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At the Supreme Court
Sitting as the High Court of Justice

HCJ 7040/15
HCJ 7076/15
HCJ 7077/15
HCJ 7079/15
HCJ 7081/15
HCJ 7082/15
HCJ 7084/15
HCJ 7085/15
HCJ 7087/15
HCJ 7092/15
HCJ 7180/15

Hamed

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Petitioners in HCJ 7077/15
Petitioners in HCJ 7084/15

Rizeq et 5 al.
Haj Hamed at 4 al.
Kusa et 1 al.
‘Abd al-Ghani et 23 al.

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Petitioners in HCJ 7079/15
Petitioners in HCJ 7085/15
Petitioners in HCJ 7087/15
Petitioners in HCJ 7180/15

**‘Amar et 1 al.
Rizeq et 5 al.**

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Petitioners in HCJ 7092/15

The Petitioners

v.

Military Commander in the West Bank

**Respondents in HCJ 7040/15
HCJ 7076/15
and HCJ 7084/15**

**Military Commander in the West Bank
Judea and Samaria Area Legal Advisor**

Respondents 1 and 2 in HCJ 7077/15

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**Respondent in HCJ 7079/15
HCJ 7081/15
HCJ 7082/15
HCJ 7085/15
HCJ 7087/15
HCJ 7092/15
HCJ 7180/15**

Supplementary Notice on behalf of the State

In accordance with the decision of the Honorable Court dated October 29, 2015, the State hereby respectfully submits the following notice on its behalf:

1. On October 29, 2015, a hearing was held in the above named petitions. Later that day, the State stated it was willing to consider said hearing as having been held "under an *order nisi* in the petitions". The State requested leave to submit a supplementary notice with respect to several matters.
2. Consequently, the Honorable Court issued a decision instructing the submission of a supplementary notice on behalf of the State. The State was also requested as follows:
 3. The state will attach to the supplementary notice a detailed list of all demolition orders, petitions against were denied by the High Court of Justice dating back to 2013 and which the state failed to execute shortly after the

judgments. Details will include: dates of judgments, actual dates of demolition order execution and grounds for the timing of the execution of the order.

4. The State mentioned in the hearing that it would submit the admissions of the three suspects in the murder of Mr. and Mrs. Henkin. It will do so as part of its supplementary notice. To the extent the State wishes to provide further details concerning the evidence in the petitions before us, and particularly in connection with the evidence pertaining to the suspect Hamed, it will also be able to do so as part of the supplementary notice.

5. The State will also specify its argument that Haj Hamed lived alternately on the two floors in the building that is the subject of HCJ 7076/15 and in HCJ 7085/15.

6. To remove any doubt, the Respondents are requested to specify, with respect to the six houses that are the subject of the proceedings, the petitions pertaining to each and every one of them, and the floor in the building to which the petitions pertain. This is requested in order to avoid any errors.

We shall now proceed with the supplementary information in sequence.

To remove doubt – the location of the units

3. The relevant details for each of the housing units that are the subject of the petitions are listed below:
 - a. HCJ 7076/15 and HCJ 7085/15 – The unit occupied by Hamed, the terrorist suspected in the murder of Mr. and Mrs. Henkin. These are two units located on the two middle floors (first and second floors above the ground floor) in a four story building in the Iscan Rujib area of the city of Nablus. It is important to note that the terrorist alternately occupied both units, and therefore there is lawful cause to demolish both.
 - b. HCJ 7079/15 and HCJ 7082/15 – The unit occupied by Rizeq, the terrorist suspected in the murder of Mr. and Mrs. Henkin. The unit in question is located on the middle floor of a three-story building in the neighborhood of ‘Araq a-Tih in the city of Nablus, where the terrorist resided with his family.
 - c. HCJ 7087/15 and HCJ 7092/15 - The unit occupied by Kusa, the terrorist suspected in the murder of Mr. and Mrs. Henkin. The unit is located on the bottom floor in a building that has two completed floors and a third, nearly completed floor, in the neighborhood of Dahia in the city of Nablus.
 - d. HCJ 7040/15 and HCJ 7180/15 – The unit occupied by ‘Abdallah Ishak, the terrorist suspected in the murder of Malachi Rosenfeld. The unit is located on the top floor of an eight-story building in the village of Silwad, north of Ramallah.
 - e. HCJ 7084/15 – The unit occupied by Ma’ez Hamed, the terrorist suspected in the murder of Malachi Rosenfeld. This is a single-story house built on a terrace, with a sub-level under the main house, in the village of Silwad, north of Ramallah.
 - f. HCJ 7081/15 – The unit occupied by Muhammad Abu Shahin, the terrorist suspected in the murder of Danny Gonen. The unit is located on the top floor of a three-story building, in the Qalandiya refugee camp.

On the issue of compensation

4. During the hearing held on October 29, 2015, a question was posed as to the State's position on providing compensation should structures adjacent to the structures slated for demolition be damaged (compared to the condition of the units prior to the demolition). The State's position on this issue is as follows:
5. The State respectfully announces that inasmuch as adjacent structures sustain damage as a result of negligent planning/execution of the demolition of the structure slated for demolition, the State will agree, *ex gratia*, to repair the structure or provide the owners compensation for direct damage caused to the structure, subject to an evaluation by a State appointed assessor and to the following conditions:
 - a. The deficiency in the operation was not the result of disturbances, riots or any other resistance encountered by the forces on the ground.
 - b. The owners of the structures have not received any compensation and/or indemnification and/or participation for damage from the Palestinian Authority or any other entity.
 - c. Compensation will be awarded subject to the provisions of Section 5b of the Civil Wrongs (Liability of the State) Law 5712-1952.

On the issue of considering alternatives to the demolition in each case

6. Another issue raised during the hearing held on October 29, 2015, concerned the manner in which the orders that are the subject of the petitions were to be executed.
7. As noted by the Respondents during the hearing held on October 29, 2015, the various possible alternatives for executing the order issued under Regulation 119 were examined in each of the above cases (full demolition, demolition of inner walls and ceiling and sealing). This examination process led to the conclusion that in each of the above cases, the Respondents believed that the the demolition of the building/unit is required due to the overall relevant circumstances, including engineering, practical and operative considerations, as well as deterrence.
8. As clarified during the hearing held on October 29, 2015, the manner in which an order is executed derives from the individual deterrence considerations underlying it, as well as the individual features of each building and its close vicinity.

Execution of demolition orders following dismissal of petitions filed against them

9. The decision issued by the Honorable Court instructed: "The state will attach to the supplementary notice a detailed list of all demolition orders, petitions against were denied by the High Court of Justice dating back to 2013 and which the state failed to execute shortly after the judgments. Details will include: dates of judgments, actual dates of demolition order execution and grounds for the timing of the execution of the order". Below is a fully detailed list of house demolitions pursuant to Regulation 119, petitions against which were rejected during those years (we note that no demolitions were carried out in 2013):

Petition No.	Matter	Date of judgment	Date of demolition
4597/14	Demolition of the home of the terrorist who murdered Commander Baruch Mizrhay on April 15, 2014.	Jul. 1, 2014	Jul. 2, 2014

5290/14	Demolition of the home of a terrorist who took part in the kidnapping and murder of the three youths, Gilad Sha'er, Eyal Yifrah and Naftali Frenkel on June 12, 2014.	Aug. 11, 2014	Aug. 18, 2014
5295/14	Demolition of the home of a terrorist who took part in the kidnapping and murder of the three youths, Gilad Sha'er, Eyal Yifrah and Naftali Frenkel on June 12, 2014.	Aug. 11, 2014	Aug. 18, 2014
5300/14	Demolition of the home of a terrorist who took part in the kidnapping and murder of the three youths, Gilad Sha'er, Eyal Yifrah and Naftali Frenkel on June 12, 2014.	Aug. 11, 2014	Aug. 18, 2014
7823/14	Demolition of the home of the terrorist who murdered Avraham Walles using an excavator on August 4, 2014.	31 Dec. 2014	Oct. 6, 2015
8024/15	Demolition of the home of a terrorist who committed a shooting attack on October 22, 2014, in which Yehuda Glick was severely injured.	Jun. 15, 2015	Oct. 6, 2015
8025/14	Demolition of the inner Qalandiya Refugee Camp home of a terrorist who committed a vehicular attack in the Shimon Hatzadik light rail station on November 5, 2014, murdering Chief Inspector Jidan Assad and Shalom Baadani.	Dec. 31, 2014	Not yet executed for operational reasons
8066/14	Demolition of the home of a terrorist who committed a shooting and stabbing attack at a Har Nof synagogue murdering Avraham Goldberg, Moshe Twersky, Kalman Levine, Aryeh Kupinsky, Master Sergeant Zidan Seif and Chaim Rothman.	Dec. 31, 2014	Oct. 6, 2015
8070/14	Demolition of the home of a terrorist who committed a shooting and stabbing attack at a Har Nof synagogue murdering Avraham Goldberg, Moshe Twersky, Kalman Levine, Aryeh Kupinsky, Master Sergeant Zidan Seif and Chaim Rothman.	Dec. 31, 2014	Jul. 1, 2015
5839/15	Demolition of the home of a terrorist who ran over and murdered Dalia Lemkus on November 10, 2014.	Oct. 15, 2015	Oct. 20, 2015

10. The above list contains the details requested by the Honorable Court with respect to the dates the judgments were issued and the dates on which the orders were subsequently executed.
11. The timing of the execution of the orders, following the judgments, is affected by policy and security considerations, including operational situation analysis, troop complement, overall security situation on the ground, possible implications of executing the order at the time, etc. This is an array of complex considerations that must be calibrated and weighed before an order is executed.

In this context, as emerges from the table provided above, there is a distinction between cases in which there was no issue with executing the order immediately after the relevant judgment was issued, as the exact timing of the demolition was decided according to operational considerations on the ground – and cases in which the timing of the demolition was affected by broader policy and security considerations that go beyond the immediate operational considerations concerning the demolition itself. Naturally, the deterrence aspect of executing an order is not the same at a time when one terrorist attack is immediately followed by another and a time of relative calm.

Evidence that may be disclosed regarding the suspects in the murder of Mr. and Mrs. Henkin

12. As noted by the State during the hearing held on October 29, 2015, following an examination of the evidence in the matter of the suspects in the murder of Mr. and Mrs. Henkin, considering the comments made by the Honorable Court, it has been found that some of it could be disclosed to the Petitioners. The Respondents maintain that this evidence, as well as further classified information in their position clearly points to direct involvement by the three suspects in the shooting attack during which Mr. and Mrs. Henkin were murdered in front of their children. Correspondingly, the Respondents believe they have near certain administrative evidence that the attack was perpetrated by the suspects, evidence that allows and justifies use of the powers granted by Regulation 119 with respect to the buildings in which they resided

A copy of the open evidence in the matter of Rizeq is attached hereto and marked **R/1**.

A copy of the open evidence in the matter of Kusa is attached hereto and marked **R/2**.

A copy of the open evidence in the matter of Hamed is attached hereto and marked **R/3**.

The evidence in the matter of Ma'ed Salah Jum'ah Hamed (hereinafter: Ma'ed), suspected in the murder of Malachi Rosenfeld

13. As noted in the Response on behalf of the Respondents submitted in HCJ 7084/15, the open evidence in the Respondent's possession, i.e., the statement of Ishak (hereinafter: 'Abdallah), Ma'ed's accomplice, given during his interrogation, and the indictment served against 'Abdallah, which provides precise details regarding Ma'ed's role in the heinous attack, constitutes strong, persuasive administrative evidence sufficient to substantiate the Respondent's decision to take action toward the seizure and demolition of the building in which the terrorist resided.

The Respondents further noted that there is classified material that may be presented ex parte, which supports the aforesaid. The material in the Respondent's possession indicates that the claim the Petitioners make in the petition whereby: "While Mr. Hamed was arrested by the Palestinian Authority some three months ago, he has yet to admit to the allegations against him, or be tried and convicted" (paragraph 4 in the petition) is incorrect.

14. In addition to the aforesaid, the Respondents have the statement of Hamed, who is suspected of having bought the weapon used to commit the attack, as well as the statement of Hamed, who took part in forming the cell that carried out the attack. Amjad and Fa'id detail Ma'ed's role in the attack in their statements.

The statements of Hamed and Hamed are attached and marked **R/4** and **R/5** respectively. The Respondents have further statements from these two (some 100 pages) which also elucidate Ma'ed's part in the attack.

15. We note that the classified material in the Respondents' possession refers to the statements made by the terrorist Ma'ed to the Palestinian Authority, where he is under arrest. Intelligence information corroborates Ma'ed's part in the attack. We note, to remove any doubt, that Ma'ed is referred to in the indictment and in certain statements with the last name al-Najar. The reason for this is that Ma'ed appears under two last names in the system: Hamed and al-Najar. It is, obviously, the same person.

The residence of Yhya Haj Hamed

16. As noted by the Respondents in their response dated October 27, 2015, according to information in their possession, the terrorist Hamed lived in units located on the first and second floors (above the ground floor) in the building that is the subject of HCJ 7076/15 and HCJ 7085/15. This conclusion is

based partly on surveying conducted by relevant military personnel with the participation of a representative of the ISA.

This survey revealed that although the terrorist Hamed lives with his parents in a unit on the first floor above the ground floor, the unit located on the second floor is designated for the terrorist and its construction has been completed. All that is left is to bring in furniture and install inner doors. In this context we note that as stated in the survey report, some of the furniture has already been brought into the unit, including sofas, which appear to have been used for sleeping in the unit, as well as a ping-pong table. In addition, the unit is already connected to electricity (though at the time the survey was conducted, electricity on that floor malfunctioned, but the terrorist's brother claimed this was temporary). In addition, and to complete the picture, we note that the survey revealed that the second floor unit was not clean. It had a lot of dust and had no bed or appliances. We also note that during the survey, there was a conversation with family members who confirmed that the terrorist Hamed lived in his parents' unit, **but was already sleeping in his new unit on occasion.**

A copy of the survey of Hamed's house conducted on October 11, 2015 is attached hereto and marked **R/4**.

17. To present the full picture, we note, that during his interrogation, the terrorist Hamed was asked about assets he owned. The terrorist, Hamed, said he had no assets registered in his name and that he was planning to build a home after his engagement, but had not yet had the chance to do so.
18. Given all the aforesaid, the responses of the Respondent to the petitions, and with attention to the consistent, extensive jurisprudence produced by the Honorable Court with respect to the use of Regulation 119, the Respondents believe that there is no cause to interfere with the decision to issue seizure and demolition orders for the buildings that are the subject of these petitions, and the petitions must be dismissed.
19. The statements made in paragraphs 6-8 above are supported by the affidavit of Col. Ido Mizrahi, Engineering Commander at the IDF Central Command. The facts listed in the table presented above are supported by the affidavit of Col. Aviram Sela, Head of Operations Directorate, Operations Branch, IDF. The statements made in paragraph 11 above are supported by the affidavit of the Head of the National Security Council, Mr. Yossi Cohen.

Today 20 Cheshvan, 5776
November 2, 2015

[signed]	[signed]	[signed]	[signed]
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