Andre Rosenthal, Advocate

June 23, 2015
Reference: 2810/3

To
Commander of IDF Forces in the West Bank
By electronic mail:
Pniot-tzibur@mail.idf.il

Dear Sir,

Re: Objection: My Client _____ al-Ghul. ID No. _____

1. I represent the above mentioned individual on behalf of HaMoked: Center for the Defence of the Individual, founded by Dr. Lotte Salzberger.

2. This morning we received a copy of an order prohibiting the entry of my client to the West Bank, in force from the date of its signature, May 29, 2015, until October 1, 2015.

3. We do not understand why this objection is filed only after it has been decided to extend the order prohibiting the entry of my client to the West Bank, why we were not informed ahead of time that there was an intention to do so and why my client was not interrogated before it was decided to issue the order.

4. The order was issued without giving my client the right to be heard. This was done in complete contradiction with the judgment of the Supreme Court in HCJ 1664/15 **al-Ghul v. Commander of IDF Forces in the West Bank** in which it was held as follows:

> "… The authorities must make an effort to conduct a serious interrogation to the maximum extent possible, and on such schedule which provides it with the proper fairness and proper visibility; in the future, the respondents should bear in mind that an effort should be made to conduct a serious interrogation to the maximum extent possible, as well as a hearing in advance according to an expedited schedule, and if the hearing is held in retrospect, an un-condemned necessity – without delay;…" (page 7 of the judgment's transcript).

5. My client was not interrogated. In the first round of the order, no substantial interrogation was conducted either, and the interrogation was conducted following arguments which were raised in the context of an objection against a removal order which was issued against my client.

With respect to the interrogation, the Supreme Court referred to this matter as well in the above mentioned judgment. In addition to the above quote, the Supreme Court held as follows:

> "On the other hand, it has already been said more than once that an interrogation should be substantive (HCJ 1546/06 **Gazawi v. Military Commander of the West Bank** (2006))…" (page 7 of the judgment's transcript).

6. My client did not violate the previous order and when he entered the West Bank to take part in a family celebration or to be present in legal proceedings in his matter, it was done only after a permit had been granted by your honor.

7. It was not argued that there was any new material against my client and it seems that the same material upon which the previous entry prohibition order was based, is used for the issue of the current order.

8. On December 10, 2014, computers were confiscated from my client's home in Jerusalem. Following our receipt of the approval of the legal advisor for the Home Front Command for the return of the computers, we tried, unsuccessfully, to receive them from the police unit which actually seized them. A hearing in this matter is currently scheduled before the Jerusalem Magistrate Court for June 11, 2015 *[sic]*.

The response of the Israel Police to the request states as follows:

> "2. Several computers were seized in the applicant's offices which were examined by the respondent and are required for further interrogation and examination…
>
> 3. Recent developments show that this material is relevant for the investigation conducted by the Special Assignments Unit and may be even used as evidence in the investigation file conducted by the Special Assignments Unit."

The above indicates that there is evidentiary material, but it is not clear why the "ordinary" criminal procedure was not used – assuming that the response of the Israel Police is credible and substantiated. A copy of the response is attached hereto. Said issue was also mentioned by the Supreme Court in the above referenced judgment. It was held there as follows:

> "and obviously, to the extent an "ordinary" criminal file may be opened rather than substitutes, it is preferable."
> (page 7 of the judgment's transcript).

We argue, based on the statements of the Israel Police, that apparently there is evidentiary material but that the authority was misused by having the order issued instead of resorting to the "ordinary" criminal procedure.

7. In conclusion, no hearing had been held before the order was issued, no substantive interrogation was conducted and no use was made of existing evidentiary material. For all of the above reasons the order should be revoked, or, at least, significantly limited.

Sincerely,

(signed)
Andre Rosenthal, Advocate

Attached: Response of the Israel Police

Cc: HaMoked: Center for the Defence of the Individual