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At the Supreme Court
Sitting as the High Court of Justice

HCJ 3544/13

In the matter of: _____ **Qweidar et al.,**

represented by counsel, Adv. Abir Jubran-Dakawar
(Lic. No. 44346) and/or Sigi Ben Ari (Lic. No. 37566)
et al., of HaMoked Center for the Defence of the
Individual, founded by Dr. Lotte Salzberger
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Tel: 02-6283555; Fax: 02-6276317

The Petitioners

v.

Coordinator of Government Activities in the Territories et al.

represented by the State Attorney's Office

The Respondent

Petitioners' Response to Respondents' Updating Notice

According to the decision of the honorable court dated November 9, 2014, the petitioners hereby respectfully submit their response to respondents' updating notice dated December 9, 2014.

1. This petition concerns the request of petitioner 1, resident of the Occupied Palestinian Territories (OPT), that the respondents review and make a decision in his application to receive a license to drive an Israeli car within the territory of Israel for special reasons, in view of the medical condition of his wife, an Israeli resident. The petition also requested a general remedy, namely, to establish a committee which would be authorized to examine such applications, establish working procedures for the processing of such applications and publish them to the public.
2. After the petition was filed, the Coordinator of Government Activities in the Territories established a procedure, entitled "Procedure for the Issue of a Driver's License to Palestinians residents of the West Bank and the Gaza Strip (hereinafter: the **procedure** or the **new procedure**). The procedure should have regulated the processing of applications for drivers' licenses in Israel of Palestinians who undergo family unification procedures. According to the new procedure, the military commander of the West Bank empowered the head of the economics

division in the Civil Administration to review applications of Palestinians for Israeli driver's licenses for special reasons.

3. The petitioner, according to directions given by respondents' counsel, submitted an application on May 27, 2014 according to the new procedure (see Exhibit **P/10**). In a hearing which was held on November 9, 2014, five months after the application was submitted, the honorable court ordered the respondent to respond to petitioner's application within one month.
4. On December 3, 2014, six months after the submission of the application within the framework of the petition to the Civil Administration, First Lieutenant Dana Bernstein, commander of the civilian coordination desk in the Civil Administration, notified that petitioner's application was denied since it failed to comply with the threshold conditions for the examination of the application, including condition 4.d.3. of the procedure, according to which "A first degree relative of the applicant who permanently resides in Israel (who is a permanent resident or a citizen), suffers from a medical condition which requires frequent medical treatments, which require urgent arrivals to a medical institution, and the Israeli spouse of the applicant cannot drive an Israeli car, and there is no other solution for bringing the applicant's relative to the institution in which the treatment is given."

A copy of a response letter of the Civil Administration dated December 3, 2014 is attached and marked **P/15**.

5. According to the respondents, petitioner 2 does not satisfy the threshold condition since it does not need frequent medical treatments, and therefore her husband's application for a driver's license was denied.
6. The respondents have indeed established a procedure, but the procedure's threshold conditions are unreasonable, as indicated by the answers received by petitioner 3 in response to a freedom of information request in this matter.
7. COGAT's response to HaMoked's requests for information under the Freedom of Information Act indicate, that until November 13, 2014, 56 applications were submitted according to the procedure (two applications in the Gaza DCO and 54 applications in the Civil Administration in the West Bank).
8. From the 56 applications, 37 were denied due to failure to meet the procedure's criteria. 19 applications are still being processed. Namely, until November 13, 2014 not even one application was approved under the new procedure, due to the almost impossible conditions of the procedure. All of the denials were due to failure to satisfy the applications' threshold conditions according to the procedure!!

A copy of the request according to the Freedom of Information Act sent by HaMoked to the person in charge of freedom of information in the Civil Administration dated October 13, 2014 is attached and marked **P/16**;

A copy of COGAT's response according to the Freedom of Information Act concerning the applications which were submitted to the Civil Administration dated November 13, 2014 is attached and marked **P/17**;

A copy of the request according to the Freedom of Information Act sent by HaMoked to the person in charge of freedom of information at the Gaza DCO dated October 13, 2014 is attached and marked **P/18**;

A copy of COGAT's response according to the Freedom of Information Act concerning the applications which were submitted to the Gaza DCO dated November 13, 2014 is attached and marked **P/19**

9. In petitioners' updating notice which was submitted to this Honorable Court on October 23, 2014, the petitioners described in length the problems posed by the new procedure: Firstly, no schedules were established for the review of the applications according to the procedure. Secondly, the threshold conditions are narrow and rigid and leave no discretion to the person who reviews the application.

In the updating notice, the petitioners presented a few examples of special and extraordinary cases in which a driver's license would be required. However, these applications would be denied under the new procedure due to failure to satisfy the narrow and rigid threshold conditions. The petitioners also noted in their notice, that the procedure should include a basket clause which would authorize and grant discretion to the head of the economics division in the Civil Administration and to the head of Gaza DCO, to examine each application on its merits, including applications which did not meet the narrow threshold conditions, but had special and extraordinary circumstances which justified the issue of a permit or a driver's license.

10. The purpose of the petition was to establish a procedure which would enable COGAT or anyone on its behalf to examine the issue within the framework of defined schedules, taking into consideration the circumstances of each case, including petitioner's case in which the humanitarian committee did recommend to grant the petitioner a driver's license.
11. Notwithstanding the establishment of the new procedure, the current situation, as far as the end result is concerned, is very similar to the situation which existed when the petition was filed – absence of procedure which provides a real solution for and deeply reviews specific applications of Palestinians who undergo a family unification procedure, for a driver's license on special grounds. The draconian, narrow and rigid threshold conditions of the new procedure rendered it meaningless - as evidenced by the fact that until November 13, 2014 and according to respondents' own data, not even one application was approved, the main reason for the denial of the applications being failure to meet the threshold conditions of the procedure.
12. In view of the above, the honorable court is requested to schedule a hearing in the petition.

December 18, 2014

Abir Jubran-Dakawar, Advocate
Counsel to the petitioners

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