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**At the Supreme Court**  
**Sitting as the High Court of Justice**

**HCJ 2626/15**

In the matter of:           1.       \_\_\_\_\_ al-'Awal, ID No. \_\_\_\_\_

  2.       **HaMoked: Center for the Defence of the Individual,**  
  **founded by Dr. Lotte Salzberger - RA**  
  Represented by counsel, Adv. Andre Rosenthal  
  15 Salah a-Din St., P.O.Box 19405, Jerusalem 91194  
  Tel: 6250458, Fax: 6221148

**The Petitioners**

**v.**

**Minister of Interior**  
Represented by the State Attorney's Office  
Ministry of Justice, Jerusalem

**The Respondent**

**Petition for Order Nisi**

A petition for an *order nisi* is hereby filed which is directed at the respondent ordering him to appear and show cause, why he should not revoke a Stay of Exit Order for Security Reasons – Extension which was issued against the petitioner and is in force from April 9, 2015 until September 8, 2015.

A copy of the order which includes reference to the objection that was submitted against a temporary order issued for one month, as specified below, is attached hereto and marked **P/1**.

The grounds for the petition are as follows:

1.    A.       Petitioner 1 (hereinafter: the **petitioner**), \_\_\_\_\_ al-'Awal, a thirty one years old bachelor, has been working for a public health association for six years. He intends to get married this coming May. By the end of 2006 he was sentenced by the Judea military court for one year imprisonment for disorderly conduct and membership of an unauthorized association, offenses from March 2006. Since then the petitioner was not put to trial; about three years ago he was interrogated by the Israel Security Agency (ISA).

B. Two additional orders were issued against the petitioner: the first one prohibits him from staying in Jerusalem and the other one prohibits him from entering the West Bank territories. A hearing in these two orders was held before this honorable court – in HCJ 978/15 and HCJ 1664/15. The hearing in the petitions was held on March 16, 2015, and on March 19, 2015, a judgment which denied the petitions was given.

C. The petitioner lived – prior to the issue of the order – together with his family in Ras al 'Amud, Jerusalem.

D. On April 9, 2015, the petitioner was informed, by a phone, that the Stay of Exit Order was extended and was in force for an additional period of five months.

On April 12, 2015, following a conversation with the secretariat of respondent's legal bureau, a copy of the extension order was transmitted to petitioner's legal counsel by facsimile, which consists, as aforesaid, of the reasons for the denial of the objection.

Petitioner's affidavit is attached hereto and marked **P/2**.

2. Petitioner 2 is a human rights organization, which has taken upon itself, *inter alia*, to assist Palestinians, victims of cruelty or deprivation by state authorities, including by protecting their status and rights before the authorities, either in its own name as a public petitioner or as counsel for persons whose rights have been violated.
3. On March 12, 2015, following the issue of a Stay of Exit Order for Security Reasons for one month, the petitioner submitted an objection against the minister's intention to issue another order for an additional period of five months. In the objection, a copy of which is attached hereto and marked **P/3**, petitioners' legal counsel requested to be advised whether open information existed regarding the petitioner and his activity as alleged by the Israel Security Agency (ISA); petitioners' legal counsel also requested to receive an open paraphrase regarding the privileged information based on which the Order was purportedly issued. The petitioner denied that he had any relations with activists of the Popular Front abroad. The petitioner argued further that the timing for the issue of the order was related to the World Social Forum, which convened in Tunisia last March, and to which the petitioner intended to go. The petitioner argued in his objection that he had not been interrogated at all of the current suspicions, namely, relations with activists of the Popular Front abroad. The petitioner also added that in 2014 he went abroad twice, in March to France and in November to Belgium; upon his return to Israel the petitioner has not been interrogated at all.

In addition, arguments were raised against the use of privileged information as a basis for the issue of the order, on the grounds that the informants had an intrinsic interest to fabricate "information". The petitioner argued that in the vast majority of the cases, the informants were recruited by the ISA due to their weakness or their need to receive benefits from the authorities: certain permits, medical treatment, etc. We requested that the minister obtained full and detailed information regarding each informant – his business relations with the ISA, the manner by which he was recruited and the details of the benefits which the source received or should receive in consideration for his services.

4. As aforesaid, on April 12, 2015, respondent's legal bureau transmitted the new order which is in force for an additional period of five months, and a short response to the arguments which were raised in the objection. The minister referred only to petitioner's interrogation by the police. We have not received any open information and no open paraphrase was delivered.
5. A. Following our argument that the petitioner was not interrogated before the two other orders were issued against him – the order which prohibits him from staying in Jerusalem and the

order which prohibits him from entering the West Bank – the petitioner was indeed interrogated by *Yamar Hof* on February 2, 2015. In the beginning of the interrogation the petitioner was told: "You are suspected of: unauthorized association which is contrary to the law."

A copy of said interrogation is attached hereto and marked **P/4**.

B. In his response to the objection the minister wrote that the petitioner was indeed interrogated "on suspicion of being a member and activist of the Popular Front organization."

The above order, which prohibits the petitioner from travelling abroad, should be based on a material suspicion, which complies with the "almost absolute certainty" test, of conducting prohibited relations abroad. The petitioner was not confronted in his interrogation, a month before the temporary order was issued, with a suspicion of conducting relations abroad, and no evidence to the effect was presented.

6. In HCJ 5211/04 **Vaanunu v. GOC Home Front Command** this honorable court held with respect to judicial review of a stay of exit order, as follows:

The rule is that while the Basic Law did not prejudice the validity of the protected laws, it does influence their interpretation. The same rule applies to the emergency legislation. This means that though the Court does not examine the status of the emergency legislation while considering the tests of the limitation clause established in section 8 of the Basic Law, the Court is obliged to examine the justification of implementing a provision of the emergency legislation, as in the present case. That is to say: the court's examination should not focus on the reasonableness of the given provision in the emergency legislation, as such, but rather on the justification of its application in the individual case brought before it. The court must base its examination on two criteria: does the purpose of the application of the emergency provision to a particular individual under the given circumstances reconcile with its general purpose; and does the injury caused to the individual by its application comply with the test of proportionality?"

7. The petitioners will argue that the privileged information does not raise a material concern, of an almost absolute certainty, that petitioner's travelling abroad may prejudice state security in any way or manner whatsoever. As aforesaid, the petitioner has not been detained since he was released from prison in 2006; when he travelled abroad, in 2014, several times, he has not been interrogated upon his return, and in fact, as of his imprisonment in 2006, he has not been involved in any criminal activity.
8. The petitioners will argue further that the order does not meet the proportionality test.
9. In view of the above, the honorable court is requested to issue the requested order and make it absolute.

Jerusalem, today April 12, 2015.

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Andre Rosenthal, Advocate  
Counsel to the petitioners