At the Jerusalem Magistrates' Court **CMA 10235-09-12**

In the matter of:

HaMoked: Center for the Defence of the Individual
Founded by Dr. Lotte Salzberger - RA

Represented by counsel, Adv. Noa Diamond (Lic. No. 54665) and/or Benjamin Agsteribbe (Lic. No. 58008) and/or Ido Blum (Lic. No. 44538) and/or Nimrod Avigal (Lic. No. 51583) Sigi Ben-Ari (Lic. No. 37566) and/or Daniel Shenhar (Lic. No. 41065) and/or Hava Matras-Irron (Lic. No. 35174) and/or Bilal Sbihat (Lic. No. 49838)
Of HaMoked: Center for the Defence of the Individual, founded by Dr. Lotte Salzberger,4 Abu Obeida Street, Jerusalem, 97200
Tel. 02-6283555; Fax. 02-6276317

The Appellant

v.

1. **Ministry of Interior - Population, Immigration and Border Authority**
2. **Official in Charge of the Implementation of the Freedom of Information Act at the Population Authority**

Represented by the Jerusalem District Attorney, 7 Mahal St., Jerusalem, Tel: 02-5419555; Fax: 02-5419581

The Respondents

Appeal from the Decision of the Official in Charge under the Freedom of Information Act, 5758-1998

The appellant hereby respectfully files an appeal against the decision of respondent 2 dated July 9, 2012, whereby the appellant was ordered to pay handling fees in the amount of ILS 3,250 for handling a request submitted by it under the Freedom of Information Act. This appeal is filed in accordance with regulation 8 of the Freedom of Information Regulations (Fees), 5759-1999 (hereinafter: the **fee regulations**).

Preface

1. This appeal concerns the grave consequences of privatization and the violation of the right to receive information from a public authority. As will be specified in detail below, the privatization of a power of an authority – in this case, management of the databases of the population authority – entails the privatization of the Freedom of Information Act. This, by imposing excessive handling fees, based on a price determined by a private company, rather than charging the fees explicitly instituted in the fees regulations.

The Parties

2. The appellant (hereinafter also: **HaMoked**) is a registered not-for-profit association that has taken upon itself to promote the human rights of residents of the Occupied Palestinian Territories (OPT) and East Jerusalem. HaMoked was established in 1988, against the background of the first intifada and has since handled tens of thousands of complaints, by contacting state authorities and by taking legal action either as counsel for others or as a public petitioner. HaMoked also issues periodic reports as well as reports on specific topics, as part of its public objectives and its desire to uphold the democratic value of the public's right to know.

3. Among other things, HaMoked assists residents of East Jerusalem in their struggle against a variety of human rights violations concerning their civil status and right to family life. In this regard, HaMoked handles cases of East Jerusalem residents whose status was revoked; family unification applications submitted by residents of East Jerusalem for their spouses; applications for the registration of the children of such residents and cases of individuals with no status living in the city. In most cases, the individual petitions of such residents involve issues that also have a general aspect and may have a vast impact on the issue of status of residents of East Jerusalem.

4. HaMoked also files petitions concerning receipt of information from the authorities. Thus, for instance, HaMoked filed a petition concerning the receipt of respondents' procedures for preventing residents of East Jerusalem from traveling abroad via the Allenby Bridge border crossing (AP (Jerusalem) 750/05 **HaMoked: Center for the Defence of the Individual v. Minister of Interior**). Following submission of the petition, the respondents transferred to HaMoked a copy of the procedures. This was also the case recently, when HaMoked petitioned, together with other human rights organizations, to receive the complete file of population administration procedures, to enable the petitioners to review same and to have all population administration procedures published on the Ministry of Interior's web site. In this petition a judgment was rendered which granted the petition in its entirety (AP (Jerusalem) 530/07 **The Association for Civil Rights in Israel v. Ministry of Interior**, TakDC 2007(4), 10803).

5. As aforesaid, HaMoked also publishes reports on various issues. Between the years 1997-2004 HaMoked published three reports concerning the civil status of residents of East Jerusalem: **The Quiet Deportation – Revocation of Residency Status of Palestinians in East Jerusalem; The Quiet Deportation Continues – Revocation of Residency Status and Denial of Social Rights of Residents of East Jerusalem; Forbidden Families – Family Unification and Child Registration in East Jerusalem.**

   HaMoked is currently working on an additional report concerning the effects of the **Citizenship and Entry into Israel Law** (Temporary Order), 5763-2003, on families in East Jerusalem.

   HaMoked's reports may be found on HaMoked's website: http://www.hamoked.org

6. In accordance with section 3 of the **Freedom of Information Act,** 5758-1998 (hereinafter: **the Freedom of Information Act** or the **Act**) **the respondents** are responsible for responding to requests submitted under the Act to the Ministry of Interior. The provisions of the Act apply to respondent 1 and obligate it to provide to each Israeli citizen or resident all information requested by him, provided that the information does not fall within one of the exclusions specified in the Act. Respondent 2 is responsible, within the framework of her position, to receive requests submitted under with the Freedom of Information Act and to respond to the requesting parties.

The Facts Relevant to the Case at Hand

7. On March 13, 2012 the appellant submitted a request under the Freedom of Information Act to respondent 2 (hereinafter: the **request**). The information which was requested concerned family unification procedures submitted by residents of East Jerusalem. The appellant requested information concerning the number of applications submitted to the East Jerusalem bureau since 2003; the number of applications which were approved; the number of applications which were denied. In addition, the appellant requested to receive information concerning presence in Israel by virtue of visas and permits. A fee in the amount of ILS 98 was paid for this request as required by law.

   A copy of the request dated March 13, 2012 is attached and marked **AP/1**.

8. On April 19, 2012, as no response had been received from respondents to the request, a reminder letter was sent.

   A copy of the reminder letter dated April 19, 2012 is attached and marked **AP/2**.

9. On April 29, 2012, the appellant received respondent 2's letter dated April 24, 2012, according to which "The cost of data retrieval is ILS 2,046 including VAT, and this is in consideration of eleven work hours".

   A copy of respondent 2's letter dated April 24, 2012 is attached and marked **AP/3**.

10. On May 1, 2012, a letter concerning the payment demand was sent by the appellant. In its letter, the appellant asked whether any of the information requested in the letter of March 13, 2012 did **not** require data retrieval involving payment. The appellant also asked for a detailed payment demand, i.e., an explanation why the information required special work involving special resources and a breakdown of the work hours which were required for the purpose of providing a response to each question.

    A copy of the appellant's letter dated May 1, 2012 is attached and marked **AP/4**.

11. On May 28, 2012, as no response had been received from respondent 2 to the letter dated May 1, 2012, the undersigned called respondent 2. Respondent 2 transferred the call to Ms. Liora Binyamin of respondent 1's bureau, who, according to respondent 2, was the person in charge of data retrieval in the bureau. In the conversation, Ms. Binyamin said that work was required for the retrieval of the **entire** information. The undersigned wanted to ascertain whether this claim was true, as she knew that certain information was in respondents' possession, at least partially, and was delivered in court hearings and to Knesset committees (for instance, concerning the number of family unification applications in the East Jerusalem bureau). Ms. Binyamin reiterated that the **entire** information had to be retrieved. When the undersigned requested a detailed breakdown of the calculation, Ms. Binyamin stated that she could not say how it had been concluded that eleven work hours were required for the retrieval of the data. According to her, this was an "estimate". The undersigned protested and said that the statement that this was an "estimate", without a breakdown of the manner in which the calculation was made, was arbitrary. The undersigned also noted that a breakdown of the calculation of the required work hours had already been sent to HaMoked in the past, for instance, in freedom of information files concerning the issue of residency revocation. Ms. Binyamin said that she would refer the question to HP, the company "working" with the respondents and that she would transfer the response to the undersigned through respondent 2.

12. On June 12, 2012, as no update had been received from the respondents, the appellant wrote to respondent 2. In the letter it was argued that respondents' position that it was impossible to specify in detail the calculation of the work hours, was peculiar, to say the least, and that it left an impression of arbitrariness. It was also argued that such conduct was contrary to the duty imposed on an administrative authority to give reasons for its actions.

    A copy of appellant's letter dated June 12, 2012 is attached and marked **AP/5**.

13. On June 13, 2012, respondent 2 called the undersigned and had a conference call with her and with Ms. Binyamin. In the conversation [the undersigned] was informed that according to HP, the matter involved "the production of computerized reports, comprehension of the request, preparation of an Excel report". Then she was told that this was a task which required fifteen work hours (rather than eleven as she was told in the past). At the end of the conversation, the undersigned requested to receive, in writing, the payment demand and an explanation concerning the number of work hours which were required.

14. As no written response had been received following the conversation dated June 13, 2012, a reminder was sent by email to respondent 2 on July 8, 2012.

    A copy of the email message dated July 8, 2012 is attached and marked **AP/6**.

15. On July 9, 2012 respondent 2's response was received, which stated as follows: "My estimate for the preparation of a set of reports as required is about fifteen hours. This estimate includes the time needed for comprehending the requirements and finding the way to transfer the data. In addition, putting the report on an Excel file takes quite some time and it is needless to say that it will also be necessary to review the results of the report. Therefore, assuming that these reports have not been produced in the past, I allocated each report about 3 work hours, on average. Total 3,250 ILS."

    A copy of respondent 2's response dated July 9, 2012 is attached and marked **AP/7**.

16. On July 10, 2012, the undersigned replied to the email message of respondent 2 dated July 9, 2012. The message included a request to receive an explanation regarding the discrepancy in the calculation of the number of required hours, which initially amounted to eleven work hours and subsequently increased to fifteen. In addition, the undersigned requested to receive an explanation regarding the fact that based on the calculation which was sent, the cost of a work hour amounted to ILS 216, whereas the fee regulations provide that the cost of a work hour would be ILS 53.

    A copy of the email message sent by the appellant to respondent 2 dated July 10, 2012 is attached and marked **AP/8**.

17. On July 12, 2012 respondent 2 replied that "the execution of the work is outsourced to an external company (which has an agreement for the management of the population registration data with the state). **The cost of a work hour in accordance with an approved price list is ILS 186 + VAT**. The price list is also published on the authority's website" (emphasis added, N.D.).

    A copy of the email message of respondent 2 to the appellant dated July 12, 2012 is attached and marked **AP/9**.

18. And indeed, a review of respondent 1's website, the page dealing with the Freedom of Information Act, revealed that a "handling fee" was instituted for the purpose of "locating, sorting and handling information", which amounted to ILS 53 for each work hour commencing from the third hour, and that in addition, a fee was instituted for the "production of special information", which was defined as "information managed by the company which won the tender – **the price will be determined by the company**" (emphasis added, N.D.).

    A print out of the relevant page on respondent 1's website is attached and marked **AP/10**.

19. On July 16, 2012, the appellant wrote to respondent 2 and argued that there was no source of authority allowing respondent 1 to impose fees for the production of the requested information, beyond those prescribed in the fee regulations. The appellant argued that the imposition of an amount as high as the demanded amount, frustrated the purposes underlying the Freedom of Information Act, as it created a substantial barrier to the accessibility and availability of information. It was further argued that the outsourcing of respondent 1's work to an external company (i.e., privatization) could not serve as an excuse for deviating from collection powers granted by law.

    A copy of appellant's letter dated July 16, 2012 is attached and marked **AP/11**.

20. On July 30, 2012, in the absence of any response on respondent 2's part, the appellant sent a reminder letter to respondent 2. In the letter, the appellant expressed the hope that the matter would be resolved without need to turn to the court.

    A copy of appellant's letter dated July 30, 2012 is attached and marked **AP/12**.

21. It should be noted that copies of the main parts of the above correspondence were also transferred by the appellant to the freedom of information unit at the Ministry of Justice (hereinafter also: the **unit**), along with a request for the unit's intervention and handling of the unusual fee demand.

    A copy of the request sent to the freedom of information unit dated July 30, 2012 is attached and marked **AP/13**.

22. On the same day, July 30, 2012, a response was received from the freedom of information unit, according to which, for the purpose of having the complaint examined, and before expressing the unit's position on this matter, the complaint was being transferred to the respondents, for their response.

23. Since then and until the date of composing these lines, no response whatsoever has been received from either the respondents or the freedom of information unit. Therefore, the appellant has no alternative but to turn to this court and file an appeal against the excessive and illegal "fees" demanded by the respondents for the provision of the requested information.

Grounds for the Appeal

24. The matter should be clearly stated: **the respondents have, for all intents and purposes, privatized freedom of information**. They allow a private company, to which they have assigned governmental powers, to put a price on a fundamental civil right. The price is determined by market forces, without taking into account additional considerations – such as those underlying the Freedom of Information Act – and with complete disregard for the clear statement made by the legislator concerning the price that should be attached to the handling of freedom of information requests by the authority. In so doing, the respondents violate the "social contract" entered into between them and the public at large:

> The relationship between the authority and the citizen are, in practice, bilateral. Therefore, in my opinion, against the obligation of the authority to act fairly, the citizen is required to act fairly. This demand has deep roots: it stems from the social contract which lies at the foundation of the state. In accordance with this contract, as interpreted in a democratic state, the authority and the citizen do not stand on opposite sides of the fence, but rather side by side, as partners in the state. In a democracy, said Justice Silberg, '…the regime is the citizen's own self and flesh'… the regime (in my opinion it should be termed public administration) is obligated to serve the public – to maintain peace and order; provide essential services; protect the dignity and liberty of each and every citizen; do social justice. Yet, public administration, which is nothing in and of itself, cannot give anything to the public unless it receives from the public. The proper relationship between the administration and the public, and in fact, the required relationship, is a mutual relationship of give and take.
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> HCJ 164/97 **Conterm Ltd. v. Ministry of Finance, Customs and VAT Department**, IsrSC 52(1) 289, 320 (1998).

25. The appellant shall argue that the respondents' decision to impose on the appellant handling fees immeasurably higher than permitted by law which were determined by a **private** company, with no real explanation as to the required work hours, is unreasonable, contrary to the law and unacceptable.

The Normative Framework: The Freedom of Information Act

26. Freedom of information is a major principle in a democratic state, constituting a paramount source for overseeing government agencies and protecting human rights. The purpose of the Freedom of Information Act is to make the acts of public authorities transparent and to enable informed monitoring of its operations. "Greater accessibility to information will assist in promoting social values including equality, the rule of law and respect for human rights, and will also enable better public supervision of the acts of the regime." (Freedom of Information Bill, 5756-1996).

    (AP (Jerusalem) 717/02 **Rabbi Adv. Uri Regev v. Yad Vashem**, TakDC 2002(3) 6893, page 6896).

27. In AAA 9135/03 **Council for Higher Education v. Haaretz Newspaper**, TakSC 2006(1), 697, page 704, it was stated as follows:

> True to the purposes which the Freedom of Information Act is intended to realize, section 1 of the Act opens with a general and broad statement concerning the right to receive information from a public authority by providing as follows: each Israeli citizen or resident has the right to receive information from a public authority in accordance with the provisions of this Act. In his book "The Right to Know in light of the

> Freedom of Information Act" Prof. Segal points out that this section is "the key section, on which the entire act is based. It constitutes the 'corner stone' for the legal right to receive information from a public authority" (see Segal, **The Right to Know in light of the Freedom of Information Act**, 97).

28. Furthermore. The information held by public authorities actually belongs to the public, and the authorities holding it are public trustees, hence their obligation to divulge the information in their possession (see the article by Hillel Sommer, "The Freedom of Information Act: Law and Reality", **HaMishpat** 8 (5763) 435, 437). The disclosure of information held by a public authority, which causes its actions to be transparent, embodies the main objective of the Act (see AP (Jerusalem) 454/02 **Israeli News Corporation Ltd. v. Ministry of Transport**, TakDC 2004(2), 3587, 3596). As stated in the explanatory notes to the bill:

> Greater accessibility to information will assist in promoting other social values including equality, the rule of law and respect for human rights, and will also enable better public supervision of the acts of the authority… the codification of the right to information with its exclusions and limitations will formulate in a more concise and clear manner its boundaries, practically assist in changing the attitude of the authorities…
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> (The Official Gazette: Bills 2630, 5757, page 397).

29. Section 18 of the Freedom of Information Act addresses fees and provides:

> (a) The Minister of Justice, with the approval of the Knesset Constitution, Law and Justice Committee, shall promulgate regulations instituting fees for information requests, and for the actions involved in locating the requested information, and its provision under this Act; the various types of information and requesting parties shall be taken into account in the institution of the fees.

30. The reason for instituting fees for the receipt of information under the law was "the desire to balance between the needs of the public authority – including the need to prevent the submission of futile requests – and the obligation to ensure that an **unjustified barrier preventing the exercise of the law by a large public is not created**." (Zeev Segal, **The Right to Know in light of the Freedom of Information Act** (2000), page 260; emphasis added, N.D.).

    See also Freedom of Information Bill, 5757-1997, The Official Gazette: Bills 5757, page 397.

31. And indeed, the fee regulations provide in section 2, that "The fee for locating, sorting, and handling the requested information (hereinafter – the "handling fee") shall be ILS 53 for each work hour spent locating, sorting or otherwise handling the request, commencing from the third hour."

32. This is the fee that may be levied according to the law. Whereas the fee imposed by the respondents is much higher than the fee prescribed by law – four times higher, considering with the VAT collected by the private company HP for its services. The appellant's position is that any amount demanded by the respondents beyond that which is set in the fee regulations – is unlawful. We shall now turn to this.

The Legal Authority for Imposing Fees

33. **Basic Law: The State Economy** provides that:

> 1. (a) Taxes, compulsory loans and other compulsory payments shall not be imposed, and their amounts shall not be varied, **other than by or under Law; the same shall apply with regard to fees**.
>
> (emphasis added. N.D.).

34. As aforesaid, the Freedom of Information Regulations (Fees) explicitly set the amount of the fee that an authority may impose for the production of the information requested in a freedom of information request. **No fee in excess thereof may be imposed without legal authorization**. Relevant to this case are the words of the court:

> The principle that no compulsory payments may be imposed other than in accordance with legal authorization is derived from the principle of legal governance which is derived from the principle of the rule of law (HCJ 1640/95 **Ilanot HaKirya (Israel) Ltd. v. The Mayor of the City of Holon**, IsrSC 49(5) 582, 587 (1996) (hereinafter: **Ilanot HaKirya**); Eliad Shraga and Roi Shachar **Administrative Law – Basic Principles** 283-284 (2009)). This principle also has constitutional significance. "**The basic decisions concerning the bearing of social burdens – the mere imposition thereof and the manner of their distribution – must be made by the democratic legislative body**" (Daphne Barak-Erez Administrative Law 110-111 (2010) (hereinafter: Barak-Erez)). **The fact that the authority needs money to fund a certain activity does not justify the collection of monies from the public without legal authorization** (**Ilanot HaKirya**, page 589; HCJ 7351/03 **Ironi Rishon LeZion Parent Council v. Minister of Education, Culture and Sports** (not reported, July 18, 2005).
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> AAA 980/08 **Manirav v. the State of Israel – Ministry of Finance**, published in Nevo; emphases added, N.D.).

35. And to be precise – the fact that the Ministry of Interior chose to privatize some of its services and outsource them to an external company is insignificant (not to mention the fact that such privatization and its costs were severely criticized in

the State Comptroller's report).[1] As only recently stated by the court, privatization is not a "magic word" and it may not justify the state's renouncing its obligations (HCJ 1083/07 **The Israeli Medical Association v. Ministry of Health,** judgment dated May 24, 2012, published in Nevo). In the case at hand, the mere fact that respondent 1 chose to assign the responsibility to manage the population registry database to a private company, cannot justify the state's renouncing its obligations under the Freedom of Information Act, and cannot produce out of thin air a legal authority to impose a fee in excess of the amount set in the regulations.

36. It should be noted that the incident described in this appeal is not the first in which the respondents demanded a "privatized" fee, without legal authority. Thus, for instance, in connection with a request under the Freedom of Information Act which was submitted to the respondents by Physicians for Human Rights in 2007, HP issued a payment demand in the amount of not less than ILS 35,082 (!). This was an amount that a not-for-profit association which relies on donations, could not afford to pay.

    A copy of the request submitted by Physicians for Human Rights in November 2007 is attached and marked **AP/14**.

    A copy of the payment demand issued by HP and sent to Physicians for Human Rights is attached and marked **AP/15**.

37. Thus, respondents demand for a "privatized" fee which is determined by a private company (rather than by the legislator) clearly frustrates the basic objectives of the Freedom of Information Act: transparency, accessibility to information, promotion of human rights protection.

<u>Violation of the Obligation to Give Reasons</u>

38. Respondents' decision is flawed not only because it imposes a demand for a fee without legal basis; It is also flawed because no reasons were given for the determination that fifteen work hours were required to handle the request.

39. As described above, the respondents disregarded appellant's questions which sought to understand whether any accessible information existed, the provision of which did not require the payment of handling fees; The appellant also wanted to know why the number of work hours which were required to handle the request increased, according to respondents, from eleven to fifteen and it also requested to receive a breakdown of the calculation of the required work hours.

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[1] Audit report concerning the agreement to provide information services from the population registry database, State Comptroller, February 2006. Available at:
http://mevaker.gov.il/serve/contentTree.asp?bookid=450&id=186&contentid=8300&parentcid=8299&bctype=1&sw=1440&hw=830

40. The two first questions above remained unanswered, whereas the third question received only a general and vague answer concerning the "time to transfer requests and the way to transfer the data".

41. Respondents' conduct clearly violates the obligation to give reasons by which any administrative authority is bound.

42. Giving reasons is one of the major and fundamental elements of an administrative decision. In a reasoned decision, the authority gives the citizen, with whom it communicates, a detailed account of its considerations and reasons. Thus, the disclosure removes the fear of the unknown and of extraneous considerations, and the transparency and fairness by which the authority is bound in its decisions and operations are met. Furthermore, when no reasons are given, the decision is left bare and lacking when judicial scrutiny is exercised over it and its validity (LabA1460/01 **Abu 'Awad v. 'Amasha**, TakNLC 2002(1) 588, 589).

43. The reasoning should give the party who was harmed by the decision of the authority tools that will enable him to have the decision reviewed by appellate and audit instances, and enable such instances to properly carry out their duties. The reasoning should also reflect the main parameters of the decision making process employed by the authority, and should not be confined to the bullet points of the reasons which provided the basis for the decision.

44. In addition to the grounds for a decision, proper reasoning should include at least the main factual findings upon which the decision is based. The authority cannot provide vague and general reasoning for its decision, citing the its reasons in bullet points without any specific and definite reference to the circumstances of the relevant case (Y. Dotan, **The Duty to Give Reasons in Administrative Law**, 19 Mechkarei Mishpat, 5, in page 37).

45. Nevertheless, in the case at hand, the authority gave a general decision, without reasons, without a detailed explanation of the calculation of the required hours, and without providing an affidavit to support the decision (for the importance of specifying the required resources in detail and the need to support the statement with an affidavit see AP 1416/06 **Kurnweitz v. The Municipality of Petah Tikva**, published in Nevo). This, contrary to the obligation of the authority to calculate the fee it collects from the public in a precise and accurate manner:

> A public authority should meticulously calculate the handling fee imposed on the public, which constitutes a condition for the realization of this right (reference is made to the right to receive information from a public authority, N.D.). It is imperative for a public authority to record, in written evidence, the work hours, dates on which they were invested and the nature of the work performed during such hours, and this for two purposes: firstly, to ensure that the fee imposed on the requesting party is accurate and to prevent calculation mistakes. Secondly, to enable the appellate instance, that is the court, to scrutinize the authority's decision concerning the calculation of the fee…

(MApp 3216/07 **Eliatar v. Old Acre Development Company Ltd**., rendered on Devember 5, 2007, published in Nevo)

46. In the absence of reasoning and a detailed account of the decision, the appellant is unable to relate to the number of required hours as claimed by the respondents. It is possible that in addition to the excessive hourly rate which is demanded by the respondents, the **calculation of the hours** in and of itself is also excessive – but the appellant has no way of finding this out. Furthermore, when the respondents disregard the question whether the request included information which was already in their possession (which means that no special handling is required to produce it), they make it even more difficult for the appellant to evaluate the reasonableness of the number of hours which are required in respondents' opinion. Whereas, if there is information which was requested by the appellant, that has already been produced in the past (for instance, for hearings held in court or Knesset committees), then there is no reason to demand additional work hours for its "production".

Conclusion

> Introducing economic considerations into the arena as independent and even paramount ones, without it being necessary to reconcile profit considerations with the considerations underlying punishment and the manner of its implementation, subordinates the considerations which are normally situated at the highest level to business considerations, and allows them to be fully realized only to the extent they are consistent with the economic purpose, which constitutes the premise.
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> (HCJ 2605/05 **College of Law and Business v. Minister of Finance**, paragraph 5 of the judgment of Honorable Justice Edna Arbel).

47. In the case at hand, the administrative authority subordinates the considerations that should guide it – considerations of transparency and accessibility to information – to pure economic considerations. It allows a private company, to which some of the powers of the authority have been assigned, to attach a "market price" to freedom of information. This, despite the fact that the legislator has explicitly provided that the price for handling freedom of information requests would not be established based on business considerations, but rather in regulations, subject to monitoring, in order to achieve a balance between the right of the public to know and the needs of the public authority. By so doing, the authority renounces its power and allows a *de facto* privatization of the right to freedom of information.

48. In addition, the respondents make general statements concerning the work hours required to handle appellant's request. This, without any real and detailed reasons. In so doing the respondents further frustrate the accessibility of the information.

49. Therefore, the honorable court is hereby requested to allow this appeal and order the respondents to substantiate their decision concerning the number of hours required to produce the information, and impose on the appellant a handling fee in an amount equal, at the utmost, to the amount prescribed in the fee regulations

(and this also, commencing from the third work hour only). In addition, the honorable court is requested to order the respondents to pay legal fees and expenses.

Jerusalem, September 2, 2012.

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Noa Diamond, Adv.
Counsel for the appellant