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At the Supreme Court
Sitting as the High Court of Justice

HCJ 813/14

Anonymous et al.

Represented by counsel, Adv. Najib Zaid et al.,
34 Ben Yehuda St., Jerusalem,
Tel: 02-6221515; Fax: 02-6221512

The Petitioners

v.

1-3, 5-6 Minister of Interior et al.

Represented by the State Attorney's Office
Ministry of Justice, Jerusalem
Tel.: 02-6466246; Fax: 02-6467011

4. Israeli Knesset

Represented by counsel, Adv. Gur Blei
Knesset Building
Tel.: 02-6408479; Fax: 02-6753495

The Respondents

Updating Notice on behalf of Respondents 1-3 and 5-6

1. According to the decision of the Honorable court dated June 8, 2015, respondents 1-3 and 5-6 (hereinafter: the **respondents**) hereby respectfully submit an updating notice on their behalf.
2. As is remembered, on June 8, 2015, a hearing was held by the honorable court in the above captioned petition and in a host of other petitions in the context of which similar arguments were raised. Upon the termination of the hearing the honorable court held as follows:

The law being the subject matter of the petitions is about to expire. An updating notice shall be submitted not later than August 5, 2015. Following receipt of the notice we shall decide whether or not an *order nisi* should be issued, and if any, what type of *order nisi*; and whether the panel should be expanded or judgment should be given.

3. As noted by the respondents in their previous responses, the Citizenship and Entry into Israel (Temporary Order) Law, 5763-2003 (hereinafter: the **Temporary Order Law**) stipulates in section 5 thereof that "... the government, with the approval of the Knesset, may extend its validity by order, for periods which will not exceed one year at a time." According to the mechanism prescribed in the Law, prior to the government resolution and its submission to the Knesset for its approval, the competent security agencies are required to estimate the potential risk which arises from the entire relevant security and intelligence infrastructure.
4. Accordingly, we notify that a current security opinion was submitted to the Minister of Interior.
5. According to the current opinion of the Israel Security Service (ISA) which was presented to the Minister of Interior and which was provided to the members of the government, for their perusal, in a meeting concerning the extension of the validity of the Law: the population of family unification applicants who are residents of Judea, Samaria and Gaza and foreign nationals of enemy states, or residents of areas whose entry poses a potential risk, or residents of areas which are in a protracted conflict with the state of Israel, is a risk posing population as compared to family unification applicants from other places, in view of the proven possibility to obtain the assistance of such population for the execution of terror attacks and espionage activities, considering the better accessibility to targets in Israel of the holders of stay permits in Israel, and even more so, of those who received residency status in Israel by virtue of family unification, and the freedom of movement of which they enjoy throughout the state of Israel.

The above should be coupled with the inherent and built-in problems and difficulty involved in conducting a prior individual examination of all family unification applicants who belong to the above mentioned risk posing populations, which derive, *inter alia*, from the fact that the motivation of the terror organizations to recruit these family unification applicants increases precisely after the applicant receives a permit which enables him to enter Israel and move freely therein, and from the fact that the results of such individual examinations do not attest, **in and of themselves**, of the absence of a future security risk, if any. Under these circumstances – a prior individual examination cannot provide a solution in cases in which the applicants do not support terror on the application submission date, but may become terror supporters on later stages, either out of choice and identification with the residents of the Area, or as a result of pressures and threats exerted on their family members who live in the Area, as a result of which they provide assistance to terror organizations.

Said professional opinion, which was presented before the Minister of Interior and before the government, is currently in force, mainly in view of the attractiveness of the assistance provided to terrorists by such family unification applicants, while under circumstances of a renewed wave of terror the phenomenon of utilizing said population for the execution of terror attacks may be vigorously resumed. It should be added that the potential security risk increases in view of the regional and international developments which occurred this year, with emphasis on the security situation *vis-à-vis* the Gaza Strip ("Protective Edge" operation), the sharp increase in the total number of terror attacks from Judea, Samaria and Gaza, mainly after the abduction and murder of the three youths which was followed by the abduction and murder of the youth Muhammad Abu Khdeir. At the same time, there has recently been a sharp increase in the number of severe attacks which were carried out with firearms and white arms, along several ramming terror attacks which resulted in the death of Israeli citizens in the Jerusalem area and in the Judea and Samaria area, taking into consideration the processes which take place in the countries of the region, with an emphasis on the intensification of extreme Islamic bodies, the stabilization of the Hamas rule in Gaza and the increasing influence of global Jihad in the region. In this context reference is made to the increase in the number of terror attacks in the model of a "single perpetrator", demonstrating courage and planning, which resulted in a significant increase in the number of injuries over the course of the

year. In addition, reference should be made to a significant increase of terror attacks including popular terror with different characteristics in Jerusalem and in the Judea and Samaria area.

At the same time, and as indicated by the security agencies' opinion, one can see that over the course of the year military Hamas infrastructure was exposed, which was aimed at the establishment of military cells in different parts of Judea and Samaria, acquired weapons for the execution of attacks against Israeli targets in Judea and Samaria and in Israel, and acted in cooperation with Hamas headquarters abroad.

The state of Israel is still in a state of belligerent conflict with the terror organizations in the Judea, Samaria and Gaza areas and is subjected to security threats posed by enemy states and hostile areas and to threats arising from the penetration of additional active terror bodies into the region. The potential security risk may be aggravated as a result of the deterioration in all aspects of the security situation, as described above, against the backdrop of the instability in the region. Hence, one cannot point at a change in the basic conditions upon which the enactment of the Law was premised, in a manner which would enable to revoke the limitations which were established in the Temporary Order Law.

Therefore, in view of all of the above, and in view of national security considerations, the position of the security agencies, as presented before the Minister of Interior and the government, is that there are security reasons which justify, in and of themselves, the extension of the Law by an additional year, at this time.

With respect to the Gaza Strip, on September 19, 2007, the security-political cabinet determined that: "Hamas organization is a terror organization which took over the Gaza Strip and turned it into a hostile area. Said organization conducts hostile activity against the state of Israel and its citizens and is the responsible address for this activity. In view of the above it was resolved to adopt the recommendations which were presented by the security agencies, including the continued military and preventive activity against terror organizations. In addition, additional limitations will be imposed on the Hamas regime... and a limitation will be imposed on the travelling to and from the Strip..."

The position of the security agencies as given prior to the adoption of the government resolution (No. 3598) dated June 15, 2008, and prior to the government resolution dated July 19, 2009, is that ever since the IDF has left the Gaza Strip and in view of the full and effective Hamas control over the entire Strip including over additional terror organizations acting therein – the threat of entry of Gaza Strip residents into Israel has significantly increased. In view of the above, the government guided the Minister of Interior and anyone appointed by him for this purpose, to refrain from approving applications to enter and stay in Israel submitted by Gaza Strip residents pursuant to sections 3 and 3A(2) of the Law, and the Minister of Interior ordered accordingly.

The up-to-date position of the security agencies concerning the Gaza Strip is that in view of the continued terror activity which is carried out from the Gaza Strip towards the state of Israel, as expressed in the military operations constantly launched against the Gaza Strip (including the "Cast Lead" operation, the "Pillar of Defense" operation and the "Protective Edge" operation) - the Gaza Strip is still an area in which activity takes place which may pose risk to the security of the state of Israel and its citizens, and therefore, the Minister of Interior should be guided to act according to the provisions of section 3D of the Law.

With respect to family unification applications of Gaza residents, we wish to refer the honorable court also to its recent judgment on this matter in H CJ 4047/13 **Hadri v. The Prime Minister** (reported in the Judicial Authority Website, June 14, 2015).

6. Against the above backdrop, the government deliberated on this issue on June 14, 2015, and decided to approve the extension of the Temporary Order Law until June 30, 2016.
7. Following the above, on June 15, 2015 the Knesset plenum approved the government's request to extend the validity of the Temporary Order Law until June 30, 2016.
8. **In addition to the above said, we would like to update that according to the notice of the Ministry of Interior, which was presented before the government in the context of the discussion regarding the extension of the validity of the Law, the population authority commenced administrative work concerning the comments of the honorable court with respect to the Temporary Order Law. The administrative work is about to take in cooperation with all relevant agencies, and is expected to terminate within six months (from the date on which the Law was extended), namely, until mid-December 2015.**
9. This notice is submitted and will be contemporaneously transmitted to petitioners' counsel in all other petitions which were heard by the honorable court on June 8, 2015.

Today, 20 Av 5775
August 5, 2015

(signature)

Yochi Genessin, Advocate
Senior division director (administrative affairs)
in the State Attorney's Office

(signature)

Moriah Frieman, Advocate
Deputy in the State Attorney's Office

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The Petitioners in HCJ 6713/14

_____ **Mahamid et al.**

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The Petitioners in HCJ 8408/14

v.

1. Minister of Interior

2. The Knesset

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3. The Prime Minister

4. Attorney General

Respondents 1, 3 and 4
Represented by the State Attorney's Office
29 Salah a-Din Street, Jerusalem 91010
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The Respondents in all Petitions

Updating Notice on behalf of the Knesset

According to the decision of the honorable court dated June 8, 2015, the Knesset hereby respectfully submits an updating notice on its behalf, as follows:

1. The Knesset hereby respectfully updates the honorable court that on June 15, 2015, the Knesset Plenum discussed the government resolution to extend by order the validity of the Citizenship and Entry into Israel (Temporary Order) Law, 5763-2003 (hereinafter: the **Temporary Order Law**) until June 30, 2016, in accordance with section 5 of the Temporary Order Law. Upon the conclusion of

the discussion, the Knesset plenum approved the above order by a majority of 57 members who voted for the order, as opposed to 20 members who voted against it and 5 who abstained.

2. In addition, on the same date, the Knesset plenum discussed a proposal of the Knesset Committee to authorize a joint committee of the Foreign Affairs and Defense Committee and the Internal Affairs and Environment Committee to discuss the orders for the extension of the validity of the Temporary Order Law, in accordance with section 5 of the Law, prior to their presentation before the Knesset plenum. According to the proposal, the joint committee will be entitled to recommend to the Knesset plenum to approve the draft order presented to it, to reject it or approve it subject to changes (namely, for a period different than the one proposed by the government). The proposed decision clarified that it did not relate to the extension of the validity of the Temporary Order Law in the case at hand, and would apply only to future extensions, if any. Upon the termination of the discussion, the Knesset plenum approved the proposal of the Knesset Committee by a majority of 50 members who voted for the proposal, as opposed to 11 members who voted against it, with no abstentions.

Today: August 5, 2015
20 Av, 5775

(Signed)

Dr. Gur Blei, Advocate
Counsel to the Knesset