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

HCJ 5269/15

Hearing scheduled for August 18, 2015 at 9AM
Before Justices N. Hendel, N. Solberg and M. Mazuz

In the Matter of: 1. **Dr. _____ Kraish, ID _____**
Resident of the Occupied Palestinian Territories
2. **HaMoked: Center for the Defence of the Individual, founded by
Dr. Lotte Salzberger – RA**
Represented by Ido Blum, Adv. and/or Alona Korman, Adv.
1 Shefa Tal Street, Tel Aviv
Tel.: 03-7444070, Fax: 03-7444170

The Petitioners

v.

1. **The Military Commander of the West Bank**
Represented by the State Attorney's Office, Ministry of Justice
29 Salah-a-din Street, Jerusalem
Tel: 02-6466590; Fax: 02-6467011

The Respondent

Response on Behalf of the Petitioners to the Respondent's Response

In accordance with the decision of the Honorable Court of August 16, 2015, the Petitioners hereby respectfully submit their reply to the Respondent's Response of August 10, 2015, as follows:

1. At the outset, the Petitioners request to apologize for having submitted the response along with the request (and subject to the decision regarding it). This derived solely from the desire to allow the parties and the Honorable Court sufficient time to study the response, should its submission be allowed, and in consideration of the short timetables of the present proceeding.
2. As known, the petition concerns the request of Petitioner 1, a physician by profession, to travel abroad in order to accompany his brother to France for the urgent heart transplant surgery he was referred to by the Hadassah, Ein Kerem hospital. As emphasized in the petition, the Petitioner, his brother and family consider it exceedingly important that the patient be accompanied by the Petitioner who is a physician and has thorough knowledge of his brother's medical condition, and who is also fluent in English – as opposed to

the other members of the family. The Petitioner will be able to support his brother, assist in his communication with the physicians, and clearly explain his exact medical condition.

3. In his response, the Respondent stated that the Petitioner's request to travel abroad to accompany his ailing brother was denied for two reasons: one, on security grounds, concerning which all that was said is that the Petitioner is allegedly a " Hamas activist with connections to Hamas activists". The second is the claim that two years ago the Petitioner allegedly "violated an undertaking" not to return to the Occupied Palestinian Territories for a year and a half.
4. The Petitioner cannot possibly respond to the first reason because it is, by nature, general and laconic, and because its grounds remain unknown. The second argument, as will be explained below, is an outright error: the Petitioner's return to the Occupied Palestinian Territories was permitted and approved and was, moreover, authorized by security officials.

The Claim regarding the "Violation of an Undertaking"

5. Based the response of the Respondent's, it possible to believe that the Petitioner "infiltrated" back to the Occupied Territories in order to evade the entry prohibition he agreed to – however this presentation of the matter is unfounded and misleading.
6. In the wake of HCJ 3091/12, concerning the Petitioner's request to travel to Yemen for the completion of his medical studies, he was compelled to sign an undertaking whereby he agrees that he will not be allowed to return to his country until November 1, 2013, and so things stood.
7. On August 4, 2013, the Petitioner contacted the Allenby Bridge in order to examine the possibility returning to the Occupied Territories three months prior to the end of the original set period of time, in part because his mother was in poor health.
8. At the Allenby Bridge, the Petitioner was required to wait for eight hours after which he had a talk about the undertaking he signed with a person who introduced himself as a General Security Service (GSS) officer. The Petitioner told the GSS officer that he completed his studies, that is mother is in poor health and more. In reply the GSS officer replied that he would try to help him. **After an additional half hour wait, during which the GSS officer made certain clarifications and telephone calls, he notified the Petitioner that he is permitted to enter without any restrictions.** In reply to the Petitioner's question, the officer also made it clear that in these circumstances he, of course, is not required to pay the 5000 NIS set as a guarantee for upholding the undertaking.
9. It must also be noted that on February 18, 2014, the Petitioner was summoned for a "talk" with a person who was introduced as the "GSS officer responsible for his area". During this talk, no mention was made of the contention of "violating an undertaking", and it centered on the Petitioner's work and family – it was even suggested to the Petitioner that he cooperate with security parties (an "offer" he refused).
10. These circumstances – when representatives of the Respondent himself permitted the Petitioner's return to the Occupied Territories prior to the original date, and allowed him to enter without any grievances

whatsoever – makes one wonder why two years after the Petitioner’s return, and after no claim had been raised against him at any time regarding this matter, the Respondent is attempting to present the Petitioner as someone who “violated an undertaking” in order to prevent his exit from the Occupied Territories. Moreover, the fact that, according to the Respondent’s response, this consideration played a central role in the Respondent’s decision to prevent the Petitioner’s departure is indicative of the unreasonableness and illegality of this decision.

11. In light of the aforesaid, the Court is requested to issue an *order nisi* as sought and after hearing the Respondent’s reply, render it absolute.
12. This response is supported by the Petitioner’s affidavit signed before an attorney in the West Bank and sent by fax to the below signed as agreed by phone. The Honorable Court is requested to accept this affidavit in consideration of the objective difficulties involved in holding a meeting between the Petitioner and his representatives. A translation of the affidavit into Hebrew is also attached.

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Ido Blum, Adv.

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Alona Korman, Adv.

Counsel for the Petitioners

August 17, 2015