

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

HCJ 4285/24

1. _____ al-Odeh, ID [REDACTED]
Palestinian resident of the occupied territories
2. _____ Dalu, ID [REDACTED]
Palestinian resident of the occupied territories
3. _____ Hamdan, ID [REDACTED]
Palestinian resident of the occupied territories
4. _____ Hamdan, ID [REDACTED]
Palestinian resident of the occupied territories
5. _____ Ganem, ID [REDACTED]
Palestinian resident of the occupied territories
6. _____ Ganem, ID [REDACTED]
Palestinian resident of the occupied territories
7. _____ Ganem, ID [REDACTED]
Palestinian resident of the occupied territories
8. _____ Ganem, ID [REDACTED]
Palestinian resident of the occupied territories
9. _____ Gashash, ID [REDACTED]
Palestinian resident of the occupied territories
10. **HaMoked Center for the Defence of the Individual founded by
Dr. Lotte Salzberger R.A. No. 580163517**

Represented by counsel, Adv. Tehila Meir et al.
of HaMoked - Center for the Defence of the Individual founded by Dr.
Lotte Salzberger. 4 Abu Obeida St., Jerusalem, 97200
Tel: 02-6283555; Fax: 02-6276317
email: t.meir@hamoked.org.il

The Petitioners

v.

Military Commander of the West Bank Area

Represented by the State Attorney's Office, Ministry of Justice
29 Salah A-Din Street, Jerusalem
Telephone: 073-3925590; Fax: 02-6467011
email: HCJ-dep@justice.gov.il

The Respondent

Petitioners' Reply

1. The petition at hand concerns the sweeping ban imposed on the entry of Palestinian farmers into the seam zone since the outbreak of the war on October 7, 2023. The petition requested an *order nisi* ordering the Respondent to show cause "why the sweeping limitations imposed on the entry of Palestinian farmers into the seam

zone since the outbreak of the war on October 7, 2023 shall not be cancelled, or at least limited to a reasonable extent".

2. On June 25, 2024 a preliminary response to the petition was submitted, informing that the Respondent decided on May 29, 2024 that "a gradual and controlled entry of farmers into the seam zone shall be allowed in the Efraim and Menashe region" (section 14). According to the preliminary response, in practice it was decided at that point to open five agricultural gates for the passage of approximately 500 farmers engaged in daily agricultural work.
3. On September 6, 2024 the Respondent submitted an update notice in which the state informed that the Respondent had decided on July 24, 2024 to open five additional agricultural gates during September, but in the beginning of September the Respondent decided to postpone the opening of said five gates until after the Jewish holidays, subject to the security situation assessment at that time. The Respondent requested to submit an additional update notice "with respect to the continuation of the gate opening framework" by November 13, 2024.
4. On September 22, 2024 a reply was submitted on behalf of the Petitioners. In their reply the Petitioners objected to Respondent's request to submit an additional update notice on the gate opening framework, since the opening of the gates shall not solve the problem underlying the petition, as long as the general limitations imposed on the entry of farmers into the seam zone are not cancelled. In addition, the Petitioners objected to the period of time requested by the Respondent for submitting his next update notice – by November 13, 2024 – due to the importance in regulating the entry of the farmers into the seam zone for the olive harvest which was expected to start earlier.
5. On September 22, 2024 a decision was given ordering the Respondent to submit a response referring, *inter alia*, "to section 19 of Petitioners' reply concerning the harvest season dates and the solution provided thereto".
6. In his response dated October 1, 2024 the Respondent stated that "In general, there is no preclusion for commencing the harvest season in November and therefore the farmers wishing to harvest the olives are not expected to be harmed to the extent that the gates are opened by the end of October 2024, as was Respondent's declared intention, subject to the security situation at that time" (section 13).
7. On October 6, 2024 a decision was given ordering the Respondent to submit another update notice by November 3, 2024 which shall refer, *inter alia*, to "the number of seam zone entry applications for harvesting purposes which were submitted and to the number of permits which were given for this purpose."
8. On November 4, 2024 an update notice was submitted on Respondent's behalf stating as follows:

... as informed by Respondent's representatives, as of October 29, 2024 and towards the harvest season, many gates were opened, as specified below, in the Jenin and Efraim regions... to enable permit holders to pass through them in this period...

We also wish to update that 4,430 seam zone entry permits were issued for harvest purposes, of which 776 permits were used between October 29, 2024 and October 31, 2024. In addition, until now 1,680 entry applications were refused, mainly against the backdrop of security preclusion. It should also be noted that as of the date hereof, there are no additional applications awaiting decision...

It should also be noted that although the coordinated harvest has only commenced on October 29, 2024, to the extent possible security-wise, harvest in the entire area has commenced earlier.

In view of the aforesaid and considering the fact that the harvest season is going to end at the end of December, the Respondent wishes to submit another update notice on his behalf concerning the progress made in the opening outline of additional gates for the passage of agricultural permit holders by January 5, 2025 (sections 11-14).

9. The Petitioners shall refer below to the factual situation concerning the entry arrangements of farmers into the seam zone for harvesting purposes, and shall thereafter refer to Respondent's request to submit another update notice "concerning the progress made in the opening framework of the additional gates".

The entry arrangements of farmers into the seam zone for harvesting purposes

10. According to information received by HaMoked from the farmers and the representatives of the Palestinian Coordination, the actual situation concerning the entry of farmers into the seam zone for harvesting purposes is substantially worse than that which is described in Respondent's update notice, in terms of the percentage of the permit applications which were approved, in terms of the opening dates of the different gates and in terms of the farmers' ability to actually exercise their right to access their lands.
11. With respect to the **percentage of the applications which were approved**, according to Respondent's update notice, 6,110 seam zone entry permit applications for harvesting purposes were submitted and 4,430 thereof were approved. However, the Head of the Palestinian Coordination Office in Tulkarem, Mr. Naser Maflah informed HaMoked on October 7, 2024 that the Palestinian Coordination in Tulkarem has transferred to the District Coordination Office (DCO) approximately two thousands permit applications for harvesting purposes and that in each application permits were requested for about three or four family members. Accordingly, in fact, between 6,000 to 8,000 harvest applications were requested for farmers of the Tulkarem region.
12. The person in charge of seam zone entry applications at the Palestinian Coordination Office in Qalqilyah, Mr. Muhamad Kutkut, informed that on October 3, 2024 the Palestinian Coordination Office in Qalqilyah has transferred to the DCO a list of 5,000 farmers for whom seam zone entry applications for harvesting purposes were submitted.
13. The person in charge of the separation wall portfolio at the Palestinian Coordination Office in Salfit, Mr. Ahmed Nabil, informed that the Palestinian Coordination Office in

Salfit has transferred to the DCO lists of 334 farmers requesting permits for harvesting purposes.

14. The Head of the Palestinian Coordination Office in Jenin, Mr. Wael al-Bazur, informed that the Palestinian Coordination Office in Jenin prepared lists of approximately 1,600 farmers wishing to receive permits for harvesting purposes, but the DCO refused to accept the lists and requested the Palestinian Coordination to prepare lists which shall be limited to a certain number of farmers for each gate (the numbers were determined by the DCO). The Palestinian Coordination rejected this request and did not transfer to the DCO alternative lists. Namely, in fact approximately 14,000 permits for harvesting purposes were requested, and not 6,110.
15. Moreover, in certain areas **quotas** were imposed by the Respondent on the number of permit holders allowed to enter the seam zone according to their permits. Accordingly, the number of farmers whose entry into the seam zone is actually allowed every day is smaller than the number of farmers who have received seam zone entry permits. Accordingly, for instance, a farmer from Qaffin informed that approximately 400 harvest permits were issued with the Qaffin gate listed on them, but the DCO only allows fifty permit holders to enter the seam zone through the Qaffin gate per day. At the Akkabe gate, the army allows only thirty permit holders to enter the seam zone per day.
16. With respect to the Jenin region, the army informed the Palestinian Coordination that only fifty farmers shall be allowed to pass through the 'Anin gate per day, for three days, although the residents of 'Anin have approximately 11,000 dunam of agricultural lands in the seam zone. In addition the army informed that at Jalbun gate the passage of only ten farmers shall be allowed, in Faqqua gate the passage of only eight farmers shall be allowed, and in Zububa gate the passage of only six farmers shall be allowed.
17. With respect to the **period of time during which the gates shall be opened** for harvesting purposes, the Respondent informed in his update notice that the opening of the gates for harvesting purposes has commenced on October 29, 2024 and even earlier, and that the harvest season shall terminate by the end of December. However, Mr. Muhamad Kutkut from the Palestinian Coordination Office in Qalqilyah informed on October 29, 2024 that the army had notified the Palestinian Coordination that the gates in the Qalqilyah region shall be opened for harvesting purposes only between November 4, 2024 and November 29, 2024. In addition, the army notified that the gates shall not be opened on Fridays, Saturdays and Sundays. Not only is this a considerable part of the week in which the farmers cannot access their lands, but these are precisely the most important days for the farmers – the rest days in which their families are available for cultivating the lands.
18. In Tulkarem region the farmers were informed that the Akkabe and Qaffin gates would be opened solely for two weeks and a half – Akkabe gate would be opened from October 29, 2024 through November 17, 2024 and Qaffin gate would be opened from November 17, 2024 through December 3, 2024.
19. In Jenin region the situation is much graver – the Head of the Palestinian Coordination in Jenin, Mr. Wael al-Bazur informed that the Zububa gate was opened solely for three

days (November 5, 2024 through November 7, 2024) and that the Faqqua gate and the Jalbun gate were opened for one day only (November 5, 2024 and October 29, 2024 respectively). With respect to the 'Anin gate, it was informed that it would be opened for three days only as aforesaid.

20. Mr. Ahmed Nabil from the Palestinian Coordination in Salfit informed that the permits issued for Salfit farmers for the olive harvest are valid from October 29, 2024 through November 18, 2024 only and that during the above period the farmers were prevented from entering the seam zone and harvesting the olives.
21. The Salfit region has three agricultural gates – Magen Dan gate near Az-Zawiya village, and two additional gates near Mas'ha village. These gates were not opened on October 29, 2024 and their opening was postponed to November 4, 2024. However, they were not opened on that day as well.
22. Mr. Nabil explained that on November 4, 2024 settlers from Elkana arrived to the gates near Mas'ha and prevented the opening of the gates and the entry of the farmers into the seam zone. The Palestinian Coordination contacted the DCO on that matter in real time and was advised by the DCO that the matter would be handled, but the problem was not solved and the gates were not opened. On the following day, November 5, 2024, the gates were not opened again. DCO officials informed the Palestinian Coordination that the gates were not opened due to a shortage of soldiers.
23. With respect to Magen Dan gate, the gate should have been opened on November 6, 2024 but it was not opened on that day and its opening was postponed to November 7, 2024. The gate was opened late, on or about 09:00, and around 10:00 settlers from Elkana arrived to the seam zone lands, attacked the farmers and drove them away from their lands. The Palestinian Coordination informed the DCO of the incident and soldiers were sent by the DCO to the scene but instead of protecting the farmers, the soldiers removed the farmers from their lands. DCO officials told the representatives of the Palestinian Coordination that they were unable to deal with the settlers' actions due to shortage of soldiers and that their soldiers were engaged in the Tulkarem area. Since the army did not take responsibility for the matter and did not undertake to protect the farmers against additional acts of violence, the farmers were afraid to return to their lands after said incident to continue the harvest.

Respondent's request to update about "the opening outline of additional gate"

24. Just like in its update notice dated September 5, 2024, the Respondent has also requested in its update notice dated November 4, 2024 to submit another update notice on the "gate opening framework".
25. However, as stated in Petitioners' reply dated September 22, 2024, the petition challenges Respondent's policy in which, since October 7, 2023 the entry of Palestinian farmers into the seam zone is sweepingly prevented, other than a small number of farmers engaged in daily agricultural work who were excluded from said prohibition. The opening of additional gates in the separation wall shall not solve the problem underlying the petition and shall have almost no effect at all on the subject matter of

the petition as long as there is no change in Respondent's policy, according to which farmers are not allowed to enter the seam zone unless they are engaged in daily agricultural work.

26. The Petitioners do not object to Respondent's request to submit another update notice by January 5, 2025 if the update notice includes an update on the subject matter of the petition – cancellation of the sweeping limitations on the entry of all farmers into the seam zone. However, if the Respondent is of the opinion that he would not be able to update the honorable court of any change in the policy which was challenged in the petition in the foreseeable future, but rather only of the opening of additional gates for farmers who, *ab initio*, were excluded from the prohibition to enter the seam zone, then the Petitioners are of the opinion that there is no real reason for submitting another update notice and that the time to hear the petition has come.

November 11, 2024

Tehila Meir, Adv.
Counsel for the Petitioners