or alternatively and/or cumulatively, all as the context prescribes, and that all of the exhibits attached to the complaint constitute an integral part hereof.
2. The Plaintiff was born in 1971 and is a resident of Ramallah. In 1990, he traveled to Athens, Greece for dentistry studies. He finished his first year of studies and returned to Ramallah on 11 October 1991 to renew his *laissez-passer* and to visit his family.
3. The Plaintiff renewed his *laissez-passer* for travel to Greece through Ben Gurion airport on 8 November 1991.

4. a. On the same day, 8 November 1991, the Plaintiff arrived at Ben Gurion airport, passed all of the routine security checks, including a search and questioning, and boarded the plane. The plane was scheduled to take off at 07:00.
- b. A few minutes before 07:00, the Plaintiff was approached by a policeman and two female workers of the passport department, whom the Plaintiff recognized by their uniforms, who asked for his *laissez-passer*, took it, and asked him to disembark the plane.
- c. After the Plaintiff was removed from the plane, he was taken to the police station at Ben Gurion airport. At the station were 4 policemen, female workers of the passport department and men in civilian dress. The Plaintiff was detained at the police station until 18:00.

The Plaintiff was questioned about the issuance of the *laissez-passer* and was asked other routine questions, about which he was asked also prior to boarding the plane.

- d. When the Plaintiff was sent on his way, the *laissez-passer* was taken from him, but he was given no substitute or other document confirming that the *laissez-passer* had been taken. He was left with one suitcase, and the other suitcase traveled to Greece. In order to retrieve his suitcase, my client had to pay customs.

A copy of the customs receipt is attached hereto as Exhibit A, and copies of receipts for expenses incurred for travel to and from Ben Gurion airport in the sum of NIS 500, are attached hereto as Exhibits B, C(1) and C(2).

5. During the Plaintiff's questioning at the police, the passport department clerk notified him that she had stamped his *laissez-passer*, and that he had to turn to the Ministry of the Interior, as there was an order not to return the *laissez-passer* to him.
6. After the Plaintiff returned to his home, he turned to the Ministry of the Interior in East Jerusalem, to the Civil Administration in Ramallah, to the offices of the Civil Administration in Bet El, to the Ramallah Police, and to the office handling ID certificates in Ramallah (the Population Administration Bureau), but did not find his ID certificate in any of those offices. Nor did he get his *laissez-passer* back.
7. The Plaintiff turned to HaMoked: Center for the Defence of the Individual, a non-profit society which helps people when their rights are violated by the authorities, and asked for its assistance in retrieving his *laissez-passer* and/or ID certificate, so that he

could travel without delay to Greece, where he was scheduled to take important exams on 15 November 1991.

8. On 13 November 1991 the Director of HaMoked: Center for the Defence of the Individual faxed a letter to Second Lieutenant Karmit Avnon, then the Assistant Head of the Judea and Samaria Legal Administration Department, and asked that the Plaintiff's *laissez-passer* be returned, while emphasizing the need for urgent attention. A copy of the letter is attached hereto as Exhibit D.
9. In a telephone conversation between the Director of HaMoked and the Assistant Legal Adviser, Lieutenant Yehuda Cohen, on 24 November 1991, Lieutenant Cohen announced that from their point of view there was no obstacle to his exit, but that the issue was being handled by the Ministry of the Interior and the Border Police.
10. On the same day, 24 November 1991, Adv. A. Rosenthal, HaMoked's attorney at the time, turned to Mr. Shelomo Mattanya, Head of the Minorities Division at the Ministry of the Interior, and asked for the return of the certificate. The letter was sent by fax. A copy thereof is attached hereto as Exhibit E.
11. In Mr. Mattanya's letter of reply, which was received by the Center on 28 November 1991, he announced that the issue was being handled by the Judea and Samaria Population Administration Services. A copy of his letter is attached hereto as Exhibit F.
12. 45 days after my client was removed from the plane, he got his ID certificate back, but not his *laissez-passer* – nor did he learn of the reason for his removal from the plane. The ID certificate was given to the Plaintiff by a clerk named Toviyya, who apologized to him for denying him the trip, and told him that his exit had not been allowed owing to an administrative error.
13. Thereafter, the Plaintiff turned to the Civil Administration approximately three times to have a *laissez-passer* issued, but his application was denied.
14. Only on 31 August 1992, did Second Lieutenant Atalya Avshalom, the Substitute Head of the Judea and Samaria Legal Administration Department, send a letter notifying that there was no
15. impediment to the Plaintiff's leaving the region through Ben Gurion airport. The letter is attached hereto as Exhibit G.
16. a. As a result of the Defendant's agents' behavior, the Plaintiff suffered many damages. He missed his second year of studies, as well as the first year, as he

was unable to travel to Greece to take the final exams of the first year of his studies.

- b. The Plaintiff paid the sum of 150,000 Drachmas (currently NIS 1,950) in tuition fees for the first year at the university in Athens. Confirmation of the payment is attached hereto as Exhibit H.
17. After the delay in the trip, the Plaintiff did not return to Greece, in view of a deterioration in the economic situation of his family, which was unable to continue financing the continuation of his studies, thus causing him irreversible damage and drastically changing the course of his life, by not returning to complete his dentistry studies, studies which were supposed to benefit and improve his economic and social status.
18. In addition to the damage specified above, the Plaintiff suffered specific damages due to the cancellation of his trip to Greece. The specification thereof is as follows:
 - a. Rent that was paid in advance for a period of six months – for leasing an apartment in Athens, at the value of US \$680 for six months.
 - b. Furniture owned by the Plaintiff which was in the leased apartment. The Plaintiff was unable to go back home to find out what happened to the furniture – the value of which was US \$2,000. In addition, clothes of the Plaintiff's and laboratory instruments he had bought for his studies – in the value of approximately US \$500.
19. In addition, he suffered pecuniary damages, customs payment and trips to and from Ben Gurion airport, according to the following specification:
 - a. Travel by taxi at the value of NIS 500 – currently NIS 805.
 - b. Payment of a customs fee for the suitcase in the sum of NIS 155.
20. The Plaintiff shall claim that the Defendant's agents' behavior was negligent and/or unlawful and/or unreasonable, and that he was prevented from traveling overseas and was removed from the plane even though he was innocent.
21. The Plaintiff shall claim that the Defendants' negligence is evidenced by the letter of the Defendant's representative of 11 February 1993, stating that a mistake may have occurred in the writing of my client's *laissez-passer*. Such a mistake, which brought about the situation described in the complaint, testifies to the clear negligence of the Defendant's representatives and agents.

22. The Plaintiff shall claim that the Defendant's agents, also after removing him from the plane and delaying his trip, started a drawn-out handling process and unnecessary bureaucracy, and failed to return his *laissez-passer* to him in realistic and appropriate timing so as to enable his trip and mitigate the damages they had caused.
23. The Plaintiff shall further claim that the fact that his application was approved in accordance with Exhibit G only emphasizes that his trip was prevented owing to administrative errors only, and not owing to other reasons which would justify the conduct of the Defendant's agents.
24. The Plaintiff shall claim that it was the conduct of the Defendant's agents that brought about the material change in the course of his life, while drastically altering it. He did not return to his studies, and thus lost the future status and earnings of which he would have been assured, had he been allowed to travel to complete his studies.
25. The Plaintiff turned to the Defendants' representative through his attorney, requesting compensation for his damages. The Defendant's representative's offer was unreasonable, and therefore declined by the Plaintiff.
26. In view of all of the aforesaid, the Honorable Court is moved to summon the Defendants' representatives and to charge them with compensating the Plaintiff for his specific damages, which amount to NIS 13,255, plus NIS 10,000 as general compensation for his damages, namely NIS 23,255, plus indexation and interest from the date of filing of the complaint until the date of actual payment in full.

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Badrah G. Huri, Att.

Counsel for the Plaintiffs

Jerusalem, today 20 August 1995

[Opening date: 18 September 1995]