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At the Magistrates Court in Jerusalem

CC 20330/95

In the matter of:

_____ **‘Amru**
of At Tur, Jerusalem
represented by attorneys Hala Huri and/or Hisham
Shabaita
of HaMoked: Center for the Defence of the Individual
founded by Dr. Lotte Salzberger
4 Abu Obeidah Street, Jerusalem
Tel. 02-283555; Fax 02-276317

The Plaintiff

v.

Israel Police
represented by the State Attorney
Jerusalem District
4 Yedidya Street, Jerusalem

The Defendant

Nature of the claim: **Tortious**

Amount of the claim: **NIS 14,000**

Amended Complaint

The Plaintiff hereby respectfully submits his complaint to the Honorable Court, while stating that all of his arguments are asserted severally and/or cumulatively and/or alternatively, all as the context prescribes, and that all of the exhibits attached to the complaint constitute an integral part hereof.

1. a. The Plaintiff was born in 1964.

At the times relevant to this complaint, the Plaintiff was a resident of Dura, Hebron District, and carried a West Bank ID certificate. He resided, however, in Jerusalem, by virtue of a permit that was issued for him by the Israeli Ministry of the Interior on 1 May 1994 – because he was married to a Jerusalemite woman who filed a family Unification application for him.

Pursuant to this permit, he was entitled, at that time, to stay and work in Israel.

The class B/1, 6-month, permit, as part of Ihud Mishpahot [Family Unification] Procedure, is attached hereto as Exhibit A.

- b. The family Unification application filed for him by his Jerusalemite wife was ultimately approved, and on 11 January 1996 the Plaintiff was issued an Israeli ID certificate, which is attached hereto as Exhibit A1.
2. On 11 May 1994, at around 07:00, while the Plaintiff was at the Banks Junction in Talpiyyot, Jerusalem, on his way to the house of his employer, _____ Atias, he was detained by two policemen from the Regional Patrol Unit who were dressed in khakis. They asked him for his ID. The Plaintiff gave them his ID and his permit to stay in Jerusalem.

The policemen told him that he was staying in Jerusalem illegally and that he was under arrest. The Plaintiff tried to explain to the policemen that his stay was legal pursuant to the said permit, but they did not listen to him. The Plaintiff presented the permit which enabled him to stay in Jerusalem while West Bank residents were under closure, but the policemen ordered him to get into the police Ford vehicle.
3. The Plaintiff was taken to the police station at Talpiyyot, and there too tried to convince the station commander that his stay in Jerusalem was legal pursuant to the foregoing permit, but to no avail. The Plaintiff asked to call his family or employer to let them know he was under arrest, but was given no opportunity to do so.
4. On the same morning of 11 May 1994, the Plaintiff was transferred to the Russian Compound detention facility, where he was photographed and his fingerprints were taken. At the detention facility in the Russian Compound, the Plaintiff was asked to help policemen transport water and clean the facility.

Once again, the Plaintiff asked to call his family or employer, but was not allowed to do so until he finished doing the jobs which the policemen had imposed on him at the detention facility.
5. At around 16:30, the Plaintiff was allowed to call his employer. Approximately 30 minutes later, the Plaintiff's employer arrived at the detention facility at the Russian Compound, and brought with him cigarettes for the Plaintiff. He talked to the policemen and tried to have the Plaintiff, who was held in room number "0", released, but was unsuccessful.

6. On the following day, 12 May 1994, the Plaintiff was asked to sweep up the detention facility. On the same day his employer visited the detention facility again in an attempt to have him released, but to no avail. At noontime the Plaintiff was transferred, together with other detainees, to the Ramallah prison.
7. The Plaintiff was detained at the Ramallah prison for 4 hours. Thereafter, he was released without being handed a fine payment notice. The Plaintiff asked for his ID certificate at the time of his release, but was given only the attachment annexed to the certificate. He was not given the original certificate. The Plaintiff tried to speak to a Border Guard policeman and a soldier who were present at the place and to ask for his ID certificate, but the Border Guard policeman said to him "if you don't get the heck out of here I'll break your head". Having no other choice, the Plaintiff left the place without the certificate.
8. On the following day, 13 May 1994, which was a Friday, the Plaintiff went to the detention facility at the Russian Compound to get his ID certificate. He was accompanied by a friend by the name of _____ Gabbay. The police told the Plaintiff to return on Sunday.
9. On Sunday, 15 May 1994, the Plaintiff arrived at the Russian Compound once again. This time he was told to return on Tuesday, since that day was a holiday. When the Plaintiff returned on Tuesday, he was referred by the policeman who stood at the gate of the police station at the Russian Compound to the Lost and Found Department at Maḥane Yehuda, to file a complaint on the loss of the ID certificate.
10. The Plaintiff turned to the Lost and Found Department of the police at the Maḥane Yehuda station. He was given no confirmation that the certificate was lost, but was given the note attached hereto as Exhibit B. From there he was referred to the Civil Administration in Hebron to have a new ID certificate issued.
11. The Plaintiff turned to the offices of the Civil Administration in Hebron, where he was told that he would have to pay the sum of NIS 237 for the issuance of a new certificate. The Plaintiff had no money to pay for the issuance of a new ID certificate.
12. On 15 May 1994, the Plaintiff turned to HaMoked: Center for the Defence of the Individual and asked for its assistance in recovering his ID certificate.
13. Following the intervention of HaMoked: Center for the Defence of the Individual, and a conversation held with Superintendent Dani Shemesh, Deputy Head of the Jerusalem Investigations Division, the Plaintiff's ID was found at the detention facility at the Russian Compound. The certificate was delivered to the attorney of

HaMoked: Center for the Defence of the Individual, the undersigned, and handed to the Plaintiff.

14. The Plaintiff shall claim that the conduct of the Defendant's representatives has caused him irreversible damages for which he is entitled to compensation.
15. The Plaintiff shall claim that he was falsely arrested by the police. Such an arrest should entitle him to compensation for the unnecessary and unneeded harassment that was caused to him by the action of the Defendant's representatives and agents, which action was illegal.
16. The Plaintiff shall claim that the action of the Defendant's representatives was inherently erroneous, and that the Plaintiff's stay in Jerusalem was lawful. His detention, *despite the legality of his stay*, was unlawful.
17. The Plaintiff shall claim that his right to compensation for his arrest derives from Article 80 of Hoq ha-Oneshin [the Penal Law], which entitles him to compensation for his arrest if the Court finds that "his arrest was unfounded". Indeed, in this case his arrest was unfounded. He was incarcerated following a mistake by the Defendant's representatives.
18. The Plaintiff shall claim that his detention without any cause, and due to a mistake by the Defendant's representatives, entitles him to compensation for the mental and pecuniary damages he suffered as a result of his incarceration.
19. The Plaintiff shall claim that he was not interrogated, during his arrest, for any offense and that his detention was solely due to the mistaken belief of the Defendant's representatives that his stay in Jerusalem was illegal.
20. The Plaintiff shall claim that the Defendant acted towards him with negligence, within the meaning of this term in Article 23 of Pequddat ha-Neziqin [the Torts Ordinance], and that he is entitled to compensation by virtue thereof.

Following is a specification of the negligence argument:

- a. The Defendant did not act sufficiently, was negligent and failed to instruct its representatives who arrested the Plaintiff, with regard to the legality of the permit that the Plaintiff held while staying in Jerusalem.
- b. The Defendant did not act sufficiently, was negligent and failed to instruct the responsible persons at the detention facility to review the Plaintiff's papers and to decide to release him upon his check-in at the detention facility,

thus causing his unlawful arrest at the detention facility, with no lawful grounds.

- c. The Defendant was negligent in that after the Plaintiff's release from the detention facility, he was not given his ID certificate by its representatives, even though the certificate was at the detention facility, and in the subsequent delivery of the certificate to the Plaintiff's attorney, upon her demand.

Thereby, he suffered pecuniary losses and unnecessary fear and harassment by being left without an ID certificate for a long time.

- d. The Defendant was negligent in failing to take sufficient measures to return the Plaintiff's ID certificate to him upon his release from the detention facility, not even in the two times in which the Plaintiff arrived at the detention facility and asked to receive the same, and by receiving it later, as aforesaid.

21. The claimed damages are as follows:

- a. His specific damages amount to approximately NIS 4,000, according to the following specification:
 - 1. Inability to work: NIS 3,000.
 - 2. Travel: NIS 1,000.
- b. General damage: For distress, harassment, pain and suffering due to the false arrest and due to having been compelled to do various work at the detention facility, in the sum of NIS 10,000.

Total: NIS 14,000.

- 22. In view of the aforesaid, the Honorable Court is moved to summon the Defendant and to charge it with payment of the amount claimed by the Plaintiff, in addition to interest and indexation as set out in the law from the date of filing of the complaint until the date of actual payment in full.

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Hala Huri, Att.

Counsel for the Plaintiffs

Jerusalem, today 10 September 1996