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At the Supreme Court in Jerusalem
Sitting as the High Court of Justice

HCJ 3571/20

1. _____ **Khasib**
2. _____ **Hareshah,**
3. _____ **'Amar**
4. _____ **Sabah**
5. _____ **Hussein**
6. _____ **Daud**
7. **Taysir Fathi Taha 'Amarneh, Head of Akkabah Village Council**
8. **HaMoked: Center for the Defence of the Individual**
Represented by Counsel, Adv. Michael Sfard and/or Haya Abu Warda and/or Hagai Benziman and/or Alon Sapir,
12 David Hachmi St., Tel Aviv, 6777812,
Tel: 03- 6206947/8/9, Fax: 03-6206950,

The Petitioners

- Versus -

1. **Prime Minister of Israel**
2. **Minister of Defense**
3. **IDF Commander in the Judea and Samaria Area**
4. **Ministry of Defense - Separation Fence Administration**
Represented by Counsel from the State Attorney's Office,
Ministry of Justice, Jerusalem
Tel: 073-3925305; 02-6467011

The Respondents

Response on behalf of the Respondents towards the Hearing in the Petition

1. Towards the hearing in the petition which is scheduled for February 10, 2022, a response is hereby submitted on behalf of the Respondents in which the Respondents wish to refer to the allegations raised by the Petitioners in their reply to Respondents' preliminary

response, including the new opinion which was attached by them, dated September 29, 2021.

2. In the petition the Petitioners request to order the Respondents "to dismantle the route of the separation fence in the section of the villages Nazlat 'Isa, Qaffin and Akkabah, from the Nazlat 'Isa agricultural gate in the south to the meeting point between Road No. 161 and the Green Line in the north (hereinafter: the **section**), per the markings on the map attached as Annex 1, and, inasmuch as they so wish, its relocation west of the Israeli-Jordanian 1949 Armistice Line (the "**Green Line**" or the "**Judea and Samaria Border Line**")." It is a route of the security fence spanning some 6 Kilometers in the area of the above villages between "Nazlat 'Isa" gate in the south and Road No. 611 in the north.

In the framework of the petition the Petitioners argue that the current route of the fence "traps" thousands of dunams of farmland belonging to the residents of the three villages in which the Petitioners live on the west side of the fence; and that the "trapping" of these lands, alongside the mechanism for issuing permits to enter the seam zone employed in the recent years (hereinafter also: the **Permit Regime**) disconnected the landowners from their lands, deprived them of their ability to earn a living from said lands, and disproportionately harmed the rights of the landowners. Given the above, the Petitioners argue that leaving the fence in its current location is extremely disproportionate. The Petitioners explain that the petition is filed only now, approximately 15 years after the fence was built, due to the exacerbation of the harm allegedly caused over the years by the mechanism pursuant to which agricultural permits to enter the seam zone are issued, in a manner which according to them, violates the state's undertaking to maintain the fabric of life in the seam zone.

3. On December 18, 2020, the Respondents submitted their preliminary response to the petition in which they argued that it should be summarily dismissed for a host of reasons, primarily due to a heavy delay in the submission of the petition, some 18 years after the issuance of the original decrees and the deletion of the petition which had been filed against the route of the security fence in the seam zone (HCJ 7783/02); some 15 years after the erection of the fence, after the lands on which the fence was built had been seized and after tens of millions of shekel were invested in its erection; and some 9 years after the principled judgment on the permit regime in the seam zone (HCJ 9961/03) was given. All of the above **in the absence of a foundation which can support the very exceptional remedy requested by the Petitioners – diverting the security fence years after it was examined and approved by the honorable court**; and which can support Petitioners' allegation regarding a concrete exacerbation of the harm caused to them, justifying said delay. The Respondents also argued that the petition should be summarily dismissed due to the general and all-inclusive allegations raised therein with respect to the alleged harm caused to the Petitioners as a result of the permit regime in the seam zone without a concrete and solid factual basis, and particularly – without explaining how the general arguments concerning the permit regime affect the Petitioners themselves and their ability to cultivate the lands which are the subject matter of the petition.
4. Beyond need, the Respondents argued that the petition should also be dismissed on its merits since the route of the security fence in the seam zone and the existing permit

regime constitute a proportionate arrangement properly balancing the operational-security consideration and the need to maintain the fabric of life of the local residents as aforesaid. It was also argued that the need to have the seam barrier still stands in view of the security situation, and that the petition was far from establishing grounds justifying the grant of the very exceptional remedy requested therein, which shall obligate the Respondents to divert the route of the fence years after it was placed, with all ensuing consequences including costs and additional harm to additional lands, the above on the basis of general allegations of harm which are not supported by any concrete infrastructure. Finally, the Respondents noted that the remedy to the specific allegations concerning seam zone access problems, if any, is found in promoting a periodic discourse for the purpose of finding solutions to handle the alleged seam zone access problems, rather than in giving the exceptional remedy which is requested in the petition. All as specified in Respondents' response to the petition.

Note well, prior to the filing of the petition at hand, a meeting was held on February 26, 2020, led by the Head of Keshet Zevaim at the central command and with the participation of the different security forces bodies responsible for the security fence and the permit regime in the relevant region, the above with the intention to more thoroughly examine the problems which were described by the Petitioners in their letter to the Respondents and for the purpose of finding practical solutions for the alleged problems. The meeting was attended by the representatives of petitioners 1-7 and by the representatives of petitioner 8 (petitioners 1-7 did not attend the meeting). In the discussions which were conducted between the Respondents and Petitioners' representatives in said meeting, **the latter refused to discuss the specific difficulties which allegedly arose from the permit regime in the seam zone which is the subject matter of the petition, and reiterated their general allegations regarding the difficulties presented by the permit regime in the seam zone and their principled demand to dismantle the section of the fence.** In said meeting it was offered to Petitioners' representatives to establish a periodic forum to promote solutions for the alleged access difficulties in the seam zone. **It should be noted that said offer still stands today.**

5. About nine months after the Respondents had submitted their preliminary response as aforesaid, the Petitioners submitted on September 29, 2021, with the approval of the honorable court, a response to the state's response in which they have raised allegations that according to them refuted the state's response. In addition, the Petitioners added to their response an opinion on behalf of Ms. Hagit Ofran, which included an analysis of aerial photos of several points in the area, on which they sought to substantiate their allegation that the ability of the residents of the area to cultivate their seam zone lands was harmed, that the lands were deserted and that agricultural cultivation in the seam zone was abandoned (hereinafter: **Petitioners' Opinion**).
6. **Given that when the petition was filed it was not premised on some of the allegations raised by the Petitioners in their response as well as on the new opinion which was submitted on their behalf, they obviously were not referred to in Respondents' response; in order to present to the honorable court the full factual picture which is required and in order to make a decision in the petition, the Respondents shall now respond to the allegations which were raised in Petitioners' reply and to the**

opinion which was submitted on their behalf. It should be noted that the above is done pursuant to Respondents' consent to Petitioners' application to submit their reply, provided that the state is given the opportunity to respond thereto if necessary, prior to the hearing.

7. In the examination of the allegations raised by the Petitioners in their reply concerning the harm caused by the security fence and the permit regime to the ability of the farmers in the seam zone to cultivate their lands, and following the opinion which was attached to substantiate said allegations as aforesaid, a thorough examination was conducted by the Respondents in the framework of which two expert opinions were prepared - the first refers specifically to Petitioners' Opinion and examines its conclusions (hereinafter: the **Specific Opinion**), and the other discusses in general the scope of movements and land uses observed in the Qaffin area which is the subject matter of the petition, and examines the factual data regarding the changes which were made in the area for agricultural purpose and the cultivation of the land (hereinafter: the **General Opinion**).

It should be clarified that the above opinions constitute an integral part of this response and are attached hereto as Exhibits **RS/1** and **RS/2** respectively.

8. Before the Respondents respond to the allegations raised by the Petitioners in their reply and clarify why according to their position said allegations should be denied, it should be reiterated and clarified that the allegations of the Petitioners in their petition pertaining to Respondents' procedures and the implementation of the permit regime should be dismissed since a decision therein is expected to be given by the honorable court in H CJ 6896/18 **Ta'meh v. Military Commander** (hereinafter: **Ta'meh**). The Respondents will argue that there is no room to also discuss in the framework of this proceeding, the allegations concerning the amendments of the Standing Orders from 2017 and 2021 (a revision which was made in view of the comments of the honorable court in **Ta'meh**), all as specified below.

The allegation that there was a substantial decline in the scope of agricultural cultivation in the seam zone

9. In their reply the Petitioners reiterated their allegations that the ability of the residents of the area which is the subject matter of the case at hand to cultivate their lands was harmed as a result of the route of the seam zone fence and mainly, according to them, due to the tightening of the permit regime over the last few years, which allegedly reduced the eligibility of farmers to enter into the seam zone. As aforesaid, the Petitioners attached to their reply an opinion from which they concluded that "Many plots in which field crops were grown before the erection of the fence, are currently deserted and are not cultivated" and that "Plots consisting of olive trees which in the past were well cultivated, currently seem to be uncultivated."

We wish to refer to Petitioners' Opinion:

10. First, according to the Specific Opinion submitted on behalf of the Respondents, fundamental flaws and deficiencies were found in the methodology of the examination on which Petitioners' Opinion was based which, with all due respect, cast a heavy shadow on the ability to substantiate conclusions thereunder to support Petitioners' allegations. Accordingly, it was found that **the opinion does not include information concerning**

the formal education of the author and her qualifications. In addition it was found that **there are many deficiencies in the aids which were attached to the opinion, which are required to substantiate a geographic basis for the location of the photos of the plots in time and space.** Among other things "there was no indication of the source of the photo, the month on which the photo was taken, the scale, orientation map, north arrow and a coordinate system". It was also found that the **opinion relies only on two photos on the basis of which a change spanning over two decades was examined** "in a manner making it difficult to draw conclusions about the nature of the change in the land". The expert (on Respondents' behalf) also noted in his Specific Opinion that "it was stated in the opinion that additional photos were used but they were not attached to the opinion, making it impossible to examine the conclusions arising therefrom" (see paragraph 3 of the Specific Opinion).

11. Second, it does not emerge from Petitioners' Opinion that the changes in the nature of the crops specified therein necessarily result from accessibility problems to the land, the above, coupled with the conclusions of the Specific Opinion on behalf of the Respondents whereby "in some parts an increase in the scope of the agricultural activities performed on scene may be pointed at – for instance, plots which were not cultivated and became substantially cultivated, or even plots in which a substantial change was made in the manner of their cultivation [...] requiring extensive agricultural works over substantial period of time [...] (paragraph 4 of the Specific Opinion).

It was also found that Petitioners' Opinion did not include reference to plots in areas adjacent to the plots marked in the opinion and that "it can be seen that the plots adjacent to the marked plots are cultivated and handled in a manner indicating the need to perform many pre-planned tasks" and hence "it cannot be deducted that the changes in the land pointed at by the author resulted from the prevention of access to the seam zone."

12. In addition, it was found that "a different picture from that which the affiant wishes to draw emerges from the analysis of additional photos of **the plots which were chosen** by the author of the opinion". For more details on this matter see paragraph 5 of the Specific Opinion. However, for clarification purposes it should be noted that Petitioners' Opinion refers to units 13, 14, 20 and 21 but it emerges from the Specific Opinion, that **these units are adjacent to the seam barrier itself or were harmed by it, and the route of the fence currently runs through some of these units, a route which has been approved many years ago.** Therefore, said units anyway have no connection to the allegations raised in the petition or to the permit regime in the seam zone.

On the other hand, comparative aids from **May 2019 and May 2021** are attached to the Specific Opinion on behalf of the Respondents showing that "most areas which were presented by the affiant as having been abandoned are actually cultivated, or at least pre-planned agricultural changes were made therein which are inconsistent with the allegation of prevention of access."

13. **Not less important, it was found that Petitioners' Opinion refers only to specific plots in a total area of some 377 dunams, constituting about 8% of the area which is the subject matter of the petition.** Hence, the Respondents shall argue that these data do not represent farming in the seam zone, and they certainly cannot substantiate

Petitioners' general allegation that the entry of farmers for the purpose of cultivating their lands is encumbered and that in general, they are denied access to their plots.

Moreover, the above data do not refute Respondents' allegation which was included in their preliminary response, that **already when the fence was erected, in 2002, about 93% of the cultivated lands in the relevant section of the seam zone had been used for the purpose of growing olive trees or had not been used for agricultural purposes at all**; and that "it emerges from the analysis of the 2002 aerial photos and the comparison with the current aerial photos that the scope of agricultural crops in the seam zone has not substantially changed since the erection of the security fence" (see paragraph 68 of the preliminary response and RS/10 of the response).

Accordingly, the area which was examined in Petitioners' Opinion does not constitute a representative example of their general allegations and therefore Petitioners' allegations whereby access to the agricultural land in the seam zone is prevented should be denied.

14. In addition to the partial opinion which had been submitted by the Petitioners as aforesaid, the Respondents have examined all of the plots which are the subject matter of the case at hand and the conclusions of said examination are specified in the General Opinion which is attached to this response (RS/2).
15. The General Opinion examines the scope of movements and land uses observed in the Qaffin-Green Line area, in a bid to obtain as accurate a picture of the situation as possible, considering Petitioners' allegations that they are denied access to the agricultural lands and are deprived of their ability to cultivate them.
16. In the framework of the opinion, a two layer examination was conducted: **the first**, consists of data taken from the national topographic data bank of the Israeli mapping center (hereinafter: **National Topographic Data Bank**¹). **The other**, consists of an analysis of consecutive data spanning over almost two decades (orthophoto) of the entire relevant area.

We shall briefly present the findings of the examination:

17. **The first layer**: an analysis of the data taken from the National Topographic Data Bank, comparing the land cover condition in 2012 to its condition in 2018. According to said analysis not only has a reduction in agricultural cultivation in the seam zone not been observed, but rather "a minor increase in the scope of the cultivated lands in this area is observed (the scope of the cultivated land in the area increased from 75% in 2012 to 78% in 2018)."
18. **The second layer**: in the framework of the analysis of the photos, the plots were classified in the opinion according to the following categories: areas which were harmed by the barrier after 2002 (and are therefore irrelevant and were extracted from the total

¹ For more information see <https://www.gov.il/he/departments/general/bntal>

weighing); areas that since 2002 have not been cultivated or which have never been cultivated; areas in which pre-planned agricultural works were performed as of 2021, or areas in which agricultural works were performed throughout the entire period under examination; and areas in which inconsistent pre-planned agricultural works were observed. It should be clarified that the General Opinion emphasized that it "does not seek to explain the reasons for the changes in the cultivation of the land but only to identify pre-planned, man-made changes in the land".

In the framework of a thorough examination of land uses, including on the basis of a photo analysis made by Respondents' professional bodies, the entire unit (4,113 dunams) which was methodologically divided as aforesaid into 7 sub-units, was examined with respect to the condition of the area between the years 2002 and 2021. Accordingly, more than 700 land units were examined over 6 periods with an emphasis on the last decade (2002, 2008, 2011, 2014, 2018 and 2021), in a bid to locate the pre-planned agricultural changes in said plots, indicating that said plots were accessed and actually cultivated.

19. In said examination it was found that in 299 land units "proof was observed of pre-planned agricultural works in all six photos which were examined or agricultural works were observed therein at least during the last three years – namely, about 52% of the area has been fully cultivated throughout the entire relevant period" (meaning that pre-planned works were observed in all six periods which were examined; the above out of 578 plots which are relevant to the examination as specified in the opinion).

In addition it was found that **"it emerges from the examination of the entire data specified above and attached to the opinion that pre-planned agricultural works were observed in more than 70% of the land units which were examined in a manner indicating substantial entry into the area for the purpose of performing pre-planned agricultural works"**. It was also found that in "about 70% of the area at least 4 agricultural tasks were observed in the 6 periods which were examined" – namely, **said data can point at a substantial agricultural cultivation over time.**

20. It also emerges from the examination that "the dispersion of the plots in which few pre-planned agricultural works were performed [...] does not point at any specific area [...] and they are scattered to the length and width of the area in a manner which cannot substantiate, in and of itself, the existence of difficulty in accessing a certain area in the seam zone."
21. Hence, it emerges from the two above examination layers combined, in which the entire area was examined rather than only a small part thereof as was done in Petitioners' Opinion, **that a trend of reduced agricultural cultivation in the seam zone cannot be identified** (and in the years mentioned by the Petitioners in their opinion there was even a minor increase in the percentage of the cultivated area). On the other hand, **it emerges from the opinion that substantial agricultural cultivation has been performed over time.**

The conclusion arising from all of the above is that the data presented by the Petitioners in their opinion did not substantiate the allegations raised in the petition that the ability of the farmers to cultivate their land was comprehensively harmed (and certainly not in

the magnitude described by the Petitioners); or that any exacerbation in Respondents' policy in 2014 harmed the ability of those wishing to enter the seam zone to access their lands and cultivate them.

22. To complete the picture it should be noted, as was also noted in Respondents' response to the petition, that professionals at the civil administration can identify a certain phenomenon – the scope of which is unclear – of farmers who have ceased cultivating their plots in the seam zone. At the same time, **said phenomenon was identified more than once among farmers holding entry permits into the seam zone for agricultural purposes and frequently using them.** Namely: there is no connection between the desertion of said plots and Respondents' policy pertaining to seam zone entry permits and it can be reasonably assumed that said plots were deserted for other reasons. In this context we wish to remind what has been clarified by the Respondents in their response that "Respondents' bodies are familiar with the phenomenon of cessation of agricultural cultivation alongside substantial use of permits for agricultural needs. However, with due caution, it may indicate that at least some of the permit holders use their permits unlawfully for the purpose of working in Israel and not for the purpose for which the seam zone entry permits were given" (see paragraphs 73-74 of the preliminary response).
23. According to the above said, reference is also made to **Petitioners' allegation concerning the drop in the agricultural yield** as a result of the security fence and the permit regime – in their preliminary response, the Respondents clarified that said allegations were not supported by updated data concerning the scope of the crops in the seam zone and that they were even in contrast with previous reports and correspondences which were described in detail in the response.

In this regard it should be reminded that the justification for the exceptional remedy requested by the Petitioners is found, according to them, in the "severance of the connection between the lands and their owners" and the "90% loss of income from lands in the seam zone section compared to yield before the fence was built". However, said allegations were not substantiated by facts and certainly not in the level of proof which is required for the purpose of granting the requested exceptional remedy; and anyway, given the fact that the Petitioners have been holding permits throughout the period, it has not been proven – at least not in their matter – that the erection of the barrier caused the agricultural yield to drop.

The amendment of the Standing Orders in 2014 and the issuance of entry permits into the seam zone

24. In their reply, the Petitioners raise various allegations with respect to the number of seam zone entry permits which have been issued over the years and reiterate their allegation that there is a "[...] dramatic reduction in the scope of permits approved each year [...]". The Petitioners also argued that the Respondents chose to focus in their response "manipulatively" "on the specific point in the **consistent reduction process in the scope of issued permits** in which an increase in the **absolute** number of issued permits may be pointed at – which is between the years 2015 and 2016" (see paragraphs 3-4 of Petitioners' reply; emphases in the original – the undersigned).

25. First, it emerges from Petitioners' allegations that they refer to the scope of **permanent** agricultural permits between the years 2014-2016, while Respondents' allegations in their response concerning the increase in the number of entry permits into the seam zone which occurred between the years 2014-2016, referred to **all seam zone entry permits** for agricultural purposes which were issued relative to the scope of permits prior to the 2014 amendment of the Standing Orders, including temporary farmer permits and agricultural worker permits. Considering all of the above, there was indeed a substantial increase in these years in the number of permits which were issued relative to the scope of permits which had been issued prior to the 2014 amendment of the Standing Orders; the above, due to the consolidation of the permits and due to the expanded use of the 'agricultural worker permits' and their extension. It should also be noted with respect to the merit of the allegation that factually there was indeed an overall increase in the total number of farmer permits which were issued in 2016 compared to 2014 (3,180 farmer permits in 2014 and 4,286 agricultural permits in 2016).
26. Having said that, the Respondents do not dispute the fact that on an annual basis there is a decrease in the number of farmer permits issued for the seam zone, as stated in the State's response in HCJ 6896/18 **Ta'meh v. Military Commander** mentioned above. The reasons for the decrease in the number of the farmer permits are diverse and pertain to the imposition of stricter criteria for receiving a farmer permit following the misuse of said permits as broadly discussed in Respondents' responses in **Ta'meh**; the expansion of the use of permits for "personal needs"; the consolidation of the "permanent farmer permit" and the "temporary farmer permit"; and the entering into force of an "agricultural worker permit issued to a farmer's relative".
27. At the same time, and as was argued by the state in the response affidavit in **Ta'meh** which was submitted on March 24, 2021, **no decline was identified in the total number of permits for agricultural purposes issued to permit applicants in the seam zone, nor has there been a decline in the percentage of approved applications; and the number of permits for 'personal needs' has even increased.** It was accordingly alleged therein, which allegations were substantiated by data that had been presented in the response affidavit:

"[...] It emerges from the above that throughout 2013 – 2019 (It should be noted that the data for 2020 are only partial, considering the difficulties which arose as a result of the spread of the Coronavirus and the lack of coordination between the Palestinian Authority and the State of Israel which continued for approximately six months) the total number of permits of the types relevant to the case at hand **did not decline** despite the changes which were made in Respondents' Standing Orders, the above contrary to Petitioners' argument. **In addition, the rate of applications which were approved each year of the total number of applications remained relatively stable.**"

See paragraphs 69 -108 of the response affidavit in **Ta'meh**.

A photocopy of the response affidavit on behalf of the state in **Ta'meh** (without exhibits) is attached and marked **RS/3**.

28. Given the above, **it emerges from Respondents' data that there has been no decline, certainly not a drastic decline as described in Petitioners' reply, in the total scope of the different permits issued for agricultural purposes.**

Allegations concerning the definition of a 'miniscule plot'

29. In their reply the Petitioners discuss in detail the aspects pertaining to a 'miniscule plot' as defined in the Standing Orders as they relate to the issuance of an agricultural permit, arising from the 2017 amendment of the Standing Orders. However, as has already been clarified in Respondents' response to the petition, this matter is already pending before the honorable court and has been broadly discussed in **Ta'meh**, in which case the honorable court was presented with data concerning the misuse of permits which led to the formulation of the above definition, and the Respondents have presented comprehensive arguments concerning the reasonableness and proportionality of the 2017 amendment, including the 'miniscule plot' provisions. In addition, the court was presented in **Ta'meh** with the difficulties which arose in the implementation of the permit regime shortly before the 2017 amendment of the Standing Orders with all ensuing consequences, all as discussed in detail therein. Therefore, the Respondents will argue that there is no room to raise arguments concerning a 'miniscule plot' in this proceeding too and as aforesaid, the parties are waiting for the judgment of the honorable court in **Ta'meh**.
30. For the sake of accuracy before the honorable court, it should be clarified that according to information provided by Respondents' bodies, in an additional examination of Petitioners' allegations it was found that the application of Petitioner 2 in 2017 had indeed been denied due to the Standing Orders 'miniscule plot' provisions. At the same time, and as was clarified in Respondents' response, it is not clear from the petition how this provision is relevant to the other petitioners whose plots, to Respondents' knowledge, are not miniscule.

Restrictions on the transfer of equipment and vehicles

31. The Petitioners also argue that notwithstanding the statements made by the Respondents in their response, entering the seam zone with agricultural vehicles is actually prevented. It is also argued that the vast majority of the farmers in the seam zone do not own agricultural vehicles and therefore need to use private vehicles – which according to the policy which was presented - are not allowed to enter the seam zone, other than in exceptional cases. The Petitioners argue further that **"the argument that the Petitioners did not submit applications for the transfer of equipment or vehicles shows only that they are familiar with the procedure and the reality on the ground. However, by merely noting this fact the Respondents do not deal with the substantial issue of the restrictions imposed in fact and by the policy on the transfer of equipment into the seam zone [...]"**.
32. With all due respect, Petitioners' allegation is nothing but a general allegation which is not accompanied by any concrete request of any of the Petitioners, indicating that there is a difficulty in that respect. It would be sufficient to note that in the meeting which was held with the Petitioners on February 26, 2020 (prior to the filing of the petition) no specific arguments were raised by the Petitioners or their representatives in this regard.

33. It should be further added as was specified by the Respondents in their preliminary response that there seems to be no need to further elaborate on the **security reasons** underlying the need to obtain a specific permit for the movement of vehicles, private or agricultural, into the seam zone. However, and notwithstanding said security need, the Petitioners and any person having another connection to the seam zone – can apply to the DCO for the purpose of receiving a specific or general permit for the movement of vehicles as aforesaid, subject to substantiating the connection to the land, and clarifying the need for the movement of the vehicle.

It should be emphasized that the DCO is not familiar with substantial difficulties in receiving specific permits as aforesaid and no records were found of specific applications submitted by the Petitioners in this regard.

Access Routes and Shepherding in the Seam Zone

34. In their reply, the Petitioners allege that there are plots that the routes leading to them are impassable. The Petitioners also argue that difficulties are imposed by the Respondents on the issuance of permits enabling them to pass through gates located near their plots, and to support said allegation they bring the matter of Petitioner 3, whose application for the addition of another gate to his permit through which he would be able to access his plot was examined only after he had been allegedly forced to file an administrative petition in that regard.
35. In that regard it should be clarified that the location of the agricultural gates was established after consultation with the Palestinian DCO and with the relevant authorities – and with respect to the specific section – the gates were established after consultation with Petitioner 7 (Head of Akkabah Village Council).
36. With respect to the allegations concerning the petition of petitioner 3, reference is made by the Respondents to the detailed explanation in his matter given by them in the framework of their response (see paragraph 78 of Respondents' response).
37. With respect to the general allegations concerning the drop in the number of shepherds in the seam zone due to the permit regime, based on the allegations of petitioner 4 and petitioner 7 – the Respondents shall refer again to the arguments made by them in their preliminary response and particularly to paragraph 40 of their response, in which it was clarified that the Respondents cannot refer to arguments whereby the permit regime caused petitioners 4 and 7 to "discard their flocks" without making any attempt to file applications for the transfer of the flocks, and in the absence of a concrete application which was denied. Hence, the above is also a general and insufficiently substantiated allegation.
38. **In conclusion:**

The petition which is the subject matter of the case at hand as well as the reply to Respondents' response do not properly substantiate Petitioners' allegations that due to the present location of the separation fence and the permit regime which is currently applied thereto, harm is caused to the ability to maintain sustainable agriculture in the seam zone

(and the data presented by the Respondents prove that there has been no decrease in the percentage of the cultivated lands and that even the contrary is true), or that an exacerbation has occurred over the years.

With respect to the specific allegations raised by the Petitioners concerning the seam zone entry policy the Respondents have meticulously discussed these allegations, the vast majority of which were raised in a general manner and without a concrete basis. Anyway, to the extent the Petitioners are of the opinion that the seam zone entry policy causes any difficulties, Respondents' position is that **the solution therefore is not found in the extremely exceptional remedy of having the security fence diverted, years after it had been erected and approved by this Honorable Court** – which is needed for security reasons, today just as in the past – **but rather in conducting a continuous dialogue with Respondents' relevant bodies, which shall provide a solution to these and other difficulties in the seam zone** as has already been offered to the Petitioners prior to the filing of this petition, as specified above.

We wish to reiterate that Respondents' offer to establish a periodic forum for the purpose of promoting solutions to the difficulties still stands today.

39. Considering all of the above, Respondents' position is that the petition should be dismissed.
40. The facts specified in the response were confirmed by Brigadier General Ofer Hindi, Head of Keshet Zevaim Administration at the Central Command. However, for technical reasons he was unable to sign an affidavit by the response submission date and his affidavit shall therefore be submitted on a later date.

Today, Adar A 2, 5782
February 3, 2022

Sharon Hoash-Eiger, Advocate
Senior Deputy, HCJ Department
State Attorney's Office

Kobi Abadi
Chief Assistant HCJ Department
State Attorney's Office