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**At the Supreme Court
sitting as the High Court of Justice**

HCJ 9961/03

**HaMoked: Center for the Defence of the Individual, funded by Dr. Lotte
Salzberger**

represented by Attorney Avigdor Feldman *et al.*

6 Beit HaShoeva Lane, Tel Aviv

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The Petitioner

- v e r s u s -

- 1. Government of Israel**
- 2. Prime Minister of Israel – Mr. Ariel Sharon**
- 3. Minister of Defense – Mr. Shaul Mofaz**
- 4. Military Commander in the West Bank**

represented by the State Attorney's Office

Ministry of Justice, Jerusalem

Tel: 02-6466472 Fax: 02-6466655

The Respondents

Supplemental Response on behalf of the Respondents

1. In accordance with the decision of the Honorable President Barak of 12 July 2004, which was provided to the State Attorney's Office on 15 July 2004, the Respondents respectfully submit this response.
2. The petition deals with contentions made by the Petitioner against the route of the security fence (hereinafter: the fence), as approved at the time by the government.
3. Following the judgment in HCJ 2056/04, *Beit Surik Village Council v. Government of Israel* (not yet published, hereinafter: the judgment), a reexamination is being undertaken regarding parts of the fence's route that have not been built.

It is already clear that more than a few changes will be made in the route, as approved at the time, and that this will be done following the rules set forth in the judgment as a guide.

This being the case, it appears that the present petition, which attacks the fence's route as approved at the time by the government, is no longer relevant, and the Respondents therefore request that the petition be summarily dismissed.

4. Furthermore, in light of the judgment and the Respondents' decision to reexamine the fence's route in certain sections that have not been built, the petition is, in any event, currently "premature", and for this reason, too, should be summarily dismissed.
5. In addition, the Respondents repeat their preliminary contentions, whereby the petition should be summarily dismissed because of its "generality".
6. Furthermore, the Respondents repeat their argument that the petition should be summarily dismissed also for the reason that there are other proper petitioners, who are injured specifically by one section or another of the route, who can petition against the section that injures them and request relief from the Honorable Court (as the petitioners did in HCJ 2056/04). As is known, where a concrete petitioner exists, it is improper to allow the filing of a "public petition." Also, examination of each particular section requires reliance on concrete facts, which are known to the personal litigants, and are likely unknown to the public petitioner herein (compare HCJ 1759/94, *Sreuzberg v. Minister of Defense, Piskei Din 55 (1) 625*).
7. Finally, in that each of the grounds set forth above justify the summary dismissal of the petition, and more so in light of the cumulative effect of the various grounds, the Respondents will request that the Honorable Court summarily dismiss the petition.

Today, 23 Av 5764

10 August 2004

[signed]
Aner Helman, Attorney
Senior Deputy A to the State Attorney