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January 12, 2016
Reference: 30393

To:
Advocate Osnat Mandel
Head of HCJ Department
State Attorney's Office

By Fax: 02-6467011

Re: **Pre HCJ – Delay in giving a reason for the refusal to issue an entry permit into the seam zone for our client, Mr. _____ al-Traeyra, ID _____**

1. We hereby write to you on behalf of our client, , Mr. _____ al-Traeyra, whose details are specified above, and on behalf of HaMoked: Center for the Defence of the Individual (hereinafter: **HaMoked**), and request that you intervene in the matter of our client with the military agencies so as to cause the latter to disclose the reason for the denial of our client's application for commercial employment in the seam zone, and to the extent that the denial stems from security reason, a paraphrase is requested.
2. In addition, we request that our client be immediately summoned to an appellate committee or for a hearing before the Head of the Israeli District Coordination Office (DCO) according to the reason underlying the denial of his application, in view of the fact that our client's application for an entry permit into the seam zone was denied without any notice of the denial and of the reason for the denial, and he has therefore been denied of the possibility to object to the decision.
3. Our client is a Palestinian resident, born in 1988, unmarried, and resides in Bani Na'im. Our client wishes to work in a carpets store owned by his brother which is located in Barta'a, in the seam zone.
4. Our client's application for a commercial employment permit in the seam zone was transferred to the Israeli DCO in September 2015, but has not received any response thereto .
5. Therefore, on November 16, 2015, HaMoked's representative called the public liaison office in an attempt to find out what was the status of the application. She was told over the telephone that the application had been denied on October 12, 2015, but that the reason for the denial was not available on the system. It should be emphasized that notice regarding the denial of the application was given for the first time in said conversation and hence, no denial form was given to our client, contrary to the 2014 Seam Zone Standing Orders (hereinafter: the **standing orders**).
6. On November 24, 2015, HaMoked's representative spoke again with the public liaison office and was requested to provide a power of attorney.
7. On December 1, 2015, a letter was sent by HaMoked to the public liaison office in which the latter was requested to notify the reason for the denial of our client's application.

A copy of HaMoked's letter dated December 1, 2015, is attached hereto as **Exhibit A**.

8. On December 3, 2015, a letter was received from the public liaison office which noted that a power of attorney had not been attached to HaMoked's letter.

A copy of the letter of the public liaison officer dated December 3, 2015, is attached hereto as **Exhibit B**.

9. On that day another letter was sent to the public liaison officer together with the requested power of attorney.

A copy of HaMoked's letter dated December 3, 2015, is attached hereto as **Exhibit C**.

10. On December 16, 2015, HaMoked's representative spoke with a representative from the public liaison office who told her that he would check whether the denial was based on security reasons in which case our client would be summoned to an appellate committee, or whether it was a criterion denial in which case he would be summoned for a hearing before the Head of the DCO. On December 21, 2015, the two had another conversation in which the representative of the public liaison office stated that "an answer in his matter should be given".

11. On December 31, the public liaison office representative told HaMoked's representative, by telephone, that the denial was apparently based on security reasons, but that he did not have a paraphrase. On January 5, 2015 [*sic*] the public liaison office representative said that he would remind the Israel Security Agency (ISA) that a paraphrase was requested.

12. It should be noted that in September 2014, our client was summoned for an interview with an ISA representative in the Jenin DCO. In the meeting, our client presented the difficulty arising from the fact that he was not permitted to go abroad in view of the fact that he needed to receive medical care in Jordan. The representative notified our client that he would approve his trip abroad and indeed about a month later our client went to Jordan. By the end of said meeting our client asked the representative whether his commerce application in the seam zone would be approved should such an application be submitted by him, and the ISA representative replied that our client would receive a permit if he collaborates.

13. It should be reminded that section 15 in chapter A of the standing orders provides as follows: "**An application which was denied: the reason for the denial will be specified on one copy of the application forms and the copy will be returned to the Palestinian DCO, while the other copy will remain in the possession of the Israeli DCO** (the emphases and underlines appear in the original).

14. And section 16(b)(2) in chapter A of the standing orders provides:

Denial of Application – an application which was substantially reviewed and due to applicant's failure to meet the criteria was denied by the competent authority:

1. The application was submitted **with all relevant documents and in a timely manner**, and the applicant **fails to meet the application's administrative criteria** – the person of authority may deny the application based on a "criterion denial". **The reason for the denial should be specified.**

2. The application was submitted **with all relevant documents and in a timely manner**, and the applicant **meets the application's administrative criteria**, but **negative position was received from security agencies** in his matter – the person of authority may deny the application based on a "**security denial**". In such an event an **open paraphrase** regarding the reason for the denial should be given and in any event **an application which meets the criteria should not be denied based only on a security preclusion which exists** in the computerized system."
15. In addition to the clear interest that our client has in knowing the reason for the denial, the reason for the denial is significant for the purpose of the exhaustion of our client's remedies. If it is a criterion denial our client should request a hearing before the Head of the DCO whereas if it is a security denial he should request a hearing before the appellate committee.
16. Section 2.d. of the chapter which concerns a hearing before the Head of the DCO in the standing orders provides that: "The applicant **will be summoned for a hearing within two weeks** from the date of his application, **by telephone**. If he cannot be reached by telephone, he will be summoned **through the Palestinian coordination**."
17. Whereas the chapter which concerns the appellate committee provides, in chapter 5.f., that: "**The chair of the appellate committee or the secretary of the committee will examine the application within one week** from the date of its receipt and **will decide whether a hearing before the appellate committee should be held in this matter**" and that "as a general rule, in the event of a security denial a hearing will be held and section 5.h. stipulates that "**To the extent it is decided that the committee should be convened, the applicant will be summoned for a hearing within three weeks from the date on which the decision to summon him was made**."
18. Therefore, according to the standing orders, the military agencies should have given the reason for the denial in writing and if a security denial was concerned, a paraphrase too, already on October 12, 2015, three months ago, and a few weeks later the decision in the hearing before the Head of the DCO or the committee should have been given.
19. **Three months passed from the date on which our client's application was denied and more than five weeks from the first time HaMoked turned to the public liaison officer, and our client has not yet been notified of the reason for the denial of his application and he has not yet been summoned for a hearing before the Head of the DCO or for a hearing before the appellate committee.**
20. In view of the above, we request that you intervene in the matter of our client with the military agencies so as to cause the latter **to immediately disclose the reason for the denial of our client's application and to immediately summon him for a hearing before the Head of the DCO or, to the extent a security denial is concerned, to immediately provide a paraphrase and to immediately summon him to the appellate committee.**
21. **We would appreciate receiving a pertinent answer until January 18, 2016.** After said date we will feel free to turn to court, but we are hopeful that this would not be necessary.

Thanking you in advance,

(signature)

Yadin Elam, Advocate