

Translation Disclaimer: The English language text below is not an official translation and is provided for information purposes only. The original text of this document is in the Hebrew language. In the event of any discrepancies between the English translation and the Hebrew original, the Hebrew original shall prevail. Whilst every effort has been made to provide an accurate translation we are not liable for the proper and complete translation of the Hebrew original and we do not accept any liability for the use of, or reliance on, the English translation or for any errors or misunderstandings that may derive from the translation.

Date: 30 January 2006  
In response please state: 28401

Adv. Avital Shenbal  
Claims Department  
Claims and Insurance Unit – Ministry of Defense  
22 Ha'Arba'ah St.  
Hakiryat  
Tel Aviv 61909

**Without prejudice**  
**By mail**

Dear Sir,

Re: **Compensation Demand – Complaint of Ms. Askafi**  
**Re. Theft during a Search of her House in Hebron**  
**Incident of 14 July 2003**  
**Your No.: 15-446/03**

1. We have recently received the Investigating Military Police investigation file in the above matter.
2. An inspection of the investigation material reveals that it was conducted in a disdainful, negligent and non-exhaustive manner which resulted in the persons responsible for the above incident not being found and evidentiary damage being caused to my client.
3. As transpires from the investigation material, on 7 December 2003 the IMP of the Yehuda Regional Brigade was informed that it was Regiment 430 of the armored forces that was in the area of the incident at the relevant time.
4. In the statement of the Company Commander from Regiment 430 that was given on March 8, 2004, the Company Commander explained to the IMP investigator that the requested information about the forces that were in the area on that same day and the actions that were taken could be found in the operations room logs of Regiment 430 which are found in the IDF Archives and **not at Yehuda Regional Brigade**. The Company Commander further explained in his statement that some of the searches were performed in an unplanned manner at the initiative of the Commander

in the field. The Company Commander further claimed that had he been presented with a map of the area, he may have been able to identify the house and provide specific information, but no such map was presented to him. The Company Commander also stated that there had been previous cases of theft in the regiment.

5. As we can see, the investigation of the Company Commander was not exhausted, not even on the most basic level of providing the investigated person the possibility, through a map, to identify the house and to give the investigator further information. In addition, no other commanders from the company were investigated, despite the fact that the Company Commander's testimony explicitly stated that some of the searches were the initiative of the commanders in the field.
6. On the other hand, no effort was made to check whether there had been an "operation" in the framework of which the search was conducted.
7. Indeed, an application was made to the IDF Archives in order to obtain the Regiment's logs. The Archives' response of 15 April 2004 was that "no operations logs of Regiment 430 are currently found in the IDF Archives". In other words: **The IDF lost the documentation relating to the incident**, which could have shed light on the identity of the persons who performed the search at my client's house.
8. I know no other name for an omission of this type, apart from gross negligence. And I know of no evidentiary damage clearer than the absence of documentation, and the case law on this matter is extensive.
9. In view of the aforesaid, the response of the IMP, whereby "at the relevant time, **no searches were performed in the manner described** in the complaint" is peculiar since, due to the loss of the logs, the IMP had before it no information that allowed a positive determination that indeed no searches were conducted.
10. In addition, the Company Commander states in his testimony that he was released from the IDF on 22 July 2003, approximately one week after the incident, and that he was in the area approximately two months before his release. It is reasonable to assume that on the date of the incident, the Company Commander who was investigated was no longer on duty in the same area and it therefore appears that the Company Commander relevant to the incident was not even investigated! Why was the Company Commander who replaced him not investigated? Puzzling.

11. It is further puzzling why the statements were taken many months after the launch of the investigation? (February, March and even May 2004). According to some of the testimonies, at least some of the forces stayed in the area until November 2003. Had they been investigated in December 2003, they would have been more likely to recall what happened. There is no explanation for this omission in the investigation material.
12. In addition, I find it difficult to understand, in view of the investigation material, your response of 22 September 2005, whereby the relevant forces deny both the specific search and the possibility that a search of this type was performed at all. At least some of the investigated persons were unable to deny the specific search although, on the other hand, they explicitly stated that searches were performed in different ways as a matter of routine or in the framework of an operation. In fact, it is **impossible** to positively deny the search without the forces that were in the area at that time having been investigated and without the relevant operations logs.
13. Under the said circumstances, which give rise to a heavy suspicion of theft and unbecoming conduct on the part of IDF soldiers in my client's house, in view of the negligent conduct of the IMP's investigation of the matter and in view of the clear evidentiary damage caused by IDF through the loss of the documentation, you ought to reconsider your position regarding my client's compensation.
14. Your prompt response would be appreciated.

Sincerely,

Anat Kidron, Adv.