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Date: January 22, 2014
In your response please note: 81018

To:
Professor Shlomo Mor-Yosef
Director General of the National Insurance Institute
13 Weizmann Boulevard
Jerusalem 91909

**By Fax: 02-6519122
and registered mail**

Dear Sir,

Re: **Publication of the National Insurance Institute's Procedures, directives, and Guidelines and Bringing them to the Attention of the General Public**

1. I hereby appeal you requesting that you publish all of the procedures, directives and guidelines (hereinafter: **work procedures**) of the National Insurance Institute (NII) for the attention of the general public, and in the NII branches and on its internet website.
2. HaMoked Center for the Defence of the Individual is a human rights organization that, *inter alia*, acts on behalf Palestinian residents of East Jerusalem for the purpose of promoting and exhausting various rights before Israeli authorities, including the NII.
3. During our treatment of appeals made by residents of East Jerusalem for the exhaustion of their rights relating to the NII, we often encountered replies that rely on the Institute's work procedures. These work procedures have not been published to the general public and were only provided to us in the framework of an ongoing legal proceeding and/or an appeal under the Freedom of Information Law.

One of many examples transpired in the framework of appeals made on behalf of East Jerusalem residents by HaMoked, Center for the Defence of the Individual to the NII through the office of Attorney Karakby requesting the cancelation of debts. In the course of this process, we learned of the existence of criteria for debt cancellation under which the committee that considers this issue operates. The NII has never published these criteria and did not ensure that the public was informed of their existence. We only received these criteria following an appeal under the Freedom of Information Law.



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4. The current policy of the NII and refraining from publishing the work procedures under which it operates, blatantly harms citizens and residents and prevents the exhaustion of their rights that are granted by the NII. Thus, for example, the absence of work procedures regarding debt cancellation may violate the right to access the committee as even if the claimant is aware of the existence of the committee, he does not know what criteria may serve as the basis for the committee's decision and how to appeal against it.
5. Work procedures are normative rules that the NII itself determined as guidelines to fulfilling its role as an administrative authority. Under Article 6 of the Freedom of Information Law 5758 – 1998. The NII is required to publish all of the work procedures under which it operates. The law states as follows:

A public authority shall provide for public perusal the written administrative guidelines under which it operates, and which affect, or are of importance to, the public.
6. It must be emphasized that Article 6 of the Freedom of Information Law anchors the rule that the

Supreme Court has reiterated in a number of judgments, even prior to the enactment of the law. The Supreme Court's rule obliges every administrative authority to publish its work procedures (see for example HCJ 5537/91 **Efrati v. Ostfeld**, SC 46(3) 501, 513, 515).
7. Even after the enactment of the Freedom of Information Law, the courts reverted to the case law that was anchored in the law. Thus, in a matter similar to ours, Administrative Petition (Jerusalem) 530/07 **the Association for Civil Rights in Israel v. the Minister of the Interior**, the Jerusalem Court for Administrative Affairs referred at length to the duty of an administrative authority in general, and the Ministry of the Interior in particular, to publish to the general public all of the procedures, guidelines and directives under which it operates. The Honorable Judge, Yehudit Zur, determined, *inter alia*, that:

The duty to publish the public authority's guidelines and procedures derives from the principle of Publicity and is based on two primary grounds: first, the recognition of the right of the individual to have knowledge of the general norms and the policy that affect his rights. The absence of knowledge of the content of the procedures and guidelines has direct repercussions on the ability of the individual to act in order to realize his rights and denies him the possibility of coping and protecting his rights.

The second ground relates to the public authority and the propriety of its operation. Publicity and transparency ensure the proper functioning of the authority and serve as a barrier against discrimination, an arbitrary act or disregard of the citizen. In addition, publication and the provision of the right to study of review make it possible for the courts and the public to oversee the authority's decisions and conduct, a matter which contributes substantially to the improvement, and efficiency of the Public Service (Administrative Petition (Jerusalem) 530/07 **the Association for Civil Rights in Israel v. the Minister of the Interior**, judgment of December 5, 2007, Paragraph 16).

8. Consequently, the NII, as an administrative authority, is required to publish the procedures, directives, and guidelines under which it operates to the public, and to allow the public to review them in order to fulfill the explicit provision of Article 6 of the Freedom of Information Law, and the unequivocal rulings of the courts.
9. In light of the aforesaid, I request that you immediately publish the procedures, directives and guidelines under which the NII operates, including the provision of copies for public scrutiny in the NII branches and the posting of the procedures and directive on the Institute's website. **Should it take time to publish the procedures, we request to immediately receive a copy of the work procedures.**
10. I would be grateful for your prompt attention.

Respectfully,
Abeer Jubran – Daqwar, Adv