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

**HCJ 8155/06**

Before: **Honorable President D. Beinisch**  
**Honorable Vice President E. Rivlin**  
**Honorable Justice Y. Elon**

The Petitioners: **1. The Association for Civil Rights in Israel**  
**2. HaMoked: Center for the Defence of the Individual**  
**founded by Dr. Lotte Salzberger**  
**3. Physicians for Human Rights**

v.

The Respondents: **1. Commander of the IDF Forces in Judea and Samaria**  
**2. Head of the Civil Administration**  
**3. Head of the Israel Security Agency**  
**4. Legal Advisor to the Judea and Samaria Area**

Petition for *Order Nisi*

Representing the Petitioners: Att. Limor Yehuda

Representing the Respondent: Att. Gilad Shirman

**Decision**

**President D. Beinisch:**

1. The petition before us concerns the various movement restrictions imposed on residents of the Area classified by the Respondents as “precluded for security reasons”. On 1 August 2007, we held the first hearing in the petition in which we decided that the Petition’s general formulation shall be

restricted such that it focuses on the prevailing procedure regarding travel abroad by residents of the Area. It was also determined that, on this issue, the Respondents shall submit an updating notice presenting the procedure which is being formulated by the Respondents as regards this issue. On 21 January 2008, the Respondents submitted their updating notice, with the new procedure for processing requests by residents of the Area who wish to travel abroad (hereinafter: the new procedure) attached. On 20 February 2008, the Petitioners submitted their response to the Respondents' notice and requested that we instruct the issuance of an *order nisi* in their amended petition as well as a temporary injunction preventing the entry into force of the new procedure, which, they believe, rather than mediating the situation of Palestinian residents, makes matters worse.

2. According to the Petitioners' claim, the new procedure that has been formulated, does not solve the main problem which exists today, which is that residents of the Area do not know in advance, today, whether there is a security preclusion against them which may prevent them from traveling abroad. According to the new procedure, such an inquiry will be made possible only through a cumbersome six-week-long procedure which necessitates arriving at the coordination center in person at least twice and involves submission of detailed applications supported by documents. The Petitioners also claim that the main problem posed by the new procedure today, is the denial of the right of a resident who did not follow the new procedure to file an objection against the preclusion and the denial of travel abroad with the legal advisor to the Judea and Samaria Area; and as such, the only route which has thus far been effective for resolving individual problems will be blocked. In their request of 27 March 2008, the Petitioners also noted that the legal advisor for the Judea and Samaria Area has already begun refusing to review objections submitted to its office, while referring the applicants to the inquiry process required by the procedure.
3. In their response to the request for a temporary injunction of 1 May 2008, the Respondents claimed that the new procedure has not worsened the situation of residents of the Area as compared to the situation in effect prior to the entry into force of the procedure, but rather significantly improved it. According to the Respondents, prior to the issuance of the procedure, a resident of the Area was unable to know in advance whether there was a security preclusion against him which would prevent his travel abroad, whereas, today, he has the option of following the provisions of the new procedure in order to inquire in advance. According to the claim, even if this procedure should be improved or amended, indeed, its very existence is an improvement of the residents' situation. The Respondents emphasized in their response that there is no obligation to follow the new procedures and that its various provisions and the manner in which it is implemented, are themselves the focal point of the review of the petition on its merits. As for the claim regarding revocation of the option of appealing to the legal advisor to the Judea and Samaria Area, the Respondents note that the decision regarding the existence of security preclusions is a decision which should duly be made by the professional administrative officials whose role it is to do so rather than by the legal agency which counsels them. Nonetheless, the notice did note that inasmuch as it is found that one application or another raises claims which appear to justify legal examination, they will be addressed by the staff of the legal advisor to the Judea and Samaria Area as is the norm in similar situations.
4. The request for a temporary injunction must be rejected. The legal issues raised by the new procedure are at the core of the petition and shall be reviewed at the time the petition is reviewed on its merits. Thus, the Petitioners' claims regarding various flaws in the aforesaid procedure, due to which it does not provide a satisfactory solution to existing problems, will be reviewed at the time the petition is reviewed. In the interim, while the petition is pending before the Court, we have not found it necessary to issue a temporary injunction preventing the implementation of the new procedure during this time. This, for two main reasons: First, this is a voluntary procedure. Only residents wishing to follow it may do so and it does not require every resident wishing to travel abroad to follow its provisions. Second, in accordance to the Respondents' response, the existence of the new procedure

has not revoked the option of appealing to the office of the legal advisor to the Judea and Samaria Area for processing and intervention in urgent cases, as was the practice prior to the new procedure's entry into force. In these circumstances, where the courses of action available prior to the entry into force of the new procedure have not been blocked and a new course of action has merely been added, the Petitioners' request for a temporary injunction must be rejected, and their arguments against the provisions of the new procedure shall be reviewed at the time the petition reviewed on its merits. However, it should be emphasized that the premise for this decision is the State's notification that residents of the Area have an alternative course of action to the one established in the new procedure and that residents who arrive at the Bridge in order to leave the Area and who have not followed the procedure will be given a telephone number for making an inquiry regarding their circumstances relative to the possibility of leaving the Area.

Subject to the aforesaid, the request is denied. The petition will be scheduled for a hearing regarding the request for issuance of an *order nisi* before a panel. The parties may submit updating notices regarding the implementation of the new procedure seven days prior to the scheduled hearing date.

Given today, 13 Iyar 5768 (18 May 2008) in the presence of Parties' counsels.

President

Vice President

Justice

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