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January 28, 2016

Ref: 30627

To:

Captain Eliran Sasson
Public Liaison Officer
Office of the Head of the
Civil Administration

By fax: 02-9977341

Re: Cancellation of appeal hearings scheduled for today, January 28, 2016

1. On January 21, 2016, after a long wait and in significant excess of the schedule stipulated in the Standing Orders for the Seam Zone, we received your letter, stating that five residents who have been awaiting an appeal committee hearing for some time:

Are summoned to an appeal committee hearing in their matter on Thursday (January 28, 2016), at 2:00 P.M.. The hearing will be chaired by Head of Crossings Department, Major Amos Zuretz and held at the Civil Administration West Bank Headquarters.

A copy of your letter is attached hereto **as Annex A**.

2. Yesterday, **one day only before the scheduled hearing**, after the residents cleared their schedules in order to arrive at their hearing, HaMoked was informed that the appeal hearings would not be held tomorrow as **“the committee chair has a scheduling conflict”**.
3. **With all due respect, a “scheduling conflict” is no reason to cancel long overdue hearings.**
4. The residents in question are:
 - a. Mr. _____ al-Taraireh, ID No. _____

A letter warning of imminent legal action in the matter of Mr. al-Taraireh was sent on January 12, 2016. The letter stated, inter alia:

It has been three months since our client's application was denied, and more than five weeks since HaMoked first contacted the public liaison officer, and our client has not yet been told why his application had been denied, nor has he been summoned to a review by the head of the DCO or an appeal committee hearing...

We appreciate your pertinent response by January 18, 2016.

Thereafter, we shall consider ourselves at liberty to pursue legal action, but hope this will not be necessary.

On January, 19, 2016, HaMoked received your letter, dated January 12, 2016, stating the reason for the refusal, and containing a summary explanation and the statement that "An appeal hearing date will be provided shortly".

For this reason, no High Court Petition was filed in Mr. al-Taraireh's matter. Now, after two more weeks have gone by, the hearing has been cancelled.

b. Mr. _____ 'Adwan, ID No. _____

We contacted you in Mr. 'Adwan's matter on January 19, 2016, copying Col. Doron Ben-Barak and Adv. Osnat Mendel. The letter stated inter alia:

It is inconceivable eight weeks after the review by the head of the DCO and four weeks after a decision was made to summon our client to an appeal hearing, according to the date marked on your letter, our client has not yet been summoned to an appeal hearing. We therefore ask that you summon our client to an appeal hearing forthwith.

Given the extreme departure from the schedule stipulate in the Standing Orders, our clients are considering legal action on this issue over the next few days.

c. Mr. _____ Daud, ID No. _____

Mr. Daud's permit application was rejected on October 17, 2015, with no reason stated. HaMoked contacted you regarding Mr. Daud on December 21, 2015, demanding an appeal committee hearing. On December 31, 2015, HaMoked received your letter dated December 24, 2015, stating the reason for the rejection and containing a summary explanation and the statement: "An appeal hearing date will be provided shortly".

Now, more than three and a half months after Mr. Daud's request was denied, his hearing date has been postponed.

d. Mr. _____ 'Amar, ID No. _____

Mr. Amar's request for a seam zone commerce permit was delivered to the Israeli DCO on November 30, 2015. HaMoked contacted you with respect to Mr. 'Amar's matter on December 23, 2015, noting that responses to commerce permit applications must be provided **within two weeks** from the date on which they are received by the DCO. HaMoked demanded the permit be issued or an appeal hearing date be scheduled. HaMoked received no pertinent response prior to the notice of the hearing date.

Now, more than eight weeks after Mr. 'Amar's application was received by the DCO, and more than six weeks after the deadline for receiving a response to the application, the hearing has been postponed.

5. We recall that on April 7, 2014, we sent the head of the Civil Administration a detailed letter listing various complaints HaMoked has with respect to various provisions contained in the new Standing Orders.
6. With respect to the appeal committee, we wrote, *inter alia*:
 41. Instead of the "hearing committee", operating under the previous version of the Standing Orders, Standing Orders for the Seam Zone 2014 introduced two mechanisms for appealing the rejection of an application or the validity period of a permit (appeals can also be submitted for failure to process applications within the scheduled time, an option to which we strongly object, as detailed below), a review by the head of the DCO and an appeal committee.
 42. We clarify that we do not object to the fact that the appeals process has been split into two, so long as the appeal instances are parallel. However, according to Sec. 5(a)(1) of the subsection entitled "Appeal Committee" in Section A of the Standing Orders for the Seam Zone, the appeal committee also serves as an appeal instance against a refusal to issue a permit after the review by the head of the DCO, in other words **a second appeal instance**. We cannot agree to this. **It is inconceivable that a person whose application has been rejected, and remains so after the review by the head of the DCO will have to go through another appeal instance before being able to turn to the High Court of Justice. We strongly object to the added step toward the exhaustion of remedies**, which will only serve to further complicate the processing of applications for seam zone permits, and delay the point at which an HCJ petition may be filed, exacerbating the harm already caused to residents applying for permits...

44. Sec 5(a)c) of the subsection entitled “Appeal Committee” in Section A of the Standing Orders for the Seam Zone, stipulates the possibility of submitting an application to the appeal committee in cases in which the application was not processed within the specified time. **We cannot accept this possibility, which shifts the responsibility for your failure to process the application in time to the applicant, adding another bureaucratic requirement with no justification whatsoever.**
7. On July 30, 2014, we received a response, signed by Major Amos Zuaretz, Head of Crossings and Seam Zone Department, **who is also the person who chairs the appeals committee and because of whose scheduling conflict the hearings scheduled for today were cancelled.** The letter states as follows with respect to the appeal hearings:
 - 1) The appeal committee was established in order to improve processing in cases in which it is claimed that the decision made in the application or the process by which the decision was made by the DCO were flawed. As a result, we hope that the work of the committee will result in better service to the Palestinian resident, and, at the same time, a drop in the number of petitions concerning the permit regime, which would save time for the court. Therefore, we do not plan to cancel the appeal committee.
8. We recall that subject to Sec 5(f) of the Appeals Committee Protocol, **“the head of the committee, or the committee secretary shall review the application within one week from the date of receipt and decide whether an appeal hearing is necessary in the specific case”**. According to Sec. 5(h) **“Inasmuch as an appeal hearing is deemed necessary, the applicant will be summoned for a hearing within 3 weeks from the date of the decision to hold a hearing”** (emphasis in the original).
9. Given all the above, and given the experience gained over the last two years, there can be no doubt that the appeals committee fails to meet the timetables stipulated in the Standing Orders and, as such, makes matters worse for residents, rather than better.
10. This situation is unacceptable.
11. **I therefore hereby give notice that in cases in which we have asked in writing for an appeal committee hearing and the request has not been answered according to the timetables stipulated in the Standing Orders, we shall consider ourselves at liberty to file a High Court of Justice petition without any further reminders. The responsibility for meeting the timetables stipulated in the Standing Orders are yours and yours alone and we have neither the time nor the desire to serve as the snooze button on your alarm clock.**

12. I remind you that on October 10, 2011, HaMoked held a meeting with the Civil Administration, attended by the head of the Civil Administration. During this meeting HaMoked staff members complained to the head of the Civil Administration that residents often arrive at the DCO for meetings that have been scheduled for them to find that the officer is not at the DCO. The head of the Civil Administration reacted harshly, and the following was entered in the concluding notes of the meeting sent to HaMoked by the head of the Civil Administration:

9) The organization noted that there have been cases in which a resident was summoned to the DCO for a meeting with the civil coordination officer, but the meeting was canceled due to the fact that the civil administration officer was not present at the DCO at the time. **The head of the Civil Administration stressed that this is an objectionable practice that defies basic human courtesy. The head of the Civil Administration ordered to issue directives to all relevant DCO officers, prohibiting any absences from meetings scheduled for Palestinian residents. An officer who is absent from such meeting, and was not attending to matters of life or death, will be court-martialed by the head of the of the Civil Administration within a week.**

Responsibility: Assistant Civil Administration Head

13. We hope that Major Zuaretz' scheduling conflict that resulted in the cancelation of the today's appeal committee hearings stemmed from his "attending to matters of life or death" and that his mission was successful.
14. **We expect to be immediately notified of an alternative appeal hearing date to be scheduled no later than next Wednesday, February 3, 2016.**
15. **Should an alternative hearing date not be set forthwith, or the date for same set after February 3, 2016, we shall have to take legal action.**

Sincerely,
[signed]
Yadin Eilam, Adv.

Copies: Brig. Gen. David Menachem, Head of the Civil Administration.