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Date: 19 February 2007
For replies use reference no.: 31490

By registered mail and fax: 02-6294807

Ms. Michal Yosepof
Supervisor of Border and Crossing Control
Ministry of the Interior

Dear Ms. Yosefop,

**Re: Unlawful Requirement to Deposit Travel Documents at Erez
Checkpoint**

I hereby address you in the matter of a new unlawful requirement of the Ministry of the Interior officials at the Erez Crossing, according to which every Israeli entering the Gaza Strip must **deposit** his passport or travel document at the checkpoint.

1. At the Erez checkpoint a condition has of late been introduced in terms of which Israeli citizens or residents wishing to enter it must be equipped with a passport or travel document. We have been informed that this requirement is basically a declaration that the crossing is an international crossing. However in contradistinction to any other international crossing, and contrary to the provisions of the Law, the Crossing officials are not satisfied with merely looking at the travel documents and stamping them. They require that they be deposited at the Crossing until the return of the traveler to the Israeli zone!
2. We are speaking about a requirement that has no legal basis. **Section 6B of Hok HaDarkonim [the Passport Law], 5712- 1952** whose heading is **Authority to Confiscate a Passport and Travel Document** establishes that the Minister may require a holder of a passport or travel document to produce the passport or travel document and hand it over to him or to anyone designated in the requirement, for all or any of these aims: (1) for archiving the passport or travel document if it has

expired ; (2) renewing it if it has been cancelled ; (3) changing the details inside ; (4) inspecting them.

3. It thus transpires that depositing a passport or travel document at a border crossing is not permitted under the law. And for good reason. Travel documents are exactly what they say they are: they are designated to serve their bearers when the latter are outside the boundaries of the state, and serve them as an identifying document and a travel document. The requirement to deposit them is an untenable violation of the basic right to freedom of movement. Depositing one's passport is like tying a rope around the legs of Israelis, a rope that has been affixed into the Erez Crossing and stretches the length of the Gaza Strip, a rope that does not allow them to continue their journey to other countries, via the only exit that nowadays does not lead into Israel- the Rafah Crossing.
4. Detaining a passport, travel document or any other identifying document has been regarded in Israeli law as a violent act which constitutes a punishable criminal offence. In an attempt to root out the process whereby migrant workers become chained to their employers, the legislature has determined in **Section 374 of the Penalties Act** that anyone "who unlawfully detains a passport, travel document, or identity document of another person, shall be liable for three years imprisonment". The courts have also declared on this matter that "confiscating a person's passport is likely to violate the basic rights that have been conferred upon him, and which have been established in the Basic Law: Human Dignity and Liberty, to freedom of movement in Israel and abroad" (PA 1064/00 *Kinianjwy et al v. Ulitski Construction Work, Takdin National Labor Court* 2000(3), 181, 187).

Admittedly these cases deal with matters that are different than the one before us; however the underlying logic is the same. The violation is the same violation. And the results are even harsher and more degrading. Even more serious is the fact, that in contradistinction to the case of migrant workers, in the case before us we are dealing with a violation that is being carried out by the State itself, against its own citizens and residents.

Therefore we demand that this practice be immediately terminated, while it is still in its infancy, and that notice to that effect be delivered to those affected Israelis, and be published in the media.

Respectfully yours

Adv. Yotam Ben-Hillel

cc:

Mr. Avi Lekah, Director, Population Administration Office, East Jerusalem

Adv. Daniel Salomon, Office of the Legal Adviser, Ministry of the Interior

Mr. Roni Bar-On, Minister of the Interior