At the Supreme Court Sitting as the High Court of Justice

HCJ 1938/16
HCJ 1999/16
HCJ 2002/16

Before:	**Honorable Deputy President E. Rubinstein** **Honorable Justice S. Joubran** **Honorable Justice D. Barak-Erez**
The Petitioners in HCJ 1938/16:	1. **_____ Abu Alrub** 2. **HaMoked - Center for the Defence of the Individual, founded by Dr. Lotte Salzberger**
The Petitioners in HCJ 1999/16:	1. **_____ Nasser** 2. **_____ Nasser** 3. **_____ Nasser** 4. **_____ Nasser** 5. **_____ Nasser** 6. **HaMoked - Center for the Defence of the Individual, founded by Dr. Lotte Salzberger**
The Petitioners in HCJ 2002/16:	1. **_____ Kmeil** 2. **HaMoked - Center for the Defence of the Individual, founded by Dr. Lotte Salzberger**
	v.
The Respondent:	**Commander of IDF Forces in the West Bank**
Petition for *Order Nisi*	
Session date:	4 Adar B 5776 (March 14, 2016)
Representing the Petitioners in HCJ 1938/16:	Adv. Andre Rosenthal Adv. Lea Tsemel
Representing the Petitioners in HCJ 1999/16:	Adv. Labib Habib

Representing the Petitioners in HCJ 2002/16:

Representing the Respondent: Adv. Roi Shweiqa

Judgment

Deputy President E. Rubinstein:

1. Ahmad Najah Alrub (hereinafter: **Alrub**), Ahmad Najah Isma'il Nasser (hereinafter: **Nasser**) and Muhammad Ahmad Muhammad Kmeil (hereinafter: **Kmeil**); hereinafter collectively: the **three**) carried out on February 3, 2016, a murderous, preplanned and combined stabbing and shooting attack, near Damascus gate in Jerusalem, in which the three killed the late Hadar Cohen, a Border Policewoman, and injured two additional policemen, one of whom was injured critically while the other was injured lightly. Consequently, three forfeiture and demolition orders were issued (in HCJ 1999/16 – sealing) against the petitioners' apartments as specified below, by virtue of Regulation 119 of the Defence (Emergency Regulations, 1945 (hereinafter: **Regulation 119** or the **Regulation**); their objections were denied. Hence the petitions. It should already be noted that petitioners' arguments are mainly directed against the mere use of forfeiture and demolition orders by virtue of Regulation 119, in general, and under the circumstances of the case at bar in particular, and not against the basis of the evidentiary account against the three.

   The petitions were filed on March 8, 2016; on that very same day interim injunctions were issued which prohibited the demolition of the buildings until decisions were given in the petitions (Justice **Danziger**); at the request of the state dated March 10, 2016, and in view of the fact that they all pertain to the same incident, it was decided to jointly discuss them; the hearing was held on March 14, 2016; on March 15, 2016, we requested the respondent to consider the possibility of using the measure of sealing or partial demolition *in lieu* of full demolition in HCJ 1938/16 and in HCJ 2002/16 as was done in HCJ 1899/16; on March 21, 2016, the respondent gave notice, together with an affidavit on his behalf, that the offer was unacceptable to him; hence, it is time to make a decision.

The parties' arguments in writing and in the hearing

2. **HCJ 1938/16**: this petition focuses on the home of the Alrub family in Qabatiya - petitioner 1 is the father of Alrub – located in the Judea and Samaria Area; it is a one story house which consists of about 150 square meters and occupies nine inhabitants. On February 24, 2016, the respondent gave notice of his intention to forfeit and demolish the house in view of the attack in which Alrub took part. Petitioners' objection against said decision was denied as aforesaid, and on March 6, 2016, a forfeiture and demolition order was issued against the house by virtue of Regulation 119.The petitioners request that the order be revoked on the grounds that issuance of forfeiture and demolition orders was contrary to Israeli law and the laws of war applicable to the Area, in view of the fact that deterrence could not justify the infliction of harm on innocent people.

3. HCJ 1999/16: this petition focuses on the home of the Nasser family in Qabatiya – the family members are petitioners 1-5; it is a two story house. On February 24, 2016, the respondent notified of his intention to forfeit and demolish the second floor of the house, which served as the residence of Nasser, in view of the attack in which he took part; Petitioners' objection against said decision was

denied and on March 6, 2016, a forfeiture and demolition order was issued accordingly. It was noted that the intention was to demolish the interior partitions of the second floor manually, and to fill the space of the apartment with barbed wire and foamed substance to prevent the use thereof; namely, this case does not concern full demolition but rather partial demolition and sealing. The petitioners request that the order be revoked for several reasons. **Firstly**, since, as a general rule, the mere use of Regulation 119 for forfeiture and demolition purposes runs contrary to Israeli law and the laws of war applicable to the Area, the order should be revoked based on this reason alone. **Secondly**, in view of the fact that the family home is located in Area A, it is alleged that as part of the arrangements which were established in 1995 in the interim agreement on the West Bank and the Gaza Strip ("Oslo B"), the state of Israel does not have security authority over these areas and therefore the respondent is not authorized to issue the above order. **Thirdly**, with respect to the circumstances of the attack – the petitioners do not dispute the fact that apparently the three had indeed carried out the attack, but since they were shot to death on scene, the respective role played by each one of them in the execution thereof is unclear. **Fourthly**, with respect to deterrence considerations – it was argued that it has not been proved that house demolition did in fact accomplish the sought deterrence and that the opinions which were submitted in that regard in previous petitions were privileged and therefore there was no way of knowing whether they have indeed substantiated the above; and specifically in the case at bar, it was argued that the immediate killing of the three on scene was sufficient to deter potential perpetrators, and that demolition, in addition thereto, was not required.

4. HCJ 2002/16: this petition focuses on the home of the Kmeil family in Qabatiya – petitioner 1 is the father of Kmeil; it is a one story house which consists of about 180 square meters and occupies six inhabitants. On February 24, 2016, the respondent gave notice of his intention to forfeit and demolish the house in view of the attack in which Kmeil took part. Petitioners' objection was denied as aforesaid, and on March 6, 2016, a forfeiture and demolition order was issued by virtue of Regulation 119. In this petition the petitioners request that the order be revoked on grounds similar to those specified in HCJ 1938/16 and based on the argument of disproportionality.

5. In his response to the three petitions dated March 10, 2016, the respondent argues with respect to the general arguments concerning respondent's mere authority to use Regulation 119, that these arguments had been raised and rejected in a host of petitions, including many from recent times, and that no reason was given to re-visit the issue. To the crux of the matter it was argued that this case concerned a severe terror attack; and that the three had in their possession three assault rifles, two explosive charges, a utility knife and a pocket knife. Attached to the response was the statement of Bilal Abu Zeid, which indicates that the three told him of their intention to carry out an attack in Jerusalem (statement dated February 21, 2016, page 3, lines 52-57); also attached to the response was a statement of a Border Policeman who described how the three started to attack the policemen in the Damascus gate area after they were requested to present an identification card and how thereafter they opened fire at the policemen – in a manner which as aforesaid caused light injuries to one policeman and critical injuries to another – and caused the death of a policewoman, the late Hadar Cohen, who was stabbed to death (statement dated February 8, 2016). With respect to the general need to use Regulation 119 for the forfeiture and demolition of residential units it was argued that the escalating terror activities required the use of said severe measure, which according to different examinations conducted by the security agencies had a deterring effect against potential perpetrators; in the hearing, an opinion was submitted on behalf of the security agencies for the perusal of the justices of the panel, which allegedly supported the deterrence argument. It was further argued specifically with respect to Nasser that after the attack an agent of the Israel Security Agency (ISA) interrogated his brother who expressed support in his brother's doings and stated that it was a great privilege to be a "Shahid".

6. On March 15, 2016, we requested the respondent, as aforesaid, to inform us whether sealing or partial demolition of the dwellings being the subject matter of HCJ 1938/16 and HCJ 2002/16 was feasible. On March 21, 2016, the respondent notified that it was not acceptable to him in view of the severity of the incident and the substantial need to deter which according to him would not be achieved by the sealing or partial demolition of said dwellings.

Deliberation and Decision

7. After I have reviewed the arguments of the parties and heard them in the hearing, I am afraid that their requests may not be accepted. The above is said being fully aware of the difficulty involved in the use of said measure and as I said more than once, it is easier to be on petitioners' side and we do not find pleasure in these cases, but the necessity cannot be denied and amidst our people and its pains we sit, and we must do the best we can to save souls; as stated (**Avot, Rabbi Nathan** 83 (version B*)* "whoever saves one soul, is deemed to have saved an entire world". With respect to the general issue it should be reiterated and emphasized: the use made by Regulation 119 for the sealing and demolition of perpetrators' homes is for deterring purposes and not for punitive purposes (HCJ 698/85 **Dejalas v. Commander of IDF Forces in Judea and Samaria**, IsrSC 40(2) 42, 44 (1986); HCJ 4772/91 **Hizran et al., v. Comander of IDF Forces**, IsrSC 46(2) 150 (1992); HCJ 8084/02 **Abassi v. GOC Home Front Command**, IsrSC 57(2) 55, 60 (2003); HCJ 5290/14 **Qawasmeh v. Military Commander of the West Bank Area**, paragraph 23 (2014); HCJ 4597/14 **'Awawdeh v. Military Commander of the West Bank Area**, paragraph 19 (2014); HCJ 8091/14 **HaMoked: Center for the Defence of the Individual v. Minister of Defense**, paragraph 17 (2014); HCJ 8567/15 **Halabi v. Commander of IDF Forces in the West Bank**, paragraph 7 (December 28, 2015), paragraph 7; HCJ 967/16 **Harub v. Commander of Military Forces in the West Bank** (February 14, 2016). All parties involved in this matter including the political echelons must bear this in mind; **deterrence and not punishment**. The internalization of the above is essential, for the mere decisions and in view to the future with respect to the need to maintain intelligence and other forms of follow-up in a bid to examine the effectiveness of the deterrence.

And note well, there is no dispute that substantial damage is caused to the property of the inhabitants of the houses designated for demolition. However, the underlying premise is that the damage to property recedes before protection of human life; if deterrence does indeed assist and human lives are saved, while regretting the damage to property, the sanctity of life prevails (HCJ 6288/03 **Sa'ada v. GOC Home Front Command**, paragraph 3 (2003); **Halabi**, paragraph 12). Hence, once it was determined by the respondent, the Major General Commander of IDF Forces in the West Bank, by virtue of the authority vested in him in security matters of this sort and his security seniority, that the house demolition measure can deter potential perpetrators and save the lives of innocent people, our intervention will be substantially limited, even when the measure of full demolition was chosen rather than partial demolition or sealing (**Abassi**, pages 60-61; **Qawasmeh**, paragraph 26; **HaMoked**, paragraph 18); although it should be noted that we specifically prefer, to the extent the demolition measure is used, that an effort be made to limit its consequences, including sealing.

8. It should be emphasized that like any other action taken by a governmental official, respondent's action by virtue of the authority vested in him pursuant to Regulation 119 should be carried out proportionately; namely, it should be examined, inter alia, whether there is a rational connection between the measure and the cause ("the rational connection tests") and whether the gain exceeds the damage ("the proportionality test in the narrow sense") (HCJ 5510/92 **Turkman v. Minister of Defense**, IsrSC 48(1) 217; **Abassi** , page 59; **Sa'ada**, pages 291-292; HCJ 9353/08 **Hisham Abu**

Dheim v. GOC Home Front Command, paragraph 5 (2009); '**Awawdeh**, paragraph 17, **Qawasmeh**, paragraph 22, **HaMoked**, paragraph 18; **Abassi**, page 59; **Halabi**, paragraph 13). To that end, we must be convinced that the measure realizes the alleged purpose of deterrence even if by its nature, full positive proof may not be obtained. Accordingly, it was held more than once, that in this regard the respondent would have to present evidence in support of the argument that said measure had a deterring effect against potential perpetrators, as alleged (**HaMoked**, paragraph 8; HCJ 7040/15 **Fadel Mustafa v. Military Commander of the West Bank Area**, paragraph 27 (November 12, 2015); HCJ 6745/15 **Abu Hashiyeh v. Military Commander of the West Bank Area**, paragraph 19 (December 1, 2015)). It cannot become an established routine, but as aforesaid – constant follow-up is required as far as the issue of deterrence is concerned.

9. With respect to the specific cases at bar, as indicated by the administrative evidence presented by the respondent, the three perpetrators the demolition of whose homes is the subject matter of this petition, killed in a premeditated attack as foresaid, a Border Policewoman (by a knife attack) and wounded others; it seems that the petitioners do not dispute the fact that the attack was carried out by the three. It should be emphasized that although under the circumstances the specific contribution of each one of the three to the attack in unknown, it suffices that the evidentiary account in our possession indicates, without a doubt, that they committed the above acts jointly. It seems that there is no need to elaborate on the fact that the circumstances of the case are severe, and this case joins a host of additional severe attacks which occurred recently; Hence, the need to deter, and the respondent is of the opinion that it would be achieved in the case at bar as aforesaid by the demolition of the homes of Alrub and Kmeil and the partial demolition and sealing of Nasser's home.

10. To substantiate the deterrence argument, we were presented with an updated opinion of the security agencies. At this time we found no flaw in the opinion which justifies our intervention in respondent's discretion. However, the security agencies must **continue to examine the issue** both with respect to the effectiveness of the deterrence which is manifested in different cases, as well as with respect to opposing arguments that this measure raises hatred of others and encourages them to commit revengeful attacks. This issue requires constant follow-up, and see the comments of my colleague Justice **Barak-Erez** in this context in our judgment below, which are acceptable to me.

11. As to the specific argument that the respondent does not have authority to act in Areas A where the dwellings being the subject matter of this petition are located – this argument, which was discussed and denied several times in the past, cannot be accepted. As held "the military commander is authorized to act in Area A, and particularly when it is required for the purpose of safeguarding the security" (**Mustafa**, paragraph 64 of the judgment of the President; and see also **Qawasmeh**, paragraph 28; and **Abu Hashiyeh**, paragraph 11).

12. As to the possibility of partial demolition of the homes of Alrub and Kmeil – as aforesaid, we requested the respondent to inform us whether it was possible, as far as he was concerned, to seal or partially demolish the homes of the two, as was done in Nasser's case, but he declined. His position was based on the severity of this specific case and the current difficult security situation in Israel. Not without doubts had we decided not to intervene in respondent's said decision. As aforesaid, the decision whether – once it was decided to take a step in this direction – sealing, partial demolition or full demolition should be used is vested, as a general rule, in respondent's discretion; clearly, said decision must be proportionate and it affects the selection of the appropriate measure, but proportionality derives, *inter alia*, from the severity of the specific event, and in view of the fact that the case at bar concerns a very severe event – in terms of the planning and the weapons used – it cannot be said that the respondent exceeded the realm of discretion vested in him by merely preferring the measure of full demolition (and see paragraph 7 above).

13. After I read the opinion of my colleague Justice **S. Joubran**, I wish to clarify one thing. My colleague noted in his opinion that it was held by this court that house demolition pursuant to Regulation 119 achieved the purpose of deterrence (paragraph 4 of his opinion). Following the words of my colleague I wish to point out that the role of this court in the case at bar is to examine the reasonableness of the military commander's decision, according to which it realizes the purpose of deterrence. As noted at the time by Justice – as then titled – Shamgar:

> The court does not place itself as a supreme administrative authority which reconsiders what should have been the decision of the executive authority or of administrative legislature, as the case may be, but rather serves only as a superior supervising and scrutinizing body, which stops the pendulum that swings above the various alternatives, when it crosses the lines and totally leaves the realms of alternative options which may be attributed to a reasonable authority. Within the realm of the alternative options, in which the court does not intervene, are also included, as aforesaid, options with which the court is not fully satisfied, but which cannot be described as exceptionally and extremely unreasonable decisions (HCJ 653/79 **Avraham Azriel v. Director of Licensing Department, Ministry of Transport**, IsrSC 35(2) 85, 104 (1980); and see also HCJ 1361/91 **Muein Muhammad Muhammad Mesalem v. Commander of IDF Forces in the Gaza Strip**, IsrSC 45(3) 444' 453 (1991); HCJ 8400/07 **Nahalin Village Council v. Commander of IDF Forces in the West Bank**, paragraph 19 (2008)).

Accordingly, our objective is to examine whether the military commander exceeded the discretion vested in him by having determined, in view of the deterrence considerations which were presented to him, that the measure of house demolition pursuant to the Regulation should be used in this specific case. There is no dispute that we must examine the issue of proportionality, as we have in fact done; but it is he who must primarily decide whether the specific security measure positively realizes the purpose for which it is used. The manner by which the military commander chose to exercise his discretion is obviously subordinated to the scrutiny of this court, but the criticism, by its nature, is limited to administrative law issues and to the scope of intervention. In my opinion, as aforesaid, in the case at bar, in view of its above described circumstances, the exercise of the authority vested in the military commander was not flawed in a manner which justifies legal intervention.

14. I am therefore of the opinion that the petition should not be accepted, while holding that the interim injunctions shall expire within ten days from the date of our judgment, to enable the petitioners to organize as may be necessary. I shall reiterate and emphasize the need to maintain a continuous follow-up on the issue of deterrence and to update the opinion on this complex issue, as well as the need to minimize the damage to the neighbors.

Deputy President

Justice D. Barak-Erez

1. The judicial review of the decisions in the case at bar which concern demolition of perpetrators' homes may be exercised from two different perspectives: an "internal" perspective – which concerns the case law in this area as the latter has been recently reaffirmed; and an "external" perspective –

which concerns a reconsideration of the rule itself as established. I therefore wish to shortly discuss these two perspectives.

2. The "internal" perspective – this court in its recent judgments has repeatedly accepted the possibility that the houses which served as the residence of perpetrators, who had committed severe attacks, would be demolished as a deterring measure. It also clarified that this measure should be used in a manner which upholds the general principles of public law, including the obligation to lay factual infrastructure to the act and proportionality. When we limit our view to this perspective, which is the "internal" perspective of case law, the cases at bar are at the "hard core" of the circumstances in which, according to case law, deterrence is particularly required. As noted by my colleague Deputy President **E. Rubinstein**, who focused on the internal perspective, the petitions at bar concern the demolition of the homes of individuals who were involved in a murderous terror attack – which was so aimed, was planned ahead of time and was carried out with clear deadly weapons including firearms. Hence, I can only agree with my colleague the Deputy President that in the framework of the current case law there is no room for our intervention in the decisions which were made.

3. **The "external" perspective** – at the same time, in several judgments which were recently given on this issue a number of my colleagues noted, and so did I in HCJ 8567/15 **Halabi v. Commander of IDF Forces in the West Bank** (December 28, 2015), that the practice of the demolition of a perpetrator's house as a deterring measure was not at all simple and evoked serious questions. Said position veers from the limits of current case law and offers an "external" perspective in relation thereto. In view of the fact that the position of the court on this issue has only been recently re-visited I consider it to be binding upon me at this time. However, as I have already noted, it would be appropriate that "this court will continue to examine the compatibility of case law to the changing circumstances and the lessons learnt from the cases in which demolition orders were executed as aforesaid" (*Ibid*., paragraph 2 of my opinion). In fact, my colleague, the Deputy President also holds the same opinion. In this context, among other things, the respondents should continue to constantly up-date the follow up of the data based on which the house demolition practice is exercised for deterring purposes. In the framework of the hearing before us a confidential report of the security agencies was presented to us which consists of data on this issue. These data will also have to be re-visited with the passage of time. At the same time it would be appropriate to continue to check whether the gain arising from the use of the measure is not outweighed by its disadvantages also from the aspect of deterrence, as noted by my colleague, the Deputy President, in paragraph 10 of his opinion. This question concerning the effectiveness of the measure is not the only relevant question in this area but it is undoubtedly a question which must be re-considered on a periodic basis.

4. Under these circumstances I join my consent to the conclusion of my colleague, the Deputy President.

Justice

Justice S. Joubran

1. Regretfully, I cannot join the position of my colleagues, the Deputy President **E. Rubinstein** and Justice **D. Barak-Erez**, that the petitions at bar should be denied.

2. I must admit and cannot deny the fact that I am not comfortable with the use of the authority established in Regulation 119 of the Defence (Emergency) Regulations, 1945 (hereinafter: **Regulation 119**), for the issue of forfeiture and demolition orders against the homes of perpetrators

(hereinafter: the **authority**), while all other inhabitants of these houses were not involved in terror activity. I share the reservations from the exercise of said authority by the respondent which were expressed, *inter alia*, by Justice **M. Mazuz** in his opinion (minority opinion) in HCJ 7220/15 **'Aliwa v. Commander of IDF Forces in the West Bank** (December 1, 2015) and by Justice **U. Vogelman** in his opinion (minority opinion) in HCJ 5839/15 **Sidr v. Commander of IDF Forces in the West Bank** (October 15, 2015). The exercise of the authority raises difficulties under local law and international law, which in my opinion have not yet been thoroughly addressed by the court in its judgments, particularly in view of the increasing use of this authority, against the backdrop of the severe security situation and the rising wave of terror. However, as this court has already examined this issue – by many different panels – and established a rule regarding the **mere use of the authority** as a deterring measure (and see paragraph 7 of the opinion of my colleague), I shall follow the path which has already been paved and defined and I shall not turn this court into a court of justices.

3. This however is not the case with respect to the **manner by which the authority is exercised**. As noted by my colleague in paragraph 8 of his opinion, the authority by virtue of Regulation 119 must be exercised according to the principle of proportionality. Embedded in a demolition and forfeiture order is a violation of human dignity and impingement of the property of those against whom the order is directed, while in many cases the latter are not involved in any terror activity. Hence, it was held that in any event in which the respondent exercises his authority and issues a demolition and forfeiture order he must ascertain: (a) that a rational connection exists between the measure selected and the objective, which is to the deter other from the execution of terror attacks and hostile activity; (b) that no measure exists that can achieve the objective and which violates fundamental rights to a lesser extent; (c) that a proportionate and proper relation exists between the objective and the measure taken (see: HCJ 7040/16 **Hamed v. Military Commander of the West Bank Area**, paragraph 24 (November 12, 2015); HCJ 8150/15 **Abu Jamal v. GOC Home Front Command**, paragraph 8 of the opinion of Justice **M. Mazuz**).

4. The judgments of this court which, to date, have examined the manner by which the authority under Regulation 119 had been exercised, ruled on the issue of the rational connection between the measure and the objective that the measure of demolition and forfeiture orders achieved the purpose of deterrence, based on data which were presented by the respondent regarding cases in which potential perpetrators refrained from carrying out terror attacks due to the concern that forfeiture and demolition orders would be issued against them and their family members (and see recently: HCJ 967/16 **Harub v. Commander of Military Forces in the West Bank**, paragraph 8 (February 14, 2016). However, it was stressed that:

> The principle of proportionality does not reconcile with the presumption that choosing the drastic option of house demolition or even the sealing thereof always achieves the longed-for objective of deterrence, unless data are brought to substantiate said presumption in a manner which can be examined [...] the use of a tool the ramifications of which on a person's property are so grave, justifies a constant examination of the question whether it bears the expected fruit (HCJ 8091/14 **HaMoked: Center for the Defence of the Individual v. Minister of Defense**, paragraph 27 (December 31, 2014) (hereinafter: **HaMoked**).

According to the above, in its examination of the rational connection between the measure and the objective, it is incumbent on the court to reconsider the effectiveness of the forfeiture and demolition orders from time to time (HCJ 8567/15 **Halabi v. Commander of IDF Forces in the West Bank**, paragraph 1 of the judgment of my colleague Justice **D. Barak-Erez** (December 28, 2015). In my opinion, this obligation applies more forcefully in as much as the authority is exercised more

frequently. As is known, the issue of demolition and forfeiture orders became an acceptable reaction measure to murderous terror attacks, the purpose of which is to prevent future attacks. This purpose of protecting human lives is appropriate and is clearly second to none. However, in my opinion, an abstract possibility to save lives does not suffice while confronted by an actual, real and tangible violation of the right to property and human dignity. Naturally, the deterrence which may be achieved by using the tool of forfeiture and demolition orders wears down with the passage of time and with the escalating use of said tool (and compare: HaMoked, paragraph 27). The orders may have an adverse effect since they may regretfully create situations in which the exercise of the authority will cause agitation which will result in increased motivation to carry out attacks. I was not convinced that the material which was presented to us sufficiently establishes the conclusion that the use of forfeiture and demolition orders creates real and effective deterrence against the execution of attacks.

5. Therefore, if my opinion was hear, we would have refrained from denying the petitions at this stage and would have ordered the respondent to address in more detail the question of the manner by which the authority is exercised, in general, and the issue of deterrence, in particular.

6. Shortly after the above opinion was written, the judgment in HCJ 1630/16 **Zakariye v. Commander of IDF Forces** (March 23, 2016) was given and published. In paragraph 3 of his opinion Justice **U. Vogelman** called for a reconsideration of the questions associated with the exercise of the authority by virtue of Regulation 119 by an expanded panel. This call was joined in that case by Justice **M. Mazuz** (paragraph 5 of his opinion) and I also join it for the reasons specified in paragraph 2 above.

Justice

Given today, 14 Adar B 5776 (March 24, 2016).

Deputy President Justice Justice