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At the Supreme Court Sitting as the High Court of Justice

**HCJ 1292/14
HCJ 1785/14
HCJ 4064/14**

Before: **Honorable Deputy President E. Rubinstein
Honorable Justice N. Sohlberg
Honorable Justice M. Mazuz**

The Petitioner: **__ Abd al-Fatah Hamidat**

The Petitioners in HCJ 1785/14: **1. Dr. ____ Tzarawi
2. ____ Hur
3. HaMoked - Center for the Defence of the Individual**

The Petitioners in HCJ 4064/14: **1. ____ A-Shtiyeh
2. ____ A-Shtiyeh**

v.

The Respondents: **1. Commander of IDF Forces in the Judea and Samaria Area
2. Military Court Ofer**

Petition for *Order Nisi* and *Interim Order*

Session date: 25 Tevet 5776 (January 6, 2016)

Representing the Petitioner in HCJ 1292/14: Adv. Ahmed Safiyeh

Representing the Petitioners in HCJ 1785/14: Adv. Sigi Ben Ari; Adv. Daniel Shenhar

Representing the Petitioners in HCJ 4064/14: Adv. Noa Amrami, Adv. Emili Shefer Omer-man

Representing the Respondent: Adv. Roi Shweiqa

Decision

Deputy President E. Rubinstein

The above petitions raise the argument that amendment 36 of the Order regarding Security Provisions (Judea and Samaria Area), 5774-2013, which stipulates that the decision of the commander of IDF Forces in the Judea and Samaria Area to confiscate funds suspected of being terror funds cannot be appealed before the military courts – is unlawful. Funds suspected of being terror funds were confiscated from the petitioners. At the outset of the hearing we advised the petitioners that our position was that *prima facie* there was no lawful defect in the amendment in and of itself; In the same breath we notified the respondent that in our opinion it would be appropriate to establish a forum for objections or appeals against forfeiture decisions instead of the current situation in which petitions must be filed in connection with any such objection with the High Court of Justice, for reasons of fairness towards the involved parties to enable them to exhaust their arguments, as well as for reasons of common sense according to which issues which may be solved in appropriate forums by the regional system – should not be immediately referred to the HCJ, as was habitually done.

As aforesaid, based on the position that the above order is lawful, it would be appropriate to establish an adequate objection mechanism. Hence, the hearing in the above petitions will be postponed by four months, during which we request that such mechanism be established.

An updating notice on behalf of the respondent will be submitted within four months. The petitioners may respond within two weeks thereafter. Following the above the court shall decide how to proceed with the above petitions.

Given today, 25 Tevet 5776 (January 6, 2016)

Deputy President

Justice

Justice