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At the Supreme Court
Sitting as the High Court of Justice

HCJ 9084/10

Khallu _____ et al.

represented by counsel, Adv. Elad Cahana et al.,
4 Abu Obeida St., Jerusalem, 97200
Tel: 02-6283555; Fax: 02-6276317

The Petitioners

v.

Military commander of the West Bank Area et al.,

Represented by the state attorney's office,
Ministry of Justice, Jerusalem
Tel: 02-6466513; Fax: 02-6467011

The Respondent

Preliminary Response to the Petition on behalf of the Respondents

Pursuant to the decision of the honorable Justice Hendel of January 12, 2011 and the Motion for Extension, the respondents hereby respectfully submit their preliminary response to the petition as follows.

1. This petition concerns petitioners' request to change the registered address of Mrs. _____ Khallu's three minor children (petitioners 1-3) from the Gaza Strip to the Judea and Samaria Area (the Area), according to the population registry updating notices which were ostensibly transferred by the Palestinian Authority to the Israeli side.

It should already be noted at this point, that the respondents are of the opinion that currently there is no need to discuss the individual case of the petitioners in view of the fact that the respondents have recently decided, within the framework of a political gesture, to allow the settlement in the Area, and accordingly – the change of address of 5,000 Palestinians whose registered address is in the Gaza Strip and who currently reside in the Area, out of whom about 3,300 Palestinians whose registered address is in the Gaza Strip, who reside in the Area and who **entered the Area within the framework of the "safe passage" until 2000**. Therefore, to date, the petition, in fact, became redundant, since the petitioners, that the above gesture seems, *prima facie*, to be relevant to their case, can submit an application within the framework of the gesture. After the examination of their application on its merits, and to the extent that an adequate application is transferred by the Palestinian Authority and provided that the petitioners meet the established criteria, petitioners' settlement and change of address will be allowed. All as specified below.

2. Petitioners' mother, Mrs. _____ Khallu, is registered as a resident of the Area and according to respondents' registrations she has been living in the Area continuously from the beginning of July 2000, when she entered the Area after having lived in the Gaza Strip.

As to the father of the family, Mr. _____ Khallu, who is registered as a resident of the Gaza Strip, an examination which was conducted by the respondents indicates that the latter entered the Area in August 2000, under the safe passage with no security preclusion, and has also been living in the Area since then.

The petitioners were born in 1993, 1994 and 1996, respectively, in the Gaza Strip. An examination which was conducted in respondents' computerized system indicates, that the petitioners are registered as Gaza Strip residents. It should be noted that no indication was found in respondents' computerized system which pointed at petitioners' passage from the Gaza Strip to the Area. However, in view of petitioners' young age at that time, they have probably moved to the Area with their parents in 2000, although no registration of same exists in the computerized system.

Therefore, it seems, *prima facie*, that the petitioners have been living in the Area for a long period, at least since 2000.

3. The respondents will note, as they have noted in several other petitions which are pending before the honorable court, that the real remedy requested by the respondents is not merely a technical remedy involving the amendment of the registration in the population registry, but is rather to enable petitioners 1-3, who are all registered as Gaza Strip residents, to settle in the Area.

In this context we would like to emphasize respondents' position, according to which a permanent change of address and settlement in the Area by a person who is not registered in the population registry as a resident of the Area, requires a permit of the military commander of the Area. According to respondents' policy, since the outbreak of the security incidents in September 2000, a change of address from the Gaza Strip to the Area is approved only in extremely exceptional humanitarian cases (which as of March 8, 2009 are specified in the "**Procedure for handling Applications by Gaza Strip Residents for Settlement in the Judea and Samaria Area**" (hereinafter: the **settlement procedure**)), that entrenched in writing the procedure which was applied by the respondents in this matter since the beginning of 2000).

It should be further noted that the issue of settlement in the Area of persons who are registered in the population registry of the Area as Gaza Strip residents, including the settlement procedure, is pending before the honorable court within the framework of several different petitions (including, *inter alia*, HCJ 660/08; HCJ 2905/08; HCJ 3911/08; HCJ 6685/09; HCJ 2088/10 and HCJ 4019/10 (hereinafter: the **settlement petitions**)).

However, the respondents are of the opinion that **under the circumstances of the petitioners before us**, the principle issue of the settlement in the Area of Gaza Strip residents need not be examined at this time, and there is no need to hear the petition before us on its merits.

4. As has already been shortly noted above, military personnel notified that just recently, within the framework of a political gesture made by the State of Israel and presented to the envoy of the Quartet on the Middle East, Mr. Tony Blair, a decision was made to allow the settlement, and consequently, the change of address, of 5,000 Palestinians whose registered address was in the Gaza Strip, who were currently living in the Area, out of whom about 3,300 who were living in the Area and entered the Area within the framework of the "safe passage", before the outbreak of the security incidents in 2000, and no negative security information existed in their matter, all in accordance with a list which would be transferred by the Palestinian Authority, at its discretion.

5. Under these circumstances, the petitioners, who have apparently entered the Area with their parents in 2000 within the framework of the "safe passage", now have the option to submit to the respondents, through **the office of civil affairs at the Palestinian Authority**, a settlement application followed by a change of address application, within the framework of the above referenced political gesture.

To the extent that a proper application is submitted through the Palestinian Authority, it would be examined on its merits, and should the petitioners meet the established criteria, which *prima facie* seem to exist in the case of the petitioners and their parents, and provided that no security preclusion exists, the petitioners' settlement in the Area will be permitted, and accordingly, their registered address will be changed.

6. In view of the above said, since the petitioners have the option to arrange their status in the Area in the above specified manner, the respondents are of the opinion that the petition before us, in fact, became redundant, and need not be heard. Therefore, this petition should be summarily rejected or, at least, deleted.

Needless to point out, that nothing in the above said may prevent the petitioners from filing an appropriate petition with the honorable court, should they find it necessary to do so, after the examination of their application on its merits.

Today, 10 Adar B 5761

March 16, 2011

(signed)

Hila Gorni, Advocate

Senior Deputy at the State Attorney's Office