

5-14-2008

Terms of reference for the Applicant's "Temporary Safe Haven" in the Canadian Embassy in Khartoum

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THIS IS EXHIBIT D TO THE
AFFIDAVIT OF JO WOOD
SWORN ON JULY 16, 2008

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a solid horizontal line.

A Commissioner for Taking Affidavits

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Department of Justice Ministère de la Justice
Canada Canada

Ottawa, Canada Ottawa, Canada
DFAIT Legal Services Service juridique du MAECI
Unit Unit
125 Sussex Drive 125, promenade Sussex
Room C7-213 Pièce C7-213
Ottawa, Ontario Ottawa (Ontario)
K1A 0G2 K1A 0G2

May 14, 2008

WITHOUT PREJUDICE

Mr Yavar Hameed
Hameed Farrokhzad St-Pierre
43 Florence Street
Ottawa, Ontario
K2P 0W6

By Facsimile: 613-232-2680

Dear Mr Hameed,

Re: Mr Abousfian Abdelrazik

I am writing on behalf of the Department of Foreign Affairs and International Trade (DFAIT) in response to your letters of April 15, 2008 to the Canadian Embassy, Sudan and of April 30, 2008 and May 5, 2008 to Mr Sean Robertson at DFAIT and subsequent phone calls. I will be your point of contact with respect to the provision of consular services to Mr Abdelrazik. Counsel from the Civil Litigation Section of the Department of Justice will represent the Attorney General in relation to your recently filed application for judicial review.

As you are aware, Mr Abdelrazik is currently being granted temporary safe haven at the Embassy in Khartoum and such safe haven will continue as long as DFAIT, in its discretion, deems it to be necessary and appropriate. Mr Abdelrazik's requirement for temporary safe haven will be assessed on an on-going basis and the Department will treat Mr Abdelrazik in the same manner as it treats any Canadian seeking emergency haven at a Canadian mission abroad. In this context, I note that Mr Abdelrazik's media interview did not result in his detention, although the allegations you make in your letter regarding threats made are being taken quite seriously. I note in this context that the first time DFAIT officials were made aware of Mr Abdelrazik's allegations of past mistreatment by Sudanese authorities was through you, in the meeting of February 27, 2008. I also note that the issue of publicity surrounding Mr Abdelrazik's circumstances was discussed at that meeting.

Attached you will find a copy of DFAIT's Terms of Reference for Mr Abdelrazik's stay at the Embassy. You will notice that it covers most of the issues you raised in your letters of April 30 and May 5, 2008. I trust you will appreciate that such a situation calls for the accommodation of many competing interests, including the safety of your client as well as the security of the Embassy and the safety and operability thereof. I trust that these terms more than adequately protect your client.

Canada

As to your request for Mr Abdelrazik to be permitted to watch television in the lobby of the Embassy, please note that the television does not receive any television transmissions.

You have raised the issue of being routed through media relations in Ottawa in previous attempts to reach Mr Abdelrazik in Khartoum. There was apparently a misunderstanding regarding your inquiries and it was believed that you were a reporter. DFAIT has taken steps to rectify this and it should not reoccur.

I understand that there was recently an issue regarding Mr Abdelrazik's request to place a phone call to an unknown number. If you would kindly provide me with a complete list of phone numbers for counsel in your office who are working on this matter, DFAIT will undertake to ensure that Mr Abdelrazik is able to place calls to those numbers.

I trust that the foregoing addresses all of the immediate concerns that you have raised regarding your client. In future, please address all communications relating to any consular services aspect of this matter to the Department of Justice through my office. We are acting on behalf of DFAIT. The Consular Branch will continue to provide services directly to Mr Abdelrazik through the embassy.

Sincerely,



Donna Blois
Counsel

Att.
c.c.: Richards/DoJ
Welsh/CND
Hannaford/JLD

Terms of reference for Mr Abdelrazik's stay within the Embassy grounds

During the time that the Embassy of Khartoum (Embassy) provides temporary safe haven for Mr Abousifian Abdelrazik (client), the following terms and conditions apply to Mr Abdelrazik's presence within the Embassy compound, which consists of the Embassy building, outbuildings and grounds. The Département of Foreign Affairs and International Trade (DFAIT) reserves the right to determine the conditions and the length of time of Mr. Abdelrazik's temporary stay within the Embassy and anywhere within the compound.

These Terms of Reference are consistent with the requirements of Mr Abdelrazik's security and humanitarian needs, as well as with security protocols and practice at Canadian missions abroad, including with respect to the provision of temporary safe haven, and the constraints placed upon Canada pursuant to the listing of the client under United Nations Security Council Resolution 1267.

1. Access to Embassy and non-secure areas:

The client will have access to the public areas of the Embassy building during the working hours of the Embassy only. After hours the client will remain outside the Embassy building but within the compound in areas identified as accessible to him. Should the client wish to access Embassy recreational areas and equipment, including the pool, he will be required to agree to and sign a liability waiver.

Should, at any time, his behaviour be deemed disruptive towards other clients, or considered by the Head of Mission in his sole discretion as affecting the security of the Embassy or its staff, DFAIT may terminate his access to the Embassy compound.

2. Access to Operational areas.

The client will not be allowed in the Operational Area of the Embassy building.

3. Access to Embassy phones and phone lines

DFAIT will arrange for the client to receive or to make up to two calls per day to either his family or his legal representative in Canada between the Khartoum local time of 15:00 to 16:00 on work days.

Calls must be completed no later than 16:00 on days that the Embassy is operational.

These calls will be made to and from the reception area of the Embassy building only.

On weekends, holidays and other days when the Embassy is closed, there will be no access to Embassy phone lines.

4. Usage of wireless devices within the Embassy Compound:

Wireless communications are prohibited within the Embassy compound. Therefore, the client

must leave any cellular phone or other wireless device with the security guards while the client remains in the Embassy compound.

The client may use his cellular phone from the confines of the guard house.

5. Security of calls made over commercial lines

DFAIT cannot guarantee the security of external calls to or from the Embassy made over commercial lines.

DFAIT adheres strictly to all Canadian privacy legislation and therefore does not record or monitor any conversations that take place on their premises, including the Canadian Embassy in Khartoum.

Every effort is made to allow the client privacy while the client is speaking on the phone in the public areas of the embassy, subject to the needs of other embassy clients.

6. Personal space for prayers

The client may use the same facilities provided for Embassy security guards and contractors for prayers.

7. Access to internet and other Canadian news

There is no internet access available in the public areas of the Embassy building and therefore the client does not have access to the internet.

Canadian newspapers and periodicals received from DFAIT in Ottawa will be circulated to the client.

8. Meals

The client will be provided with 3 meals a day.

9. Medical Care

Should there arise any concern with respect to medical care, the Embassy will seek professional medical attention and determine the best course of action upon such professional advice.

10. Any other eventuality

The Head of Mission in Khartoum has the authority to make decisions which he deems are in the best interests of the client, the staff and other clients of the Embassy and to protect and respect the diplomatic rights and privileges accorded to the mission by the Government of Sudan.

Any issues not addressed in these Terms of Reference must be referred to the Department of Foreign Affairs and International Trade for detailed instructions.