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At the Magistrates Court in Jerusalem

CC 21135/95

In the matter of: **Al-Shuweiki**
of Hebron

represented by attorneys Badrah G. Huri and/or Hala Huri
of HaMoked: Center for the Defence of the Individual
4 Abu Obeidah Street, Jerusalem
Tel. 02-283555; Fax 02-276317

The Plaintiff

v.

The State of Israel

represented by the Jerusalem District Attorney's Office
4 Yedidya Street
Jerusalem

The Defendant

Nature of the claim: **Tortious**

Amount of the claim: **NIS 5,200**

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 1967 and is a resident of Hebron and a member of the football section of the Hebron Youth Club. In accordance with the decision of the club's personnel, the Plaintiff was chosen to travel to Jordan as a member of a delegation on behalf of the club, in order to take part in a tournament that was scheduled to take place between 1 May 1994 and 15 May 1994.
3. The responsible personnel at the club submitted a list of the players they proposed for the tournament, including the Plaintiff, to the Civil Administration in Hebron for the issuance of permits to exit to Jordan. The applications of seven of the players to travel to Jordan were denied, and the responsible person from the club turned to HaMoked:

Center for the Defence of the Individual for its assistance in obtaining exit permits for the players.

4. On 22 April 1994, Ms. Dalia Kerstein, the Director of HaMoked: Center for the Defence of the Individual, sent a letter to the Substitute Head of Legal Administration at the office of the West Bank Legal Adviser, a copy of which is attached hereto as Exhibit A. The Plaintiff's name appears in Article 3(d).
5. On 26 April 1994 a response was received by fax from the Legal Adviser's office. A copy of the letter is attached hereto as Exhibit B.
6. On the same day, another reply was received from Lieutenant Oren Nimni of the Legal Adviser's office, in which he emphasized that four of the players received an "exceptional" exit permit, under which they could leave for Jordan for a period of one month. A copy of the letter is attached hereto as Exhibit C.
7. On 5 May 1994 the Plaintiff arrived at the Allenby Bridge together with the other players. All of them were allowed to depart for Jordan except for the Plaintiff, whose departure was denied and who was turned back from the bridge. He was told that his exit was prohibited. The Plaintiff presented Exhibit B to the persons in charge at the bridge, but was told that he was 'exit-denied'.
8. The Plaintiff turned once again to HaMoked: Center for the Defence of the Individual, in an attempt to uncover the reason why his departure was denied.
9.
 - a. On 10 May 1994, the Director of HaMoked notified the Substitute Head of the Legal Administration Department that the Plaintiff's exit had been denied.
 - b. On 11 May 1994 she again prompted the responsible persons at the Legal Administration Department.
 - c. On 12 May 1994 a telephone call was received from Lieutenant Oren Nimni, according to which the Plaintiff was Hamas-denied. A letter with regard to the denial of the Plaintiff's exit was issued only on 15 June 1994, which stated that the Plaintiff was exit-denied since his exit from the region could jeopardize the security of the region. A copy of the letter is attached hereto as Exhibit D.
10. The Plaintiff was not allowed to travel to Jordan. Consequently, he was prevented from participating in the tournament that was held in Jordan, and therefore unable to represent the club even though he was the best player on the team. As a result of the

denial of his trip, the club was represented by lesser players, and the team lost the match.

11. The Plaintiff's absence from the tournament has prejudiced his potential advancement in the sport, and has blocked his way to a possible advancement in this field.
12. As a result of the issuance of an exit permit for the Plaintiff, he incurred monetary damage – by traveling from his Hebron home to the Allenby Bridge in order to leave from there to Jordan. Owing to the denial of his exit, he lost the sum of NIS 200 incurred for the expenses of traveling from his house to the bridge and back.
13. The Plaintiff shall claim that the Defendant has vicarious liability for the acts of the responsible persons at the West Bank Civil Administration, the West Bank Legal Adviser and the Allenby Bridge.
14. The Plaintiff shall claim that the reply given to him in Exhibit B hereto by the responsible persons at the office of the West Bank Legal Adviser was given after such persons checked the issue of granting the exit permit with the competent authorities and entities. The Plaintiff relied on the official letter that had been given to him on their behalf, and arrived at the Allenby Bridge on his way to Jordan.
15.
 - a. The Plaintiff shall claim that the denial of his exit at the bridge was based on a mistake. Alternatively, the issuance of a permit for him by the office of the Legal Adviser, as it was performed, was issued following a superficial and/or negligent and/or inaccurate inquiry, following which the Plaintiff suffered monetary damage and distress.
 - b. The Plaintiff shall claim that his reliance on a permit on behalf of the Legal Adviser was lawful, and that his traveling from his house to the bridge was done pursuant to the permit he had received and constitutes reasonable behavior.
16. The Plaintiff shall claim that the responsible persons at the office of the Legal Adviser were obligated to notify the Plaintiff and/or his attorney of the reversal of the decision by the state authorities, who had approved his trip, prior to his arrival at the bridge, and that having failed to do so, they were negligent in fulfilling their duties and caused the Plaintiff monetary damage, and are liable to compensate him for such damage. It should be emphasized that the Defendants' agents were aware of the date of the Plaintiff's trip, which is mentioned in Exhibit A hereof.
17. The Plaintiff addressed a demand for compensation to the West Bank Legal Adviser on 12 October 1994. A copy of the letter is attached hereto as Exhibit E.

18. The Plaintiff's demand was denied in a letter on behalf of the Claims and Insurance Unit of the Ministry of Defense dated 1 February 1995. A copy thereof is attached hereto as Exhibit F.
19. The Plaintiff's attorney wrote a letter seeking to learn the new information which was received during the period of time between the date of approval of the trip and the date of the trip. HaMoked's letter of 26 February 1995 is attached hereto as Exhibit G.

The Defendant's response was unclear. Two additional letters were sent, for clarification. The response of the Defendant's representative of 4 September 1995 clarified that the evidence for preventing the Plaintiff's exit was not in the state's possession on the date of provision of the permit.

Letters on behalf of the Defendant's representatives of 30 May 1995, 13 July 1995 and 4 September 1995 are attached hereto as Exhibits H, I and J.

In addition, letters from the Plaintiff's attorney are attached hereto as Exhibits K and L.

20. In view of all of the aforesaid, the Plaintiff shall claim that he is entitled to compensation for his monetary damage, which amounts to NIS 200, for the harassment and distress he suffered, for denying his participation in the tournament, for infliction of future damages and for prejudicing his future in sports.
21. The Plaintiff shall further claim that the Defendants' [sic] representatives' reply on the issue of the denial of his exit is general and unclear, and that to this day he is unaware of the nature of the "evidence", due to which his exit to Jordan was denied.
22. The Plaintiff shall claim that such evidence does not justify denying his exit to Jordan; consequently, the Plaintiff was denied a trip which could have promoted his future in sports, thus causing him considerable distress.
23. The Honorable Court has jurisdiction to hear the claim due to its amount, nature and subject matter.
24. In view of the aforesaid, the Honorable Court is moved to summon the Defendant and to charge it with payment of the sum of NIS 200 for specific damages and of NIS 5,000 for distress.

In total, NIS 5,200 plus interest and indexation from the date of filing of the complaint until the date of actual payment in full.

(-)

Badrah G. Huri, Att.

Counsel for the Plaintiffs

Jerusalem, today 20 November 1995

[Opening date: 5 December 1995]

Exhibit A

HAMOKED Center for the Defence of the Individual

Date: 22 April 1994

When replying please mention: 5858

Oren Nimni, Second Lieutenant
Substitute Head of Legal Administration Department
Office of the Legal Adviser
P.O.B. 10482
Bet El 90300

Fax

Dear Sir,

Re: **Urgent Permit to Exit to Jordan for Football Tournament**

1. Following are the details of the football players who are scheduled to leave for Jordan urgently to participate in a tournament opening on 1 May 1994 and ending on 15 May 1994.
2. From Jordan, they are to continue on to France, to another tournament opening on 15 May 1994 and ending on 30 May 1994 (club's confirmation enclosed).
3. Of the entire team, on behalf of Hebron Youth Club, the exit of all has been approved, with the exception of the following seven, whose exit has been denied:
 - a. [blacked out]
 - b. [blacked out]
 - c. [blacked out]
 - d. _____ Al-Shuweiki I.D. _____ DOB 5 August 1967
 - e. [blacked out]
 - f. [blacked out]
 - g. [blacked out]
4. Due to the urgency of the matter, "athletes procedure" is kindly requested.

Sincerely,

[signature]

Dalia Kerstein

Director of HaMoked

Encl. Hebron club confirmation

Exhibit B

Israel Defense Force, Judea and Samaria Region, Office of the Legal Adviser

Date: 26 April 1994

Ref: 03029-221

Ms. Dalia Kerstein
HaMoked: Center for the Defence of the Individual
4 Abu Obeidah Street
Jerusalem 97200

Dear Madam,

Re: **1. [blacked out]**
 2. [blacked out]
 3. [blacked out]
 4. _____ Al-Shuweiki
 5. [blacked out]
 6. [blacked out]
 7. [blacked out]

Your letter 5858 of 22 April 1994

Please be advised that there is no impediment to the exit of the aforementioned from the region, according to the ordinary procedures.

Sincerely,

[signature]

Rahel Direnboim, Second Lieutenant

Assistant Substitute Head of Legal Administration Department

on behalf of the Legal Adviser

Exhibit C

Israel Defense Force, Judea and Samaria Region, Office of the Legal Adviser

Date: 26 April 1994

Ref: 03043-221

Ms. Dalia Kerstein

HaMoked: Center for the Defence of the Individual

4 Abu Obeidah Street

Jerusalem 97200

Dear Madam,

Re: **1. [blacked out]**
 2. [blacked out]
 3. [blacked out]
 4. [blacked out]

Your letter 5858 of 22 April 1994

Our letter 03029-221 of 26 April 1994

Please be advised that there is no impediment to the exit of the aforementioned from the region for a period of [one] month.

Sincerely,

[signature]

Oren Nimni, Second Lieutenant

Substitute Head of Legal Administration Department

on behalf of the Legal Adviser

Exhibit D

Israel Defense Force, Judea and Samaria Region, Office of the Legal Adviser

Date: 15 June 1994

Ref: 04222-221/00

Ms. Dalia Kerstein
HaMoked: Center for the Defence of the Individual
4 Abu Obeidah Street
Jerusalem 97200

Dear Madam,

Re: Al-Shuweiki - Request to Exit the Region

Your letter 5858 of 22 April 1994

Please be advised that the commander of the IDF forces in the region has discussed and considered the request of the aforementioned for an exit permit, and has decided to deny the same, due to his being a Hamas activist.

The exit of the aforementioned from the region could jeopardize the security of the region.

Sincerely,

[signature]

Oren Nimni, Second Lieutenant

Substitute Head of Legal Administration Department

on behalf of the Legal Adviser

Exhibit E

HAMOKED Center for the Defence of the Individual

Date: 12 October 1994

When replying please mention: 5858

Captain Tehilla Winograd
Assistant to the Legal Adviser
Office of the Legal Adviser
P.O.B. 10482
Bet El 90300

Fax

Dear Madam,

Re: **Demand for the Payment of Compensation due to Administrative Error**
in the name of [Al-Shuweiki]

My client, Mr. _____ [Al-Shuweiki], has authorized me to address a demand for compensation to you due to the damages caused to him following an administrative error.

Following is a specification of the demand:

1. My client is a resident of Hebron, was born in 1967, and is a member of the Hebron Youth Club football section. Pursuant to the club's decision, my client was proposed to travel as a representative in a delegation of the club to Jordan, to participate in a tournament that was scheduled to take place between 1 May 1994 and 15 May 1994.
2. My client's request to travel to Jordan was not approved. Together with other players whose request was not approved, he turned to the Center for the Defence of the Individual for assistance in obtaining a travel permit.
3. On 24 April 1994, Ms. Dalia Kerstein, the Director of the Center, sent a letter to the Substitute Head of the Legal Administration Department, requesting an exit permit for my client, along with five players. A copy of the letter is attached hereto as Annex A.

4. On 26 April 1994, Second Lieutenant Rahel Direnboim replied affirmatively to Ms. Kerstein's letter, stating that there was no impediment to the exit of all the players, including my client. A copy of the letter is attached hereto as Annex B.
5. On 5 May 1994, my client arrived at the bridge on his way to Jordan, along with the other players, the representatives of the team to the tournament. All of them were allowed to exit to Jordan, but he was turned back. He showed the persons in charge the letter that he carried (Annex B), but was turned back with no explanation of the reason therefor.
6. As a result of the authorities' behavior my client suffered monetary and mental damages. He lost the sum of NIS 200, endured distress, and his future in sport was impaired. In addition, damage was caused to the club which he was supposed to represent at the football games tournament that was held in Jordan. My client is known as an excellent player. As a result of his non-participation his team lost. The compensation due to distress and damage to my client's future is estimated at NIS 5,000.
7. In the light of all of the above, my client shall claim that the damages inflicted on him were the result of the State authorities' negligence in providing the permit and/or prohibiting my client's exit to Jordan, and that the State is liable to compensate him for his specific and general damages with the sum of NIS 5,200.

Sincerely,

[signature]

Badrah G. Huri, Att.

Counsel for the Plaintiffs

Encl. Annexes A and B
Power of attorney

Exhibit F

The State of Israel, Ministry of Defense, Insurance and Claims Unit

Date: 1 February 1995

Ref: JS/R/11180/94

Att. Badrah G. Huri
HaMoked: Center for the Defence of the Individual
4 Abu Obeidah Street
Jerusalem 97200

Dear Madam,

Re: _____ **[Al-Shuweiki]**

1. An investigation of the incident claimed by your client has revealed that there are no grounds for your client's demand for the payment of compensation.
2. Your client was indeed told on 26 April 1994 that there was no impediment to his exit; however, between such date and the date of his actual departure, information was received which necessitated the modification of the decision, thus denying his exit.

Sincerely,

[signature]

Tal Shemuel

Senior Claims Assistant

Exhibit G

HAMOKED Center for the Defence of the Individual

Date: 26 February 1995

When replying please mention: 5858

Mr. Tal Shemuel
Senior Claims Assistant
Insurance and Claims Unit
Ministry of Defense
22 Ha-Arbaa Street
Ha-Qiryia
Tel Aviv 64734

Fax

Dear Sir,

Re: **The Claim of [Al-Shuweiki]**

Your letter JS/R/11180/94 of 1 February 1995

1. I hereby confirm receipt of your above-referenced letter.
2. Please provide me with details on the information you received in the period between the provision of your permit for my client's trip and his trip, which required you to change the original decision to allow his departure.
3. After receiving your reply, I will inform you of our position with regard to our continued handling of the case.

Sincerely,

[signature]

Badrah G. Huri, Att.

Exhibit H

Ministry of Defense, Insurance and Claims Unit, Claims Staff Officer

Date: 30 May 1995

Document number: 2281

Our file: JS/R/11180/94

HaMoked: Center for the Defence of the Individual
Att. Badrah G. Huri
4 Abu Obeidah Street
Jerusalem 97200

Dear Madam,

Re: [Al-Shuweiki]

Ours: Dated 1 February 1995

Yours: 5858 dated 26 February 1995

1. Pursuant to our above-referenced letter, and in reply to your letter, I hereby inform you again that the investigation of the incident claimed by your client has revealed that the denial of his exit was not an administrative error, and that the said decision was made after exercise of professional discretion.
2. In light of the aforesaid, there are no grounds for your client's demand for the payment of any compensation.

Sincerely,

[signature]

Ariela Ronen

Assistant to Claims Staff Officer

Exhibit I

Ministry of Defense, Insurance and Claims Unit, Claims Staff Officer

Date: 13 July 1995

Document number: 128

Our file: JS/R/11180/94

Badrah G. Huri

HaMoked: Center for the Defence of the Individual

4 Abu Obeidah Street

Jerusalem 97200

Re: **The Claim of _____ [Al-Shuweiki]**

Your letter: 5858 of 3 July 1995

1. I hereby confirm receipt of your above-referenced letter on the said matter.
2. The “change of status” occurred due to the addition to evidence whereby your client belonged to a hostile organization, which has caused his exit from the country to be denied.
3. And therefore the claim was denied.

Sincerely,

[signature]

Att. Adrian Aggasi

Claims Staff Officer

Exhibit J

Ministry of Defense, Insurance and Claims Unit, Claims Staff Officer

Date: 4 September 1995

Document number: 502

Our file: JS/R/11180/94

Att. Badrah G. Huri

HaMoked: Center for the Defence of the Individual

4 Abu Obeidah Street

Jerusalem 97200

Re: **The Claim of [Al-Shuweiki]**

Your letter: 5858 of 1 August 1995

1. Your above-referenced letter on the said matter has been received at our office.
2. To your question detailed in Article 2 of your above-referenced letter, I hereby inform you that we did not have the evidence in our possession, on the date of granting of the exit permit for your client.
3. To your request detailed in Article 3 of your letter, I hereby inform you that on 15 June 1994, written notice was delivered to the Center on the reasons for the denial of your request for an exit permit for the above-referenced claimant, by the office of the Judea and Samaria Region Legal Advisor.
4. For your information.

Sincerely,

[signature]

Ariela Ronen

Assistant to Property Claims Staff Officer

Exhibit K

HAMOKED Center for the Defence of the Individual

Date: 3 July 1995

When replying please mention: 5858

Mr. Adrian Aggasi, Att.
Claims Staff Officer
Insurance and Claims Unit
Ministry of Defense
22 Ha-Arbaa Street
Ha-Qiryia
Tel Aviv 64734

Fax

Dear Sir,

Re: **The Claim of [Al-Shuweiki]**

Your letter JS/R/11180/94 of 30 May 1995
Ours: 5858 of 26 February 1994

1. I hereby confirm receipt of your above-referenced letter.
2. Your letter provides no reply to the questions raised in my above-referenced letter. You are repeating your previous answer in your letter to me of 1 February 1995, without any explanation for the "change of status", as claimed in your letter, in the circumstances in which my client's trip was first permitted and ultimately he was turned back from the bridge.
3. Your reply, without further delay, shall be appreciated.

Sincerely,

[signature]

Badrah G. Huri, Att.

Exhibit L

HAMOKED Center for the Defence of the Individual

Date: 1 August 1995

When replying please mention: 5858

Mr. Adrian Aggasi, Att.
Claims Staff Officer
Insurance and Claims Unit
Ministry of Defense
22 Ha-Arbaa Street
Ha-Qiryia
Tel Aviv 64734

Fax

Dear Sir,

Re: **The Claim of [Al-Shuweiki]**

Your letter JS/R/11180/94 of 13 July 1995

1. I hereby confirm receipt of your above-referenced letter.
2. I would like to turn to you one last time with regard to my client's demand for compensation, and ask whether the new evidence, which was added to the material, was not in your possession prior to the granting of the permit to my client, allowing him to travel??

The period of time between receiving the approval of Lieutenant, Assistant to the Legal Adviser, and my client's exit, was very short, but the question that is begged is why the authorities failed to notify my client and/or the Center of the change of the decision in the said period of time, so as to save him the unnecessary expenses he incurred.

3. In view of these questions, I believe that an obligation exists to compensate my client for the damages caused to him due to the nuisance and for leaving his home for the bridge. Alternatively, please inform me of the nature of the evidence, which can prevent my client from traveling and limit his freedom of movement.

4. Your prompt reply to my client's request for compensation would be appreciated.

Sincerely,

[signature]

Badrah G. Huri, Att.