

Translation Disclaimer: The English language text below is not an official translation and is provided for information purposes only. The original text of this document is in the Hebrew language. In the event of any discrepancies between the English translation and the Hebrew original, the Hebrew original shall prevail. Whilst every effort has been made to provide an accurate translation we are not liable for the proper and complete translation of the Hebrew original and we do not accept any liability for the use of, or reliance on, the English translation or for any errors or misunderstandings that may derive from the translation.

At the Supreme Court
Sitting as the High Court of Justice

HCJ 4470/07

Re: 1. _____ **Kaber**
2. _____ **Nasrallah**
3. **HaMoked: Center for the Defence of the Individual**
founded by Dr. Lotte Salzberger
Represented by Adv. Yossi Wolfson et al
Tel: 02-6283555; Fax: 02-6276317

Petitioners

v.

The State of Israel et al
Represented by the State Attorney's Office
Ministry of Justice, Jerusalem
Tel: 02-6466472; Fax: 02-6466655

Respondents

Response on behalf of the Respondents to the Application for a Temporary Injunction

In accordance with the decision of the Honorable Justice A. A. Levy of 21 May 2007, the respondents respectfully submit the response to the Application for a Temporary Injunction as follows.

1. The petition deals with the petitioners' application, to grant petitioner 2 the status of a permanent resident in the region, where she has unlawfully resided ever since 1998, because of her marriage to petitioner 1, a resident of the region.
2. Within the framework of the application for a temporary injunction, the petitioners request that petitioner 2's residence in the region be permitted until a final decision in the petition.
3. The framework in which the petition has been presented is not new to the honorable court, and as stated it is based upon the application of aliens that their application for

receiving status in the region be approved by virtue of their marriage to Palestinian spouses.

This issue has been placed before the honorable court in many cases in the past, and **the latter did not find it appropriate to intervene** in the respondents' policy in this matter, according to which ever since the outbreak of hostilities in September 2000, and as a result of the breakdown that occurred in the relationship between Israel and the Palestinian Authority, **applications for family unification are not being handled by the Israeli side**. This position has been strengthened in recent times, among other things, as a result of Government Resolution No. 4780 of 11 April, 2006 on the freeze of contacts with the Palestinian Authority, because of the election results in the Palestinian Authority and the rise to power of the Hamas Movement in the Palestinian Authority.

And see in this matter, for example, the recent judgment of the honorable court in HCJ 8881/06 *Gazuna v. The Civil Administration in the Judea and Samaria Region* (unreported, dated 1 March, 2007), where it was established as follows:

“...We cannot grant the petition. As is well established it is not the practice of this court to interfere with policy that has been adopted by government with regard to the security situation and the development of relations between the Palestinian Authority and the State of Israel with respect to the return of residence or applications for family unification that pertain to the region

...”

(Emphasis added)

See also in this matter HCJ 2231/03 *Alshlalda v. Commander of the Benjamin Region Takdin Elyon* 2003(3) 250. And see: HCJ 5957/02 *Aetedal v. Commander of the Benjamin Region Takdin Elyon* 2003(2) 603, HCJ 897/04 *Faziz et al v. Commander of the IDF Forces in the West Bank Takdin Elyon* 2004(1) 1918, HCJ 4332/04 *Odeh et al v. Commander of the IDF Forces* (unreported).

4. Under these circumstances and in light of the clear legal situation – as emerges from the ruling of the honorable court – for all practical purposes from the time the petitioner's residence permit expired her residence in the region has been unlawful,

while making up the law on her own, and there is no due cause for allowing her residence in the region.

Under these circumstances and especially against the backdrop of explicit court rulings on the one hand, and the conduct of the petitioner who continues to unlawfully reside in the region for many years on the other hand, the respondents are of the opinion that there is no justification to grant the petitioner the temporary injunction as requested by her, but it is precisely because of this that a petition has been filed by the petitioner who seeks to challenge the current legal situation

5. Nonetheless in the circumstances of this case, the respondents declare that at this point in time they do not intend to work towards the removal of petitioner 2 from the region.

Whenever there is a change in the circumstances of petitioner 2, (for example if the petitioner is apprehended and she becomes a candidate for deportation) the petitioner will be allotted a period of 14 days for the purposes of applying to the honorable court with the appropriate application, which will be examined on its merits taking into account the information that shall be produced before the respondents at that time.

To complete the picture the respondents would like to point out that this petition was filed together with about 30 more petitions that are similar in the nature and in the relief sought. For some of the aforesaid petitions similar responses to this response were filed by the respondents, and in light of this the honorable court decided to remove the application for a temporary injunction.

(See for example the decision of the honorable Justice A. Hayot of 4 June, 2007 in HCJ 3362/07 *Dwikat et al v. The State of Israel et al* (unreported), is attached and marked Res/1).

6. In light of this, the respondents are of the opinion that in the circumstances of the case there is no place to issue a temporary injunction in this petition and there is also no need to do so – against the backdrop of the respondent's position as has been detailed in paragraph 5 above.
7. In light of the aforesaid, the honorable court is requested to dismiss the petitioners' application to issue a temporary injunction.

25 Sivan, 5767

11 June 2007

Hani Ofek

(signed)

Deputy Senior Adviser

Itay Ravid

(signed)

State Attorney's Office Assistant