At the Supreme Court in Jerusalem **HCJ 580/04**
Sitting as the High Court of Justice

In the matter of**:**

1. K. Ajuri
2. I. A.
3. HaMoked: Center for the Defence of the Individual, founded by Lotte Sulzberger (Reg. Assoc.)
4. The Association for Civil Rights in Israel
5. The Palestinian Center for Human Rights

all represented by attorneys Yossi Wolfson and/or Tamar Peleg- Sryck *et al.*of HaMoked: Center for the Defence of the Individual,
founded by Lotte Sulzberger
4 Abu Obeidah Street, Jerusalem
Tel. 02-6283555 Fax. 02-6276317

The Petitioners

v.

Commander of IDF Forces in Judea and Samaria

represented by the State Attorney's Office
Ministry of Justice, Jerusalem

The Respondent

Petition for Order Nisi

A petition is hereby filed for an order nisi directing the Respondent to show cause why the "assigned residence" orders, issued against Petitioners 1 and 2, are not reduced, such that Petitioners 1 and 2 can return immediately to their permanent homes in the West Bank.

Request for Expedited Hearing

The Honorable Court is hereby requested to expedite the hearing of the petition, which deals with the continued banishment of Petitioners 1 and 2 from their homes, in disregard of the recommendation of the statutory committee that heard their matter.

The grounds for the petition are as follows:

The parties and the nature of the petition

1. Petitioners 1 and 2 in this petition (hereinafter: the Petitioners) are, respectively, Petitioner 1 in HCJ 7015/02, *Ajuri et al. v. Commander of IDF Forces in the West Bank et al.*, and Petitioner 1 in HCJ 7019/02, *Ajuri et al. v. Commander of IDF Forces in Judea and Samaria et al.*(hereinafter: the previous petitions). The judgement in these petitions (hereinafter: the judgment in *Ajuri*) is published in Piskei Din 56 (6) 352.

2. Petitioners 3 and 4 in this petition are Israeli human rights organizations, who were among the petitioners in the previous petitions. Petitioner 5 is a human rights organizations that deals with the Petitioners' matter in Gaza.

3. The Respondent in the present petition is the first respondent in the previous petitions and the persons who issued "assigned residence" orders against the Petitioners, requiring them to live for two years in the Gaza Strip, in the area of the Palestinian Council there. The Respondent is also the person who is required – in accordance with international law and domestic military law – to reconsider, from time to time, the justification for the continued existence of the order.

4. The Respondent delegated the task of reviewing the orders to an appeals committee that acts in the framework of the Military Appeals Court in the West Bank and is headed by a legally-trained judge.

5. The present petition involves the Petitioners' contentions regarding the lack of justification to continue their "assigned residence" in Gaza, in light of the considerations and recommendations of the Appeals Committee, which heard the matter last August, and in light of the recommendations of the said committee, which were provided to Petitioners' counsel at the end of December 2003 for their review.

6. In brief, the Committee recommended that the assigned residence orders be reduced, thus enabling the Petitioners to return to their homes in the West Bank on 31 October 2003, except in the event that a *deterrent* need related to the security situation at that time requires that the order continue in effect. Regarding the degree of deterioration in the security situation, which justified deviating from the recommendation to reduce the orders, the committee referred to the legal principle set forth in *al-Amla* (HCJ 2320/98, *Al-Amla v. Commander of IDF Forces in Judea and Samaria et al. Piskei Din* 52 (3) 346, hereinafter: the al-Amla rule) regarding need for a significant change in the situation for the military commander to deviate from a judge's order to reduce the period of administrative detention. As regards justification for continuing and implementing the orders, the Committee described it as only a "formality."

7. Nevertheless, the Respondent chose not to reduce the orders.

Brief statement of the facts

8. The background and the procedures relating to the issuance of the assigned residence orders are described in the judgment in *Ajuri*.

9. Following the judgment in *Ajuri*, the Petitioners were transferred to the Gaza Strip.

The first review – February 2003

10. In February 2003, the Petitioners' matter underwent review. The review took place before an Appeals Committee headed by the legally-trained judge Col. Daniel Friedman (who also headed the first Appeals Committee that heard the matter of Petitioner 1).

11. Two contentions stood at the focus of the first review.

12. The first contention raised by Petitioners' counsel was that the Respondent abandoned the means of assigning the residence of relatives of persons suspected of acts of terror. Assigned residence was not used again, nor has it been used to the present day; when the Respondent transferred other residents from the West Bank to the Gaza Strip, it was always persons (to the best of the undersigned's knowledge) who had until then been in administrative detention, and not relatives from the nuclear family of major activists.

> Transferring the Petitioners to the Gaza Strip was an experimental use of a new work method to deter attackers. The method was found, apparently, to be inefficient and incapable of accomplishing its objective;[??] in any event, it ceased to be used. The assigned residence of the Petitioners remained a remnant of the failed experiment, with the Petitioners continuing to pay the price.
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> The Petitioners further argued on this point that the Respondent did not show that the assigned residence of relatives of terrorists was a deterrent. All the assessments presented by the General Security Service in this matter related to the demolition of houses and transfer to Gaza as a single block, and did not distinguish between the two measures. Also, no systematic examination was made regarding the awareness of the Palestinian population in Gaza about the measure. On the other hand, according to a survey that Petitioners' counsel submitted to the Committee, most residents of the West Bank were not aware of the measure taken against the Petitioners, and those who were aware did not know the basic details of the case.

13. The second major contention raised by Petitioners' counsel was that the Respondent ignored his duty to ensure the livelihood of the Petitioners and the

persons dependent on them, and that transferring them to the Gaza Strip led to the loss of their sources of income. The Petitioners' argued that the livelihood of the Petitioners and their dependents was a condition to exercise of the authority to order assigned residence. By ignoring this obligation to provide for the persons whose residence was assigned, the Respondent effectively evaded the provisions of Article 78 of the Fourth Geneva Convention – and at the same time nullified his authority to assign residence, the source of which is found in that article. The Respondent cannot exercise authority granted by international law and ignore the duties entailed in that authority. The omission of the Respondent goes to the root of the authority itself and revokes it.

> Regarding the harm to the livelihood of the Petitioners and their families, the Petitioners provided testimonies and photos about the conditions in which they were living at the time, in a warehouse of the Red Cross, regarding the living conditions of their families and of the sources of income of the family prior to, and following, the assigned residence. The Petitioners also submitted a medical document regarding the hospitalization of Petitioner 2, who was found to be suffering from malnutrition. Counsel for the Petitioners also relied on general data about the humanitarian crisis in the Gaza Strip and the high unemployment there.
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> The Petitioners submitted to the Committee a letter from Petitioners' counsel, dated 6 October 2002, in this matter. Petitioners' counsel did not receive a response to the letter.
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> The letter of 6 October 2002 is attached hereto as Appendix P/1.

14. In addition, Petitioners' counsel also raised arguments on the matter of the danger posed by the Petitioners (a matter to which we shall return) and the proportionality of the harm to them.

> The minutes of the hearing before the committee and the briefs submitted by the military prosecutor and the Petitioners are attached hereto, marked P/2, P/3, and P/4, respectively.

15. The Appeals Committee decided:

> > We believe that after at least one year of the period of assigned residence has passed, it would be possible to reconsider the subject of the danger posed by the persons whose residence was assigned, and also the effectiveness of the assigned residence, and that in a broader perspective.
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> Regarding the livelihood of the said persons, the committee held:
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> > We believe that the use of the authority to assign residence requires the regional commander to meet the provisions of Articles 78 and 39

of the Geneva Convention, and, in any event, the rules of proper administration do not enable him not to respond substantively to their request.

The Committee's decision is attached hereto, marked P/5.

16. Following the decision of the Appeals Committee, the Respondent answered the letter of Petitioners' counsel regarding the livelihood of the Petitioners, and denied the request for various reasons. Petitioners' counsel responded to the Respondent's letter, and that response (of 24 July 2003) received no response.

The letter of refusal and the response thereto is attached hereto, marked P/6 and P/7, respectively.

The second review – August 2003

17. On 10 August 2003, a second review was made by an Appeals Committee, headed this time, too, by the legally-trained judge Col. Daniel Friedman.

18. During the hearing before the committee, it was discovered that, in the previous hearing, the Petitioners ability to defend themselves had been prejudiced, in that information that should have been open remained classified.

19. The arguments before the Committee revolved around the question of the danger posed by the Petitioners (to which we shall return). In addition, Petitioners' counsel pointed out the revocation of assigned residence orders that had been issued following the previous hearing, and the reduction of another order to one year. These facts, along with the fact that the orders were issued from the beginning against administrative detainees and not against relatives of major activists, indicate the loss of interest in using the means of assigned residence of relatives, leaving the Petitioners a relic of the failed experiment. Petitioners' counsel relied on the relative calm in security matters, including the release of security prisoners, as a counter-argument to the claim that the Petitioners pose a danger. Petitioners' counsel submitted additional correspondence regarding the living conditions of the Petitioners.

The minutes of the Committee's hearing are attached hereto, marked P/8.

The Appeals Committee's decision on the second review

20. The Appeals Committee's decision was signed on 1 September 2003.

As set forth in the decision, the Committee's position at the time of the hearing (10 August 2003) was "*to direct that the order of assignment expire on 31 October 2003*" (Section 29 of the decision).

However, preparation of the written decision was delayed, and it was not signed until 1 September 2003. In the interim, a severe attack took place, which led the Committee to add a reservation to its earlier decision.

The modified decision was:

> We recommend that the regional commander reconsider in the second half of October 2003 the matter of the appellants , with the intention of releasing them [so stated in the original – Y.W.] on 31 October 2003, as was our opinion at the time of the judicial hearing (Section 29 above), provided that the appellants sign a commitment to refrain from hostile and forbidden acts, unless the need for deterrence related to the security situation at the time requires that the order remain in effect.

Regarding the scope of discretion of the Respondent in regard to the Committee's decision, the Committee referred the *al-Amla* rule.

> It seems to us that the proper and appropriate way in this matter is to rely on the principle established in the judgment in HCJ 2320/98 a*l-Amla*…
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> In a*l-Amla*, the question was asked whether the military commander is allowed to extend the administrative detention after a judge decided to reduce it.
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> It was held there, inter alia, that if a significant change occurs in the danger posed by the detainee, after the judge decided to reduce the detention, and new information was received regarding the anticipated danger he poses – the military commander may extend the detention, even though the judge decided to reduce it, and if no such change occurs from the time that the detention order was issued, the commander is not allowed to extend the detention contrary to the judge's decision, and in the case of opposing opinions, the opinion of the judge prevails over that of the commander.

This, then was the nature of the discretion that the Committee expected from the commander in the middle of October: if a significant change took place and new information was received regarding the deterrent needs between the time of the decision and the middle of October, the order could remain in effect. If not, the Petitioners were to return home.

Regarding the Respondent's decision not to provide a livelihood for the Petitioners and their families, whose livelihood had been impaired following their assigned residence, the Committee, after studying the correspondence between the Petitioners and the office of the Respondent's legal advisor, stated as follows:

> We believe that, along with the authority that the regional commander has to issue an assigned residence order, there also exists the duty to act to implement the assigned residence order in accordance with the provisions of Article 39 of the convention, and the two cannot be separated. We shall relate to this in the recommendations. (Section 24)

Regarding the justification for the existence of the assigned residence order, the Committee held that:

> *Formally,* it seems to us that the appellants meet the criteria justifying an order assigning residence. (Section 30, emphasis added)

Regarding the danger posed by the Petitioners: as stated, the Committee found that the assigned residence order continues to be justified "formally." Indeed, the Committee related to the question of danger in a literal, formalistic manner:

> Their acts justify, from the beginning, approval of the order for two years (which the Supreme Court held)… The determination that they constitute a danger to security was not refuted. (Section 30)

It goes without saying that the question of the period of the orders was not specifically examined by the Supreme Court. The function of the [Appeals] Committee in a review is to examine if the appellants pose a danger at the time of the hearing, with the burden of proof being on the military commander, and not the appellants.

It is clear from its decision that the Committee considered the danger posed by the Petitioners to be "formal" and not substantial and real. At first, the Committee thought to return the appellants to their homes in the West Bank, and even after the change of position that occurred continued to recommend that, with the latter recommendation being conditional only on *deterrent* reasons and not on reasons related to the *danger they posed.*

The Committee's decision of 1 September 2003 is attached hereto, marked P/9.

Chronology of events after the second review

21. The Appeals Committee's decision of 1 September 2003 was provided to the Petitioners or their counsel.

22. Following prolonged delay in receiving the decision, Petitioners' counsel wrote to the deputy legal advisor of the Respondent and requested the decisions of the Committee and of the commander.

The letter of Petitioners counsel, dated 26 October 2003, is attached hereto, marked P/10.

23. No response was made to the aforesaid letter. On 7 December 2003, Petitioners' counsel again wrote to the deputy legal advisor of the Respondent, with a copy to the head of the High Court of Justice Department of the State Attorney's Office. Petitioners' counsel repeated that the decision of the Committee and the subsequent decision of the commander had not been received, and requested, in light of the breach of the rules regarding a review, that the Petitioners be returned home.

The letter from Petitioners' counsel, dated 7 December 2003, is attached hereto, marked P/11.

24. On 15 December 2003, the assistant to the Respondent's legal advisor informed Petitioners' counsel of the Respondent's decision: the assigned residence orders would remain in effect.

The letter of the assistant to the legal advisor, dated 15 December 2003, is attached hereto, marked P/12.

25. It was not before 24 December 2003, following repeated telephone requests by Petitioners' counsel, that the Committee's decision of 1 September 2003 was sent to Petitioners' counsel.

The legal aspect

26. The Petitioners' arguments, in brief, are as follows:

The time that has passed and the evidence that has been revealed so far deflate the argument regarding the danger posed by the Petitioners.

The Committee's decision indicates that the danger posed by the Petitioners alone does not justify the orders, and had deterrence not been taken into account, the Committee would have recommended without reservation that the period of the assigned residence orders should be reduced. When the Committee held that return of the Petitioners to their homes would not endanger the security of the region, it was not permitted to determine that the assigned residence should continue, in certain circumstances, based on deterrent considerations.

In any event, the Committee's recommendation was to allow the return of the Petitioners to the West Bank, unless a substantial change in situation occurs and new information is received – regarding the deterrence. Even if the Respondent were permitted to carry out the orders based on deterrent considerations, he did not point out a significant change on the ground that would justify deviating from the Committee's decision.

The Petitioners pose no danger – the Committee's decision

27. The Committee found justification in continuation of the assigned residence to be "formal." The Committee explained that, as the High Court of Justice held, the acts of the Petitioners justified, initially, approval of the order for a period of two years, and the determination that they constituted a danger to the security of the region "had not been refuted" (in the language of the Committee).

> With all due respect, defining this justification as "formal" only is an understatement. The High Court did not discuss the question of the period of the orders, and the question was not even raised in the petitions that were filed.

In any event, it is also impossible to determine in advance the danger a person poses over such a long period of time. There is good reason why administrative detention orders are issued for a maximum period of six months, and in the Gaza Strip (and also in the West Bank in the past) it was customary to review the case every three months. The assigned residence order that the Respondent signed in October 2002 against Noam Federman, who was suspected of acts much more serious that those of the Petitioners, was for only six months.

The Committee's task in conducting the review is not to examine if the contention of dangerousness that was established in the past "had been refuted." Its task is to examine the current material and decide if a present, current, substantial danger exists. Assigned residence, like administrative detention, is preventive, forward looking, and not punitive.

Compare the matter of administrative detention: HCJ 466/86*, Abu Baqer v. Military Judge in Nablus, Piskei Din* 40 (3) 649, 650, and the matter of deportation: HCJ 785/87, *Afo et al. v. Commander of IDF Forces in the West Bank et al., Piskei Din* 42 (2) 4, 66.

28. From the Committee's original intention to order the reduction of the period of the orders, from its final decision to recommend a reduction in period of the orders (absent opposing deterrent reasons), and from the description of the justification to continue the order as "formal," teaches us that the Committee was of the opinion that continuing to hold the Petitioners in the Gaza Strip would not prevent danger to the security of the region, and certainly not danger of a high degree, that warrants a person to be banished from his place of residence.

<u>Continuing the orders solely for the purpose of deterrence</u>

29. When it was found that the Petitioners could be returned to their homes, the assigned residence orders could not remain in effect solely for reasons of deterrence.

The judgment in *Ajuri* states that assigned residence is a measure that looks to the future, whose purpose is to prevent a security danger posed by the persons subject to the order. Not every danger can justify assigned residence. Only "evidence …. clear and convincing, that if the measure of assigned residence is not taken, a reasonable likelihood exists that he [the person subject to the assigned residence order – Y.W.]

poses an actual danger to harm the security of the region" can justify the carrying out of the measure (page 372 of the judgment). Only when this hurdle has been jumped is the military commander allowed to take into account reasons of deterrence, the example being, as brought by the Court in its judgment, the choice between assigned residence and administrative detention based on such reasons. (The assumption is that, if a person poses such a great danger, it is hard to assume that the military commander would decide not to take any measure against him) (page 374 of the judgment).

In this case, the Committee considered the continuation of the assigned residence orders solely on deterrent-related reasons. These reasons cannot justify on their own continuation of the orders. Thus, the Committee's recommendation should be deemed a recommendation to reduce the assigned residence orders, and the reservation allowing continuation of the orders for reasons of deterrence should be deleted.

Failure to do so renders the judgment in *Ajuri* meaningless. The Petitioners will be denied their basic autonomy, and they will find themselves still banished from their homes not because of what they did, not because of acts for which they were responsible, but for the acts of others. They become a kind of hostage, whose fate depends on the willingness or refusal of persons – with whom they were never involved – to refrain from carrying out attacks.

Deviating from the Committee's decision

30. The Committee's decision is clear. At first, it was of the opinion "to order" a reduction of the assigned residence orders regarding the Petitioners. Then it thought "to recommend" reconsideration "with an inclination" to reduce them. Against this "inclination," the Committee left the commander a very slender opening – substantial change in the circumstances in accordance with the *al-Amla* rule.

31. Such a change in circumstances did not occur. Indeed, a number of serious terror attacks took place – both before and after the Committee's decision. Overall, however, the recent period has been relatively calm (and the question is one of relativity), which led the commander to relax somewhat the restrictions on freedom of movement within the West Bank. There has not been a serious and exceptional deterioration. The letter informing the Petitioners of the commander's decision contained no explanation for his deviating from the Committee's decision.

The letter also does not sufficiently explain the timing of the commander's decision. According to the Committee's decision, he was to reconsider the matter in mid-October and not in early December.

32. Indeed, Section 86(e) of the Order Regarding Defence Regulations (Judea and Samaria) (No. 378), 5730 – 1970, in its wording at the time the Committee made its decision, uses the term" recommendation" in regard to the Committee's decision. However, the Committee was correct in construing its decision as a binding decision, and when it used the word "directive" in Section 29 of its decision. The circumstances would have to be exceptional for the Respondent to decide to reject the recommendation of a quasi-judicial committee, headed by a legally-trained judge, that thoroughly examined extensive material, heard witnesses who also underwent cross-examination, listened to the legal and factual summations, and reached decision on the law and the facts.

33. The recommendation of a statutory advisory body has great weight. Such recommendations cannot be rejected by evading them or without giving well-grounded, substantive reasons. As a rule, it is expected that the government authority will approve the recommendations of such advisory bodies.

> See HCJ 2344/98, *Maccabi Health Services et al. v. Minister of Finance, Piskei Din* 54 (5) 729, 763-764;
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> Civ. App. 80/92, *Askar v. Director General, Ministry of Health, Piskei Din* 46 (4) 831.
>
> The weight of the recommendation depends of the circumstances of the case, inter alia, on the nature of the matter and of the advisory body. In appropriate circumstances, the weight of the recommendation will be almost decisive (Yitzhak Zamir, *Administrative Authority,* Volume 2 (Jerusalem, 1996) page 852).
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> In this case, in which the Committee conducted a quasi-judicial adversary proceeding, in which the Respondent was a party, the Committee's recommendation should be binding or almost binding. The option that the Respondent will reject outright the recommendation of the Committee after the Committee rejected the position diligently put forward in the hearing, rendered the entire process worthless.

Lack of danger posed by the Petitioners – analysis of the evidence

34. The Committee described the justification for continuing the orders as "formal." In addition, on the facts of the case, the time that has passed, the circumstances that changed, and the evidence that had accumulated since the orders were issued, indeed deflate the argument regarding the danger posed by the Petitioners.

35. The order issued against Petitioner 1 relies solely on the comments that he made following a hard and prolonged interrogation, which included threats of murder

to get him to talk. In light of the experience regarding suspects who incriminate themselves, the confession of Petitioner 1 should not be taken as the complete story. The same is true about the material against Petitioner 2, which is entirely intelligence material.

> From the time that the order against Petitioner 1 was approved, a great deal of evidence has accumulated that contradicts the version he gave, and which indicates, at least, that the ties between him and the prohibited acts of his brother were extremely limited, if they existed at all. The same is true about the accusations against Petitioner 2:

1st. Regarding the Petitioners, in February 2003, statements to the police by a person named Tzalahat – who was mentioned as a member of the group of the late ___ Ajuri (the Petitioners' brother) – were provided. The statements do not mention the Petitioners at all.

2nd. In February 2003, Petitioners' counsel received memoranda and statements to the police regarding the interrogation of a person named Hashash, indicating that he was closely involved in the prohibited acts of the late ___ Ajuri (the Petitioners' brother). Petitioner 1 is not mentioned once in this material, while the interrogee was unable to provide any significant information about Petitioner 2.

> The interrogation of Hashash took place following the interrogation of Petitioner 1 and after the assigned residence order had been issued against him; nevertheless, the interrogators did not consider it necessary to question Hashash about Petitioner 1 or about any of the events that Petitioner 1 mentioned during his interrogation. This fact is instructive regarding the degree of danger posed by Petitioner 1 in the eyes of the General Security Service, as well as to the trust that the GSS gives to the details of his confession.

During his interrogation, Petitioner 1 mentioned, inter alia, an incident in which Hashash purportedly made a video recording of a person (that is described in the statement) in circumstances that are viewed as being a video clip of a person about to commit a suicide bombing attack. Hashash was not questioned about such a case, and does not mention such a case. He does mention a person named "Mediyan," whose description suits that of the person purportedly being filmed in the video, and who was not used to carry out a suicide attack. The said individual was arrested, and, according to the GSS

representative, who appeared before the Appeals Committee, had apparently already been released.

3rd. The material further reveals that the late ___ Ajuri moved to Jenin about two months before the arrest of Petitioner 1, but Petitioner 1 did not know where he was located at the time of his interrogation.

4th. Lastly, the GSS representative testified that, during the period after the hearing before the second Appeals Committee (the first review), another friend of ___ Ajuri was arrested, and was asked about the Petitioners. He responded that he did not know of any activity in which they were involved.

36. The acts forming the basis of the order against Petitioner 1 can be dated, according to the confessions of Petitioner 1, at the end of 2001 or the beginning of 2002. It seems that this is also the time that has passed since the acts attributed to the Petitioner by the intelligence information took place. That is, more than two years have passed since the acts occurred.

37. The decision reached by the second review committee indicates that the last negative security information regarding the Petitioners was obtained by security officials in December 2002, more than one year ago. This material does not involve activity of a dangerous nature, but to receiving money from persons hostile to Israel – at a time that the Respondent evaded his duty to provide a livelihood for the Petitioners. Even if this information were correct, the Respondent was the one who pushed the Petitioners into the hands of the said hostile individuals in disregarding his said duty; in any event, this activity did not harm the security of the region or of the state.

38. During their time in Gaza, the Petitioners did not take part in any activity against state security, despite the many opportunities they had. In the summer of 2003, when rumors began to flow that they were going to return soon to the West Bank, they did not make any contacts with hostile persons and entities to become involved on their return.

39. The hearings held by the committees indicate that all the associates of the late ___ Ajuri, the Petitioners' brother, have been arrested. ___ Ajuri was killed. The suspicions against the Petitioners from the start did not relate to their being part of the inner circle of terror activist, but as accomplices, at the extreme margin of the forbidden activity, and that they were under the influence of their brother. The group that they allegedly assisted no longer exists.

40. The material before the committees indicates that the said ___ Ajuri, the Petitioners' brother, was a very dominating individual and tended to get into disputes with all around him. These facts are not instructive as regards assistance that the Petitioners purportedly gave to their aggressive brother, or that they will joint other hostile entitles, in other frameworks. Such an assumption is purely speculative and unfounded.

The Respondent's handling of the matter

41. The manner in which the Respondent handled the matter indicates that he made a rigid decision to keep the assigned residence orders as they are – no matter what.

The Respondent set aside the Committee's recommendations and did not consider Petitioners' matter anew in mid-October.

Counsel for the Petitioners did what they could to pressure the Respondent to act in accordance to the Committee's recommendations, but the Respondent ignored counsel, and impeded Petitioners' counsel in protecting the Petitioners and in seeking relief from this Honorable Court at an earlier time.

The Respondent gave banal reasons for his decision to reject the Committee's recommendation, so much so that, the letter from the assistant to the legal advisor did not even enable one to surmise that the Committee recommended that the orders be reduced.

In light of the rigidity of the Respondent in the matter, the Honorable Court must intervene and order the Respondent to ease the condition of the Petitioners, who have suffered greatly, and who do not constitute any danger to security, and to enable them to return to their permanent residence in the West Bank.

42. The affidavits of the Petitioners, and their powers of attorney and that of Petitioner 5, signed and verified by an attorney in the Gaza Strip, and forwarded by facsimile to counsel, are attached in that manner.

In light of the above, the Honorable Court is requested to issue an order nisi, as requested in the beginning of the petition, and after receiving the Respondent's response, to make it absolute, and to order the payment of Petitioner's expenses and attorney's fees.

20 January 2004

[signed]	*[signed]*	*[signed]*
Tamar Peleg-Sryck, Attorney	Dan Yakir, Attorney	Yossi Wolfson, Attorney