At the Supreme Court Sitting as the High Court of Justice

HCJ 4047/13

Before: **Honorable President M. Naor**
Honorable Justice E. Hayut
Honorable Justice N. Hendel

The Petitioners:

1. **_____ Hadri**
2. **_____ Hadri**
3. **_____ Kahouji**
4. **_____ Kahouji**
5. **_____ Abu 'Adrah**
6. **_____ Abu 'Adrah**
7. **_____ Abu Marseh**
8. **_____ Abu Marseh**
9. **_____ Abu Qweidar**
10. **_____ Abu Qweidar**
11. **_____ Ustaz**
12. **_____ Ustaz**
13. **HaMoked: Center for the Defence of the Individual, founded by Dr. Lotte Salzberger**

v.

The Respondent:

1. **Prime Minister**
2. **Minister of Interior**
3. **Attorney General**

Petition for *Order Nisi*

Session dates: Iyar 21, 5774 (May 21, 2014)
Heshvan 16, 5775 (November 9, 2014)

Representing the Petitioners: Advocate Noa Diamond

Representing the Respondent: Advocate Yochi Genesin, Advocate Daniel Marx

Judgment

President M. Naor:

1. The petition before us is directed against paragraph C of government resolution 3598 of June 15, 2008, which instructs the Minister of Interior to deny family unification applications of persons registered in the population registry as residents of the Gaza Strip and anyone residing in the Gaza Strip even if he is not registered in the population registry as a resident of the Gaza Strip (hereinafter: the **government resolution**). As will be explained below, the government resolution was made according to the provisions of section 3D of the Citizenship and Entry into Israel Law (Temporary Order), 5763-2003 (hereinafter, in short: the **Citizenship Law** or the **Law**). The resolution was extended several times, and is still in force.

Background

2. The Citizenship Law was enacted in 2003 (the Citizenship and Entry into Israel Law (Temporary Order), 5763-2003, book of laws 544). The Law prevents residents of the Area or residents of enemy states from staying within the territory of the state of Israel, subject to exceptions. The Law also imposes limitations on family unification between spouses one of whom is an Israeli citizen or resident and the other is a resident of the Area or of an enemy state. Since its enactment the Law has been amended twice: firstly on August 1, 2005 (the Citizenship and Entry into Israel Law (Temporary Order)(Amendment), 5765-2005. Book of laws 730), and thereafter on March 28, 2007 (the Citizenship and Entry into Israel Law (Temporary Order)(Amendment No. 2), 5767-2007, book of laws 295). The different layers of the Law will be herein referred to as: the **original Law**, **2005 amendment** and **2007 amendment**, respectively).

3. The Citizenship Law was constitutionally scrutinized twice and the petitions for its revocation were denied. The judgments in both cases were decided by a majority opinion (HCJ 7052/03 **Adalah - Legal Centre for Arab Minority Rights in Israel v. Minister of Interior,** IsrSC 61(2) 202 (2006) (hereinafter: **Adalah);** HCJ 466/07 **MK Zahava Galon - Meretz-Yahad v. Attorney General** (January 11, 2012)(hereinafter: **Galon**)).

4. The Citizenship Law in its current version consists of three main layers: a prohibiting provision, exceptions to the prohibition, and a provision which creates an exception to the exception. Firstly, as noted above, the Law imposes a prohibition on the grant of status or stay permit to a resident of the Area or an enemy state, including on the grounds of family unification (section 2 of the Law). This rule has already been established in the original Law. The background and necessity of said prohibition was broadly explained in **Adalah**, and I shall not elaborate. Secondly, Exceptions to the prohibition were added to the Law. The exception relevant to our case is the exception established in section 3 of the Law. According to this exception, the Minister of Interior **may** approve an application for a stay permit in Israel of a male resident of the Area who is over 35 years of age or of a female resident of the Area who is over 25 years of age, for the purpose of preventing his/her separation from his/her spouse who lawfully resides in Israel. The discretion granted to the Minister of Interior to enable spouses who reached the proper age to stay in Israel, was not included in the original Law and was added in the 2005 amendment (a discussion of the possibility to receive a stay permit at the proper age, a possibility which reduces the impingement on family life, see the majority opinion in **Galon**: paragraph D of the judgment of Justice **E. Rubinstein**; paragraphs 9, 19 of the judgment of Justice **H. Melcer**; paragraph 11 of my judgment; paragraph 5 of the judgment of Justice **N. Hendel**). Section 3D of the Law, which was add to the Law for the first time in the 2005 amendment, provides that the grant of a permit according to the exceptions established in the Law, is subject to the absence of a security preclusion:

> **Security Preclusion** 3D. A permit to stay in Israel or a residency status in Israel shall not be granted to a resident of the Area, in accordance with sections 3 [**grant of permit to an**

> **individual who reached the proper age**], 3A1 [**grant of permit for humanitarian reasons**], 3A(2) [**grant of permit to children over the age of 14 to prevent their separation from their custodial parents**), 3B(2) [**grant of permit for employment in Israel**] and (3) [**grant of permit for a temporary purpose**] and 4(2) [**grant of permit to individuals who submitted applications before May 12, 2002**], and residency status in Israel shall not be granted to any other applicant who is not a resident of the Area, if the Minister of Interior or the Area commander, as the case may be, has determined, pursuant to the opinion of authorized security personnel that the resident of the Area or other applicant or family member are liable to constitute a security risk to the State of Israel;
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> In this section, "family member" – spouse, parent, child, brother and sister and their spouses. **For this purpose, the Minister of Interior may determine that a resident of the Area or any other applicant is liable to constitute a security risk to the State of Israel, among other things on the basis of an opinion given by the security personnel according to which within the domicile state or place of residence of the resident of the Area or of any other applicant, activity was carried out which is liable to put the security of the State of Israel or of its citizens at risk**. (Emphasis added, M.N.)

5. The government resolution being the subject matter of this petition was made according to the last part of section 3D of the Law. The original government resolution of 2008 is drafted as follows:

> "**It is resolved**
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> […]
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> C. According to Section 3D of the law, and based on the opinion of the authorized security personnel, to determine that the Gaza Strip is an area where activity which may endanger the security of the State of Israel and its citizens takes place, and therefore, the government instructs the Minister of Interior or any person authorized by him for this purpose, not to approve the grant of residency status in Israel or stay permits in Israel as per Sections 3 and 3A(2) of the law to persons registered in the population registry as residents of the Gaza Strip and to persons who reside in the Gaza Strip even if not registered in the population registry as residents of the Gaza Strip.
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> It is hereby clarified that this Section shall apply from this date onwards and that it does not apply in any case to persons whose initial application has already been approved.

According to the government resolution the Gaza Strip is declared as a danger zone. The possibility to receive a stay permit when the spouse reaches the proper age is in fact denied from Gaza Strip residents. The government resolution also prevents the grant of stay permits by virtue of the exception established section 3A(2) of the Law, which concerns the grant of stay permits to minors, residents of the Area who are **over** 14 years of age, for the purpose of preventing their separation from their custodial parents lawfully staying in Israel.

The government resolution does not prevent the grant of permits by virtue of other exceptions, such as the grant of permits for special humanitarian reasons (section 3A1 of the Law). The government resolution applies from its date onwards, and does not apply to persons whose initial application has already been approved. However, the government resolution does not specifically refer to applications which at that time, have not yet been approved, but have not been denied either; namely, applications that on the date on which the government resolution entered into effect, were in the "pipeline", as will be further discussed below.

6. The purpose of the original resolution was explained in the announcement of the government secretary at the end of the government meeting dated June 15, 2008, as follows:

> On August 6, 2003, the law [the Citizenship Law – M.N.] entered into effect. The law was enacted according to government resolution dated May 12, 2002, concerning the handling of individuals who stay in Israel unlawfully and the family unification policy concerning residents of the Palestinian Authority and foreigners from a Palestinian origin.
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> The government resolution was adopted and the above referenced law was thereafter enacted following an examination of the security situation since the eruption of the armed conflict between Israel and the Palestinians, which pointed at an increasing involvement of Palestinians, residents of the Area, who exploited their status in Israel which was obtained as a result of family unification procedures with Israelis, for the purpose of taking part in terror activity including giving assistance for the execution of suicide attacks.
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> The Israeli identification cards which were given to the former residents of the Area enabled them to move freely between the areas of the Palestinian Authority and Israel, and turned them into a preferred population by the terror organizations for the execution of hostile activity in general, and in the territory of Israel, in particular. The law was enacted for a term of one year, and upon its termination its term was extended several times.
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> On August 1, 2005, the law was amended and the exceptions which enable the issue of stay permits in Israel to population posing a lesser security risk were broadened.
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> On March 28, 2007 the law was amended again in which a professional advisory committee to the Minister of Interior was established for the handling of special humanitarian cases, and an appendix was added to the law listing the states to which the limitations of the law would apply.
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> In addition it was established in section 3D of the law that the Minister of Interior was entitled to determine, on the basis of the recommendation of

the security personnel that in a state or in a certain area, activity was carried out which was liable to put the security of the State of Israel or of its citizens at risk, **in the framework of exercising his discretion from a security aspect with respect to applications submitted according to the law**.

The up-to-date position of the security personnel is that no improvement occurred in the security situation which served as the basis for the enactment of the law, with respect to the intention of terror organization to take advantage of the residents of the Area or residents of other danger zones who carry Israeli records and use them to assist in the execution of terror attacks. The above situation has even deteriorated since the Hamas movement took control of the Gaza Strip. Experience shows that said population has a clear familial and social connection to the areas of their origin and that in the vast majority of cases they maintain their sense of loyalty to the Palestinian struggle against the state of Israel. In view of the above said it is proposed to extend the term of the law for an additional year.

With respect to the Gaza Strip, on September 19, 2007, the political-security cabinet determined that; 'the Hamas organization is a terror organization which took control of the Gaza Strip and turned it into a hostile area. Said organization engages in hostile activity against the state of Israel and its citizens and is the responsible address for such activity.

In view of the above it was decided to adopt the recommendations presented by the security forces including the continued military and preventive activity against terror organizations. In addition, additional restrictions would be imposed on the Hamas regime… and a limitation would be imposed on the movement of individuals to and from the Strip…'.

Security personnel are of the opinion that while the threat of the entry of Gaza Strip residents into the state of Israel has significantly increased recently, ever since the IDF left the Gaza Strip and following the dramatic changes which occurred in the region including the Rafah crossing breach, **the individual security check for the examination of applications to enter Israel from the Gaza Strip became patently ineffective and inefficient**. In this context it should be clarified that the Gaza Strip in its entirety should be regarded as a single territorial unit, in view of the full and effective control exercised by Hamas over the entire Strip. In view of the above, it is proposed that the government would direct the Minister of Interior and any one authorized by him for this purpose to refrain from approving applications of Gaza Strip resident to enter and stay in Israel according to sections 3 and 3A of the law."

(The emphases were added – M.N.)

The above quote indicates that as a result of the hostility between the Gaza Strip and the state of Israel, and in view of the fact that the Strip is controlled by a terror organization, there is a practical difficulty in the examination of individual applications of Gaza Strip residents. Therefore, the

government directed the Ministry of Interior as aforesaid to refrain from approving applications for entry and stay permits in Israel according to sections 3 and 3A(2) of the Law.

The Petition

7. Petitioners 1-12 are mixed couples of Israelis and Gaza Strip residents. The cases of said couples will be described as the backdrop against which this judgment is made, despite the fact that an individual decision in their matter will not be made in the context of this proceeding. As described in the petition, petitioners 1-2, _____ Hadri were married in June 2007. After their marriage they resided in Jerusalem. On January 2, 2008, _____ submitted an application for family unification with _____. The application remained pending until it was denied in view of the government resolution. Petitioners 3-4, _____ and _____ Kahouji were married in September 1999. In the beginning the spouses resided in Germany. Later on, in 2001, _____ returned to Israel whereas her spouse returned to the Gaza Strip. Their family unification application was submitted in 2002. The petition argued that on April 15, 2004, their family unification application was approved, but later on the approval was revoked for reasons which were not specified. Petitioners 5-6, the Abu 'Adrah spouses, were married in 2001. The petition argued that until 2009 the husband received stay permits in Israel, but in 2009 he was told that his application for the renewal of the permit had not yet been approved and that he should go to Gaza. Petitioners 7-8, the Abu Marseh spouses, were married in December 2002. The husband, a Gaza Strip resident, was already 35 years old, but in view of the government resolution a family unification application could not be submitted on his behalf. Petitioners 9-10, the Abu Qweidar spouses, were married in 2003. The wife, a Gaza Strip resident, was already 25 years old, but in view of the government resolution a family unification application could not be submitted on his behalf. Petitioners 11-12, the Ustaz spouses, were married back in 1988. The petition argued that they did not submit a family unification application in the past because they were told that it was a long and difficult procedure, and they were currently prevented from doing so in view of the government resolution.

8. The petition argued that the government resolution exceeded the authority granted in section 3D of the Law, and was at least extremely unreasonable. It was argued that while section 3D of the Law referred to the risk posed by a specific applicant, the government resolution veered there-from and determined that a general risk was posed by all Gaza Strip residents. It was further argued that the government resolution established unlawfully and without statutory authorization a "regisrative risk" with respect of individuals registered as Gaza Strip residents in the population registry, even if in fact they do not reside there. The petitioners did not argue that the provisions of section 3D were not constitutional or that the opinion of the security personnel – according to which the entire Gaza Strip was an area in which activity took place that could put the security of the state of Israel and its citizens at risk – was erroneous. Their only wish is to have the government resolution revoked. In their response the respondents argued that the government resolution was a declarative resolution, which declared of the Gaza Strip as a danger zone. The respondents argued that such a determination enabled the Minister of Interior to determine, pursuant to the last part of section 3D of the Citizenship Law that there was a security preclusion for the approval of family unification applications with Gaza Strip residents. The respondents argued further that the state of Israel did not have an effective control over the Gaza Strip and that in view of the security situation it could not conduct individual security checks of Gaza Strip residents.

Developments after the petition was filed

9. The initial hearing in the petition was held by us on May 21, 2014 (Deputy President **M. Naor**, Justice **E. Hayut** and Justice **Z. Zylbertal**). In the hearing we commented that *prima facie* we did

not find reason to revoke the government resolution. However, questions were raised concerning possible exceptions thereto. Consequently, upon the conclusion of the hearing we directed the state to submit an updating notice in this regard, and held that thereafter a decision would be made as to the manner by which the petition would be handled. To complete the picture it should be noted that at the same time an appeal was also pending before us which concerned a specific implementation of the government resolution. Later on, regretfully, the appellant passed away. Under these circumstances we held that the appeal became theoretical, and was deleted (AAA 7212/12 **Ahmed v. Minister of Interior** (November 9, 2014)).

10. In the updating notice on behalf of the state dated September 15, 2014, which was submitted following our comments in the hearing, the state notified that it was willing to conduct individual examinations of Gaza Strip residents of the proper age, in the two following cases:

    a. When the applicant is a Gaza Strip resident who moved to Judea and Samaria with the approval of the competent authorities, who lawfully resides in Judea and Samaria and whose address in the Palestinian population registry was changed with the approval of the military commander.

    b. When the permit application was submitted between the effective date of the 2005 amendment (which established the possibility to submit applications for residents of the Area who reached the proper age) and the effective date of the 2007 amendment (in which the last part of section 3D of the Law was added).

11. Respondents' notice did not satisfy the petitioners. They reiterated their arguments in the petition and raised some additional arguments in response to the notice. The second hearing in the petition which was held on November 9, 2014 (Deputy President **M. Naor**, Justice **E. Hayut** and Justice **N. Hendel**) focused on the scope of the exceptions which were proposed by the state in its notice. The petitioners argued that the first exception which was proposed should also include individuals who according to the state's notice in HCJ 4019/10 **HaMoked: Center for the Defence of the Individual, founded by Dr. Lotte Salzberger v. The Military Commander of the West Bank Area** (April 21, 2013)(hereinafter: **HaMoked case**), would not be expelled from Judea and Samaria, unless there was a specific security justification for their expulsion, namely, individuals who moved from the Gaza Strip to the Judea and Samaria area before September 12, 2005, the date on which the military government in the Gaza Strip ended, but whose registered address remained in the Gaza Strip. With respect to the applicability of the government resolution time-wise, the petitioners argued that the term proposed by the state should be extended, so that permit applications which were submitted until the effective date of the original government resolution would also undergo an individual examination. The petitioners argued that said extension was required since, as was specified in the petition, the government resolution created a new policy which exceeded the scope of section 3D of the Law.

Discussion and Decision

12. After I have reviewed the pleadings and heard the arguments of the parties, and considering the changes which took place in respondents' position, I came to the conclusion that the petition should be denied.

13. Firstly I wish to clarify what has already been clarified by us in the first hearing: we do not see any reason for a sweeping revocation of the government resolution. Section 3D of the Citizenship Law authorizes the Minister of Interior to determine that risk is posed by a certain individual, *inter alia*, in view of the fact that in the area in which he resides activity takes place which may put at risk the

security of the state of Israel or its citizens. The premise is that the Law, including section 3D in its current version, crossed the constitutional hurdle by a majority opinion in the **Galon** judgment. In addition, when the judgment in **Galon** was given, the government resolution being the subject matter of the case at hand, was in force (see: *ibid,* paragraph 32 of the judgment of Justice **E. E. Levy**). The nature of the authority in the last part of section 3D was referred to by several Justices of the panel which adjudicated the **Galon** case. It was noted there that according to the amendments of section 3D of the Law, a general profile of dangerous activity which took place in the area of residency of the applicant was sufficient to determine that he was dangerous (paragraph 7 of the judgment of President **D. Beinisch**; paragraph 32 of the judgment of Justice **E. E. Levy**; paragraphs 2, 4 of the judgment of my colleague Justice **E. Hayut**). The purpose of said authority is that in case of an active conflict between a certain area and the state of Israel, as a result of which it is impossible to conduct an individual examination, it should be postponed until the circumstances change (see also: explanatory comments to the Citizenship and Entry into Israel Bill (Temporary Order)(Amendment No. 2), 5767-2006, Government Bills 182, 184). We cited the announcement of the government secretary which was made back in 2008, and which reflected the security situation in the Gaza Strip. As a result of the security situation and taking into consideration the fact that Gaza was controlled by the Hamas organization, the government secretary pointed out that the individual security check for the examination of entry applications into Israel from the Gaza Strip became "… **patently ineffective and inefficient**". Since then the security situation deteriorated, and only last summer operation "Protective Edge" took place (on the situation which was created in the Gaza Strip following the disengagement incidents see also; **HaMoked case**, paragraph 15 of the judgment of President (*emeritus*) **D. Beinisch**, and the references there).

14. The petitioners did not dispute the fact – and how can it be disputed – that the Gaza Strip is presently an area in which and from which activity takes place which may put at risk the security of the state of Israel and its citizens. Neither is it disputed by the petitioners that the Minister of Interior is authorized to take the above consideration into account. However, they argue that an application for a permit may not be dismissed *in limine* for this reason only, without the execution of an individual security examination. This argument should be denied. As described above, the purpose of the above authority is to precisely deal with situations in which there is a difficulty in the gathering of specific data regarding a specific applicant, a difficulty which arises from a special security situation in a certain specific area. Under these circumstances, the execution of the individual examination should be postponed until such time as it would be possible to carry it out. As noted by President **A. Barak** in **Adalah** (who was in the minority opinion with respect to the end result) "Of course, if *de facto* there is no real possibility of receiving relevant information from an individual examination of a foreign spouse because of the security situation, there is no alternative but to defer the decision in his matter until the individual examination becomes possible… Where fighting takes place examinations are not carried out; where there is no possibility, because of the security conditions, to carry out an examination, it should be deferred until the conditions change". (page 362; see also: the judgment of Justice **E. Arbel** in **Adalah**). The government resolution complies with this purpose and therefore does not exceed the scope of section 3D of the Law.

15. The petitioners relied in their arguments on HCJ 7444/13 **Dakah v. Minister of Interior** (February 22, 2010)(hereinafter: **Dakah**). In said matter it was held that even if it could be determined that a specific applicant posed a risk based on a family relation with an individual engaged in terror activity, such a determination should be based on the entire individual data reviewed by the competent authority (see also: HCJ 2028/05 **Amarah v. Minister of Interior** (July 10, 2006)). However, the above referenced matter is not at all similar to the case at hand, in view of the fact that for as long as the hostile situation between Israel and the Gaza Strip continues to exist, there is a substantial difficulty in carrying out individual examinations. Furthermore, **Dakah** focused on a person who received a permit in the past and wanted to renew it; whereas the current petition

focuses on persons who request a stay permit in Israel for the first time. The petitioners are correct in arguing that also at this time permit applicants from the Gaza Strip who apply by virtue of other exceptions prescribed by the Law, such as the exception which allows the grant of a permit for special humanitarian reasons (section 3A of the Law), undergo individual examinations. However, the grant of a permit involves a certain risk, the scope of which changes according to the type of the permit granted. Anyway, it also depends on the required balancing between the violated rights and security needs. Possibly, one should not deny outright exceptional cases in which, in addition to the general opinion of the security agencies concerning the Gaza Strip, the Minister of Interior will also be presented with updated individual data of the **security agencies** concerning a specific applicant. This was the case, for instance, in the **Abu Hamada** matter. In said case, in addition to the general opinion on which the government resolution was based, the Minister of Interior was presented with an additional opinion of the security agencies which pertained individually to the applicant. Therefore, the court for administrative affairs held that the applicant's matter could not be resolved without taking into consideration the data contained in the additional opinion (AP (Jerusalem District) 20638-02-11 **Abu Hamada v. Minister of Interior** (December 19, 2011)). However, it does not mean that the respondents should be obligated to carry out individual examinations of Gaza Strip residents where it may not be done to the security situation.

16. The petitioners argued further as aforesaid that the government resolution established, without authorization in the Law, a "registrative risk" with respect of individuals registered in the population registry as Gaza Strip residents, even if they do not actually reside there. This argument should also be denied. Section 1 of the Citizenship Law provides that a "resident of the Area" is "a person who is registered in the population registry of the Area, as well as anyone who resides in the Area even if he is not registered in the population registry of the Area, but excluding a resident of an Israeli settlement in the Area." The above quoted version was added to the Law in the 2005 amendment. In **Hatib** it was held that a "resident of the Area" according to the broad definition which was added to the Law in the framework of the 2005 amendment, is also a person who does not actually reside in the Area, but is registered in the population registry of the Area (AAA 1621/08 **State of Israel v. Hatib** (January 30, 2011)). According to the last part of section 3D of the Law it may be determined that a permit applicant is dangerous if "within his domicile state or area of residency…" activity takes place which may put at risk the state of Israel or its citizens. We accept the position of the state according to which the last part of section 3D should be construed in a manner which reconciles with the definition of "resident of the Area" as it appears in the Law. In view of the above, the government resolution, which applies to individuals who actually reside in the Gaza Strip, as well as to individuals who are registered as Gaza Strip residents in the population registry, does not exceed the scope of the authorizing Law from this aspect too. As aforesaid, the state declared that it intended to regard individuals who lawfully moved from the Gaza Strip to the Judea and Samaria area and were registered as residents of that area as persons who were no longer Gaza Strip residents. Nevertheless, the state wishes to draw a distinction between said individuals and Gaza Strip residents who are not removed from Judea and Samaria (according to the agreements reached in **HaMoked** case (the above mentioned HCJ 4019/10)), but are not registered as residents of said area. The petitioners complained of said distinction, but I do not see any reason to interfere there-with. In **HaMoked** judgment the individuals who stay in the Judea and Samaria area were not recognized as having the right to be registered as residents of said area. The only thing which was consensually determined there was that they should not be expelled. Under these circumstances, there is no room to obligate the state, at this time, to "upgrade" their status beyond the agreement which was reached in the framework of HCJ 4019/10, in a manner which would open for them the door to obtain stay permits in Israel. The risk embedded in the grant of a permit to stay in the Judea and Samaria area and the risk embedded in the grant of a permission to stay in Israel from a certain age are not identical. In view of the security situation in the Gaza Strip, the willingness to take a chance in connection with Gaza Strip residents, at this time, is smaller.

Perhaps, and after the elapse of additional **significant** period of residency in the Judea and Samaria area, there will be room to reconsider said position, to the extent the government resolution is extended, but in the current "explosive" situation the government should not be obligated to do so.

17. The remaining issue concerns the applicability of the government resolution time-wise. As aforesaid, the resolution does **not** apply to applications which were approved. However, the question is whether the resolution applies to applications the processing of which has not yet been terminated. The position of the state is that the government resolution also applies to said applications. Therefore, the resolution is, to a large extent, a resolution with an immediate applicability (resolutions of this kind were also referred to as "active resolutions"; for further discussion se: Daphna Barak-Erez **Administrative Law** volume A 349-369 (2010)). The state notified, as aforesaid that individual applications which were submitted between the effective date of the 2005 amendment (which established the possibility to submit a permit application upon reaching the appropriate age) and the 2007 amendment (which enabled to determine dangerousness based on a place of residency) would be excluded. The petitioners do not challenge the first date but they are of the opinion that the time frame should be extended until June 15, 2008 – the effective date of the government resolution. Indeed, in the first hearing which was held by us in the petition we raised the possibility to exclude applications which were pending on the eve of the effective date of the government resolution (compare: the transition provision in section 4(2) of the Citizenship Law, which enables to grant stay permits to individuals who submitted an application prior to the effective date of the government resolution of May 12, 2002, which "froze" the possibility to grant stay permits to residents of the Area). However, there is no room for our interference in this matter either, on the grounds that the last part of section 3D authorized the Minister of Interior to determine that a specific applicant was dangerous, based, *inter alia*, on the fact that the applicant was a resident of a danger zone, and no government resolution in that respect was required. Therefore, there is no room to determine that until the effective date of the government resolution, Gaza Strip residents had reasonable reliance that subject to an ordinary individual security examination, their permit application would be approved.

18. If my opinion is heard, the petition for an *order nisi* should be denied, subject to respondents' undertakings as aforesaid. We did not discuss the individual cases of the petitioners and their placement, if any, in this or other possible exception. Arguments in that matter may be raised, to the extent necessary, before the court for administrative affairs.

19. Therefore, the petition is denied. No order for costs is issued.

The President

Justice E. Hayut:

In view of the majority opinion of this court in HCJ 466/07 **MK Zahava Galon - Meretz-Yahad v. Attorney General** (January 11, 2012), I concur with the judgment of the President **M. Naor**.

Justice

Justice N. Hendel:

I concur with the judgment of the President **M. Naor**.

Justice

Decided as specified in the judgment of President **M. Naor**.

Given today, Sivan 27, 5775 (June 14, 2015).

The President Justice Justice