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At the Supreme Court
Sitting as the High Court of Justice

HCJ 6896/18

1. ____ **Ta'meh, ID No.** _____
2. ____ **Ta'meh, ID No.** _____
3. ____ **'Abadi, ID No.** _____
4. **HaMoked - Center for the Defence of the Individual founded by Dr. Lotte Salzberger**

Represented by counsel Adv. Tehila Meir (Lic. No. 71836) et al., of
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The Petitioners

v.

1. **Military Commander in the West Bank**
2. **Head of the Civil Administration**
3. **Legal Advisor for the West Bank**

Represented by the State Attorney's Office
Ministry of Justice, Jerusalem
Tel: 073-3925590; Fax: 02-6467011

The Respondents

Updating Notice on behalf of the Respondents

1. According to the decision of the honorable Justice D. Barak-Erez dated October 1, 2020, and a short 24 hour extension, an updating notice is hereby filed on behalf of the respondents as follows.
2. The Amended Petition concerns petitioners' request that the honorable court issues an order nisi directing the respondents to appear and show cause:

"A. Why they should not issue Petitioner 2 a fully valid permit to enter the seam zone with no restrictions on the number of entries into the seam zone, for the purpose of regular access to land belonging to his mother, Petitioner 1;

B. Why they should not issue Petitioner 3 a seam zone farmer permit, a fully valid permit to enter the seam zone with no restrictions on the number of entries into the seam zone, for the purpose of regular access to his land;

C. Why they should not cease to refuse issuing individuals permits to access land in the seam zone with full validity on the grounds that the size of the land they seek to cultivate is less than 330 square meters;

D. Why should the new directives instituted by the respondents subjecting seam zone entry permits for farming purposes to a set quota of entries not be revoked;

E. Alternatively, why the decision to close the seam zone to Palestinians should not be revoked being disproportionate."

3. After pleadings were submitted on behalf of the parties on July 1, 2020 a hearing was held in the petition, at the conclusion of which the honorable court held as follows:

"Following the hearing held before us in the Amended Petition we hereby direct that the state supplements its response by way of filing an updating notice, as follows:

1. The state shall submit data regarding the number of farmer permits and the number of permits for personal needs which were issued to residents of the area having connection to the land commencing as of 2016 – segmented annually. In this context the scope of applications of each type submitted each year should be specified, clarifying with respect to the distinction applied to each year, how many applications were accepted and how many applications were denied. The state can provide an elaborate explanation concerning previous years, if it deems fit. In addition, the respondents shall clarify the scope of permits issued in 2011 when the judgment in HCJ 9961/03 HaMoked Center for the Defence of the Individual founded by Dr. Lotte Salzberger v. The Government of Israel, was given (April 5, 2011)(hereinafter: the Seam Zone Judgment).
2. The state shall specify the factual data concerning misuse of seam zone entry permits for the purpose of entering Israel illegally and the data in that regard which were considered by the respondents while making the decision regarding the new policy.
3. The state shall explain whether and how the current policy reconciles with the position and statements of the state concerning the seam zone as presented in that regard.
4. During the hearing the state advised, in response to our questions, that the following statements were confirmed by the state:
 - a. A person having a farmer permit can also receive permit for personal need at the same time.
 - b. A person having a permit for personal needs which was issued for the purpose of maintaining connection to the land may also cultivate the land whenever he stays therein by virtue of said permit.

- c. Permit for agricultural purposes is also given based on a "scheme" of rights of several right holders whose joint share in the land reaches the 330 square meter bar – to one of them at their choice (also with respect to larger plots of land, where additional right holders exist).

The updating notice shall include explicit reference to the provisions of the Collection of Standing Orders clarifying the above, and alternatively – according the statements made – to amending provisions incorporated therein and explicitly clarifying the above."

- 4. Hence respondents' notice below.
- 5. **In the beginning and prior to providing the data requested by the honorable court, the respondents wish to advise that during the month of September, following a meeting held before the Head of the Civil Administration which was attended by all relevant bodies, the effectiveness of the last amendment of the Collection of Standing Orders from 2019, which introduced the "punch card permit", was examined after the elapse of one year from the date of the amendment which was defined, *ab initio*, as a "pilot".**

After the matter has been examined by senior officials a decision was made to cancel the "punch card permit" amendment since it was concluded by the end of the pilot that the targets of said amendment have not been achieved. Hence, within the next few weeks, the Collection of Seam Zone Standing Orders is about to be revised accordingly and the "punch card permit" shall be revoked. For the avoidance of doubt it is clarified that the 2019 amendment which extended the permits' validity for three years shall also be revoked, and seam zone entry permits for agricultural purposes shall be again valid for two years. In addition, seam zone entry permits for personal needs shall be again valid for a maximum period of up to three months.

- 6. Given the above, the respondents shall hereinafter present the data which were required by the Honorable Court in its above cited decision. Moreover, the respondents request the honorable court to determine how the proceeding at hand should be handled, in view of the fact that the main issue with which the Amended Petition is concerned, namely, the punch card permit, was revoked as aforesaid.
- A. Data regarding the number of farmer permits and the number permits for personal needs
- 7. The following are the data presented in H CJ 9961/03 **HaMoked Center for the Defence of the Individual founded by Dr. Lotte Salzberger v. The Government of Israel** (hereinafter: the **Permits judgment**), with respect to the scope of seam zone permits divided according to years and permit types. It should be noted that in the Permits judgment the respondents presented data for the years 2007-2009:

Year	Resident	Agricultural	Temp. Agricultural	Employment	Trade
2007	4,944	9,977	1,487	9,309	640

2008	5,148	2,601	2,308	13,429	828
2009	5,496	1,640	2,445	9,935	679

Personal needs	Int. Org. Employee	Education	Infrastructure Worker	Medical Team	Total
4,796	27	123	212	58	31,573
3,815	49	136	247	93	28,654
3,214	1	63	245	87	23,805

To complete the picture attached is a photocopy of a supplementary updating notice on behalf of the state filed in the context of the Permits judgment on July 30, 2009 in which the state gave detailed information regarding the scope of permit applications, according to permit types and more. Attached and marked **RS/1**.

8. According to the data stored in the computerized systems, the following is the concerning the scope of seam zone farmer permit applications and personal needs permit applications for the years 2013-2020 (it should be clarified that the earliest year with respect of which information exists in respondents' computerized systems is 2013).
9. It should be initially explained that currently the seam zone stretches over an area of 121,255 dunam, out of which 70,530 dunam are not state lands but rather, ostensibly, private lands. An examination conducted by the respondents shows that as of 2013 until the date hereof, a total of 314,211 entry permit applications into the seam zone were submitted, while 220,905 – approx. 70% of all applications were approved. We shall specify.
10. **Farmer permits in the seam zone:**

Year	Applications submitted	Applications approved	Applications denied
2013	4,758	2,831	1,927
2014	4,504	3,180	1,324
2015	4,476	2,694	1,782
2016	9,501	4,286	5,215
2017	5,363	2,409	2,954
2018	7,954	2,161	5,793
2019	7,400	2,741	4,659
2020 (Until Oct.1)	6,702	1,581	5,121

We shall explain:

- In 2013, 4,758 farmer permit applications were submitted, of which 2,831 were approved and 1,927 were denied (namely, 59% of the applications were approved).
- In 2014, 4,504 farmer permit applications were submitted, of which 3,180 were approved and 1,324 were denied (namely, 71% of the applications were approved).

- In 2015, 4,476 farmer permit applications were submitted, of which 2694 were approved and 1,782 were denied (namely, 60% of the applications were approved).
- In 2016, 9,501 farmer permit applications were submitted, of which 4,286 were approved and 5,215 were denied (namely, 45% of the applications were approved).
- In 2017, 5,363 farmer permit applications were submitted, of which 2,409 were approved and 2,954 were denied (namely, 45% of the applications were approved).
- In 2018, 7,954 farmer permit applications were submitted, of which 2,161 were approved and 5,793 were denied (namely, 27% of the applications were approved).
- In 2019, 7,400 farmer permit applications were submitted, of which 2,741 were approved and 4,659 were denied (namely, 37% of the applications were approved).
- In 2020, as of October 1, 2020, 6,702 farmer permit applications were submitted, of which 1,581 were approved and 5,121 were denied (namely, 24% of the applications were approved).

It should be noted that the amendment of the Collection of Standing Orders pertaining to "miniscule plot" applies from 2017 onwards.

11. Personal needs permit in the seam zone:

Year	Applications submitted	Applications approved	Applications denied
2013	11,179	10,918	261
2014	17,719	11,531	6,188
2015	10,489	9,682	807
2016	10,299	9,278	1,021
2017	10,888	10,536	352
2018	13,905	12,871	1,034
2019	17,920	16,228	1,692
2020 (Until Oct.1)	3,822	3,500	322

We shall explain:

- In 2013, 11,179 personal needs permit applications were submitted, of which 10,918 were approved and 261 were denied (namely, 98% of the applications were approved).
- In 2014, 17,719 personal needs permit applications were submitted, of which 11,531 were approved and 6,188 were denied (namely, 65% of the applications were approved).
- In 2015, 10,489 personal needs permit applications were submitted, of which 9,682 were approved and 807 were denied (namely, 92% of the applications were approved).

- In 2016, 10,299 personal needs permit applications were submitted, of which 9,278 were approved and 1,021 were denied (namely, 90% of the applications were approved).
 - In 2017, 10,888 personal needs permit applications were submitted, of which 10,536 were approved and 352 were denied (namely, 97% of the applications were approved).
 - In 2018, 13,905 personal needs permit applications were submitted, of which 12,871 were approved and 1,034 were denied (namely, 93% of the applications were approved).
 - In 2019, 17,920 personal needs permit applications were submitted, of which 16,228 were approved and 1,692 were denied (namely, 91% of the applications were approved).
 - In 2020, as of October 1, 2020, 3,822 personal needs permit applications were submitted, of which 3,500 were approved and 322 were denied (namely, 91% of the applications were approved).
12. It should be noted that the above data indicate that parallel to the decline in the number of farmer permits the number of personal needs permits has increased.
13. Solely to complete the picture it should be noted that the respondents gathered data regarding two additional types of permits relevant to agriculture in the seam zone, "agricultural work" and "farmer relative", as specified below.
14. According to the definitions of the Collection of Standing Orders **agricultural work** permit in the seam zone is "permit issued to Judea and Samaria resident employed by a farmer on his land, pursuant to the farmer's request who submits the application, for the cultivation of said lands" (chapter C, Article A, paragraph 3). The numerical data which were gathered regarding these permits are as follows:

Year	Applications submitted	Applications approved	Applications denied
2013	4,285	1,214	3,071
2014	24,667	16,916	7,761
2015	20,759	14,247	6,512
2016	18,976	13,703	5,273
2017	14,161	9,947	4,214
2018	3,763	2,235	1,528
2019	1,910	1,467	443
2020 (Until Oct.1)	735	513	222

We shall explain:

- In 2013, 4,285 agricultural work permit applications were submitted, of which 1,214 were approved and 3,071 were denied (namely, 28% of the applications were approved).
- In 2014, 24,667 agricultural work permit applications were submitted, of which 16,916 were approved and 7,761 were denied (namely, 69% of the applications were approved).

- In 2015, 20,759 agricultural work permit applications were submitted, of which 14,247 were approved and 6,512 were denied (namely, 69% of the applications were approved).
- In 2016, 18,976 agricultural work permit applications were submitted, of which 13,703 were approved and 5,273 were denied (namely, 72% of the applications were approved).
- In 2017, 14,161 agricultural work permit applications were submitted, of which 9,947 were approved and 4,214 were denied (namely, 70% of the applications were approved).
- In 2018, 3,763 agricultural work permit applications were submitted, of which 2,235 were approved and 1,528 were denied (namely, 60% of the applications were approved).
- In 2019, 1,910 agricultural work permit applications were submitted, of which 1,467 were approved and 443 were denied (namely, 77% of the applications were approved).
- In 2020, as of October 1, 2020, 735 agricultural work permit applications were submitted, of which 513 were approved and 222 were denied (namely, 69% of the applications were approved).

15. According to the Collection of Standing Orders "**Framer relatives**" permits are additional permits granted during the olive harvest season: "acknowledging the unique nature and importance of the olive harvest season, farmer permit applications for the olive harvest season may be submitted beyond the fixed quota, for the farmer relative" (chapter C, Article A, paragraph 17). It should be noted that said permits are granted only from 2017 and provide solution for an agricultural need in the olive harvest season. Until 2017 the solution in that regard was given in the context of the personal needs permit.

The data which were gathered regarding these permits are as follows:

Year	Applications submitted	Applications approved	Applications denied
2017	4,765	3,663	1,102
2018	8,158	4,983	3,175
2019	5,960	4,481	1,479
2020 (Until Oct.1)	4,045	3,384	661

We shall explain:

- In 2017, 4,765 farmer relative permit applications were submitted, of which 3,663 were approved and 1,102 were denied (namely, 77% of the applications were approved).
- In 2018, 8,158 farmer relative permit applications were submitted, of which 4,983 were approved and 3,175 were denied (namely, 61% of the applications were approved).

- In 2019, 5,960 farmer relative permit applications were submitted, of which 4,481 were approved and 1,479 were denied (namely, 75% of the applications were approved).
- In 2020, as of October 1, 2020, 4,045 farmer relative permit applications were submitted, of which 3,384 were approved and 661 were denied (namely, 84% of the applications were approved).

16. With respect to the data presented above it should be emphasized that said data do not reflect the number of residents holding or not holding entry permits into the seam zone, **but rather only the number of applications which were approved and denied relative to the number of applications which were submitted.** We shall explain – accordingly, for instance, in many cases, a resident who submitted a permit application to enter the seam zone and his application was denied due to technical deficiencies (for instance, absence of documents, insufficient details, inconsistency between the documents and the requested permit etc.), can submit another application after having fixed the deficiencies and his application would be approved. Hence, as far as the data are concerned, said person shall appear as a person whose application was denied as well as a person whose application was approved and mostly in the same year. Another example is an event in which residents' applications were initially denied but thereafter approved following an appeal which was filed in that regard. In this case the application shall appear as an application which was both denied and approved.

17. It should also be noted that in the amendments to the entry into the seam zone procedure made in the years 2011 and 2014, the criteria for the issue of farmer permits did not undergo any material changes. However, inter alia, the distinction was canceled between holders of new farmer permits which were issued to residents who have not held in the past farmer permits for six months only, and holders of permanent farmer permits. Consequently, all permits were issued for two years which could have affected the number of applications submitted throughout the years.

B. Factual data concerning misuse of entry permits into the seam zone

18. The respondents have primarily learnt of the permits' misuse from their professional officials manning daily each one of the entry gates into the seam zone. According to the experience and reports provided by field officials, despite the fact that in the morning hours thousands of permit holders pass through the gates, a patrol conducted several hours later in the seam zone shows that only a very small number of individuals may be found on their lands, cultivating them.

19. In addition, the respondents have in their possession data regarding "public servant certificates" given by them to Israel police with respect to illegal aliens apprehended in Israel, while holding seam zone entry permits. Namely, these data refer only to illegal aliens who were apprehended more than three times for illegal presence in Israel, as required according to the prosecution policy for illegal presence in Israel with respect to public servant certificate on behalf of the civil administration. Said data were collected for the years 2016 through 2020:

Year	2016	2017	2018	2019	2020
Total Public Servant Certificates Issued to residents holding seam zone entry permits	1,350	1,503	1,115	1,839	734

We shall explain:

- In 2016 public servant certificates documented a total of 1,350 incidents of entry into the state of Israel in which seam zone entry permits were misused (not necessarily farming permits), which in view of the enforcement policy that was described - according to which it is at least the third time in which said individuals were apprehended in the territories of the state of Israel; and in view of the clear fact that not anyone who illegally enters Israel is actually apprehended by the police, said datum embodies at least thousands of incidents in which permits were misused, this year and in previous years. And note well, when an individual is apprehended for the third time the respondents regard it as three separate violations of law, regardless of the fact that it is the same person.
- In 2017 1,503 incidents were documented, datum reflecting an increase of 11% compared to the previous year.
- In 2018 1,115 incidents were documented, datum reflecting a decline of 26% compared to the previous year.
- In 2019 1,839 incidents were documented, datum reflecting an **increase of 65% compared to the previous year**. It should be clarified that the actual increase in the number of incidents has apparently occurred also before 2019 – and therefore in 2019 more individuals were apprehended at least after the third time.

These data, indicating that **thousands of individuals** who were apprehended in the territories of the state of Israel having misused, at least on three occasions, the seam zone entry permits in their possession for the purpose of entering Israel illegally, reinforce the conclusion of field officials noticing on a daily basis that the seam zone lands remain empty and that apparently a considerable part of the individuals entering it actually enter the state of Israel.

20. Naturally, the respondents do have full data regarding the scope of illegal passage of holders of seam zone entry permits into Israel. Nevertheless, the respondents estimate given all of the above that **a considerable part of permit holders using their seam zone permits to enter the seam zone, misuse their permits to illegally enter Israel for work purposes.**
21. An extreme expression of said estimate has been recently reflected in examinations conducted by the respondents following HCJ 8084/19 **Radad et al., v. The Military Commander et al.** Said petition was filed by petitioner 4 in the petition at hand, against the backdrop of alleged delays in the opening times of the "Magen Dan" gate in the seam zone. In the context of establishing their response to said petition and while examining the need to continue operating the agricultural gate, the respondents initiated certain examinations with respect to permit holders who were using the gate. Said examinations have unequivocally shown that **all individuals who passed through said gate in the month of September and in the first half of October 2020, have sweepingly said that they were on their way to Israel to work there, while in most cases – they did not have in their possession work permits; or argued that they were going to cultivate their lands in the seam zone, but a real time examination revealed that in fact they have crossed the seam zone and entered the territory of the state of Israel for work purposes.**

The above example as well the cumulative experience of field officials lead to the conclusion that **a considerable part of seam zone permit holders misuse the absence of an additional barrier between the seam zone and the territory of the state of Israel and enter the state, mostly for work purposes.**

22. In addition to the above estimates, the above conclusion is also supported by an investigation conducted by the civil administration on the permit regime in the seam zone (**it should be clarified that said investigation was conducted after the 2017 amendment of the Collection of Standing Orders concerning the "miniscule plot"**). Said investigation was conducted following a stabbing attack which was committed on December 10, 2017 at the central station in Jerusalem by a west bank resident from Nablus, who held an entry and work permit in the seam zone, and worked in Harish Regional Council in construction works. The perpetrator did not have an entry permit into Israel. According to the judgment, the perpetrator purchased a knife with which he planned to commit the stabbing attack. He hid the knife in his coat and misusing the entry permit into the seam zone which had been issued to him, he reached the central station in Hadera, and from there he took a taxi to Jerusalem. After he had arrived to the central station in Jerusalem and as he failed to pass the security check due to the knife which he had hidden, the perpetrator stabbed the security guard at the entrance into the central station in Jerusalem, and severely injured him (see Severe CrimC (Jerusalem District) 59601-12-17 **State of Israel v. Yasin abu al-Kar'a** (reported in Nevo, March 18, 2019).
23. Following said attack, the Head of the Civil Administration directed to conduct an investigation concerning the permit regime in the seam zone. The investigation was conducted in the first half of 2018, in the framework of which meetings were held with the regional councils in the zone, field tours were carried out in the seam zone including field tours with land owners in the zone, and different areas in the zone were mapped. Said mapping indicated that **the scope of agriculture in the seam zone did not reconcile with the number of permits issued for said areas in a manner giving rise to the concern that a considerable number of permits were used to illegally enter the territories of the state of Israel.** Respondents' said conclusion was also reinforced by additional data which were gathered and reviewed after the 2017 amendment to the Collection of Standing Orders being the subject matter of the case at hand.
- C. Respondents' current policy concerning the state's position as presented in the Permits judgment
24. The respondents were requested by the honorable court to clarify "whether and how the current policy reconciles with the position and statements made by the state concerning the seam zone as presented in that regard." The respondents shall argue that their position, as presented to the honorable court in the petition at hand, reconciles with the position of the state and its statements made in the Permits judgment, and we shall explain.
25. As recalled, the Permits judgment has mainly discussed the question of whether the closure of the seam zone and the permit regime which followed satisfied the proportionality tests – in view of the harm caused to the fabric of life in the seam zone and to west bank residents wishing to enter it, inter alia, because their businesses, relatives or lands are located therein. In this question the honorable court held as follows:

"46. In our judgment we have widely discussed the complex security situation which led to the erection of the security fence. This step severely injured the daily lives of many of the Palestinian inhabitants

of the Area [...]. As aforesaid, the permit regime which was applied to the seam zone is a derivative product of the route of the fence. It also severely violates the rights of the Palestinian inhabitants – those who live within and those who live without its boundaries. The restrictions imposed by this regime encumber the ability of the residents of the seam zone and their brothers who live in the other parts of the Area to conduct normal daily lives. The petitioners in the petitions before us presented a harsh picture of the complex reality of life with which these inhabitants cope from the commencement of the permit regime. We did not dispute the fact that such hardships existed, and it seems that the state is also very well aware of them. However, this time again, we could not ignore the essential security objective underlying the decision to close the seam zone, and therefore we examined, with the legal tools available to us, whether the military commander used his best efforts to minimize the injury inflicted on the inhabitants under the permit regime. Under the circumstances of the matter, and given the factual infrastructure which was presented to us, we came to the conclusion that subject to a number of changes which were widely discussed above, the decision to close the seam zone and apply the permit regime thereto satisfied the tests of legality and hence, there was no cause which justified our intervention therewith. Our above determination is based, as aforesaid, not only on the arrangements themselves, but also on the statements of the state concerning measures continuously taken by it, which are designed to improve the handling processes of the different applications and to ease the accessibility to the seam zone, and by so doing, to minimize the injury inflicted on the daily lives of the Palestinian inhabitants.

[...]

47. Therefore, and in view of all of the above, we came to the conclusion that subject to our comments in paragraph 36 and paragraph 39 concerning the required changes to ease the passage of the permanent residents into the zone; the adoption of an approach which would expand the causes based on which a person may be recognized as a permanent resident and concerning the issuance of permits to an "occasional interest holder" in cases which do not fall within the categories which were set forth in the rules, and concerning the establishment of a clear time schedule for the handling of the different applications submitted to the civil administration; the petitions are denied, without an order for costs.

26. With respect to agricultural permits and the issues relevant to the case at hand, the respondents argued in their response to the Permits judgment as follows:

"119. It should be noted that indeed initially the security system has applied a very liberal policy with respect to the issue of permits to the seam zone. However, there is a real concern that said policy would be misused for the purpose of entering Israel illegally, such that residents of the area who shall receive entry permits into the seam zone would misuse said permits to enter Israel without a permit, rather than to cultivate their lands in the seam zone.

Due to said concern, which is not at all negligible, the respondents currently wish to ensure that the applicants do indeed have real

connection to the agricultural land located in the seam zone, thus reducing the inherent concern that the purpose of the permit is to enter Israel without a permit."

27. The respondents reiterated the above in the supplementary and updating notice filed on their behalf (RS/1) – see paragraph 22 of the notice.
28. And it was so held by the honorable court with respect the state's position as presented to it:

"33. It seems that the state is also aware of the fact that a significant decline has occurred in the issuance of agricultural permits from the commencement of the permit regime. It is argued that this has occurred, due to the concern that the liberal policy which was allegedly applied in the past to the issuance of entry permits into the zone would be abused. Therefore, as specified above, it was decided that in lieu of permanent agricultural permits, the family members and the workers would be issued temporary working or agricultural permits, according to the specific needs of the farmer. The data attached by the state supported its above position, even if there is merit in petitioners' position according to which the decline in the number of permanent permits was not fully compensated by the temporary permits. In addition, the state has concisely referred to the gamut of farmer related arrangements, which, according to it, provide a reasonable solution to this section of the population. This applies both to the issuance of the permits themselves – with a distinction drawn between their issuance on a routine basis and their issuance during the olive harvest season, and to the opening of the different gates according to the needs of the population, as balanced against security needs. In this context the state has already pointed out in its response that a directive was issued according to which whenever an agricultural gate located near the relevant agricultural plots of a resident was not open all year round on a daily basis, an additional gate or crossing which was open all year round on a daily basis, would be specified on the permit, through which the resident would be able to enter the zone, provided that the crossing would not necessitate the entry of the resident into Israel. The state has also responded to petitioners' argument concerning the difficulties in proving ownership of land in the Area, as a condition for proving a connection which gives rise to a right to obtain a permanent agricultural permit. According to the state – the requirements raised by it for the purpose of proving a connection to the land are reasonable – in regulated lands a land registration extract, and in unregulated lands other evidence, such as property tax registration extract etc. The state has also raised in its response possible solutions for the entry of vehicles and agricultural machinery into the seam zone as well as for the transfer of the goods to the territories of the Area located outside the seam zone.

34. [...] Under the circumstances at hand, prima facie, it indeed seems that the respondents acknowledge the residents' right to continue to farm their lands and seek to enable those who have a connection to lands in the seam zone to continue to farm them, by enabling family members and other workers to assist them with their work. In addition, special crossings exist the purpose of which is to regulate the

entry into the zone – some of which are adapted to agricultural activity according to the seasonal needs. It seems to us that this arrangement gives reasonable solution which minimizes the violation of the rights of the farmers, and we assume in our said determination that respondents' declarations concerning the importance of giving proper solutions to the needs of the farmers in the Area are indeed filled by them with real substance."

29. The petitioners argued in paragraph 69 of the Amended Petition that since the permits judgment "...there has been no relevant change except Respondents' policy. When the legality of the permit regime was under scrutiny, the Respondents stated that they would maintain the fabric of life in the seam zone. However, after the permit regime was upheld by this Honorable Court, the Respondents changed course and declared a new policy that runs contrary to their undertakings and to the judgment...". Therefore, the petitioners argue that the current policy differs from the policy which was approved in the permits judgment and can no longer satisfy the same proportionality tests.
30. The respondents shall reiterate their explanation that the 2017 changes in the provisions of the Collection of Standing Orders were made in view of constant examination of the changing reality in the seam zone, in view of the concern which has already been expressed by the state in the permits judgment whereby an overly liberal distribution of farming entry permits may lead to their misuse, a concern which as aforesaid has been and continues to be realized in recent years. Accordingly, in the framework of the response to this petition the respondents have also reiterated their position and clarified:

"85. As specified above, in the past the Standing Orders did not expressly define an "agricultural need" and different provisions were not established in connection therewith. It was sufficient for an applicant to present to the Civil Administration proof regarding his proprietary rights in the plot even if the plot consisted of a few single meters, and to check in the permit application form that he had agricultural need, to receive an agricultural permit (in the absence of security preclusion). The Respondents did not consider the size of the plot and whether the applicant did in fact have a need to cultivate his land. And note well, the agricultural permit which was granted is long term permit allowing continuous entry of the permit holder over a period of two years into the "seam zone" on a daily basis. **Consequently, thousands of Palestinians held agricultural cultivation permits while they were not farming their lands, and it is therefore clear that they held permits allowing daily entry into the "seam zone" unlawfully and without need,** which may prima facie increase the ability to abuse the permits in a bid to unlawfully enter Israel."

31. Hence, as was clarified in the preliminary response, the respondents shall argue that the changes in the Collection of Standing Orders were made according to their position which has already been presented in the framework of the permits judgment. As stated in the permits judgment the concern that the permits may be misused led to a change in the provisions of the Collection of Standing Orders requiring the applicant to prove a substantial connection to the land.

Therefore, the changes made in the Collection of Standing Orders, **and mainly the revision concerning a "miniscule plot" help determine whether the applicant really needs a farming permit or not,** which similar to the permits judgment shall also reduce the inherent concern that the permit shall be used to enter Israel without a permit.

Therefore, these changes are required in light of the changing reality, all of the above for the purpose of upholding the security purpose underlying the erection of the fence and the closure of the seam zone.

32. Accordingly the respondents shall argue that the changes made in the Collection of Standing Orders **do not affect respondents' basic position** as presented in the permits judgment and do not change the principles of the permits regime which were approved by the honorable court.
- D. Revising the provisions of the Collection of Standing Orders according to the state's declaration in the hearing
33. According to respondents' declaration in the hearing held before the honorable court, the respondents inform that they have acted towards revising the provisions of the Collection of Standing Orders to include therein the requested clarifications. Said revision which shall be described in more detail below shall enter into force within the next few weeks and shall be published as generally acceptable.
34. Hence, the definition of a "miniscule plot", paragraph 14.A.7.A. in Chapter C, Article A, was amended and currently the paragraph provides as follows: "Farming permit for agricultural needs shall also be granted on the basis of a "scheme" of rights of several right-holders who jointly hold 330 square meters – to one of them at their choice. Arguments concerning the farming of additional parts should be supported by appropriate documents."
35. In addition, in the end of paragraph 1, Chapter C, Article C, concerning permit for personal needs, clarification was added as follows: "Resident holding a permit as aforesaid can use it for any legitimate purpose which is not contrary to any law and security legislation including for agricultural purposes."
36. In addition paragraph 6.D. was added to Chapter C, Article C as follows: "Holding a permit according to Article A of this Chapter (Permit for Agricultural Needs) shall not constitute a barrier to obtaining a permit for personal needs according to this Article."
37. The respondents shall reiterate their argument that the petition should be denied and they currently request, in view of the cancelation of the "punch card" permit (the 2019 amendment) which shall be made in the framework of the revisions to the Collection of Standing Orders within the next few weeks – that directions be given by the honorable court as to how the proceeding at hand should be handled.
38. This response is supported by the affidavit of the Head of the Civil Administration.

Today, 7 Heshvan 5781
October 25, 2020

(Signed)
Sharon Hoash-Eiger, Advocate
Senior Deputy at the HCJ Department
State Attorney's Office