

At the Supreme Court
Sitting as the High Court of Justice

HCJ 2480/14
Scheduled for: April 7, 2014

Nader al-Masri.

by counsel, Adv. I. Katri and/or Adv. Nomi Heger
et al.

Of Gisha – Legal Center for Freedom of Movement
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The Petitioner

v.

Minister of Defense et al.

by the State Attorney's Office
Ministry of Justice Jerusalem
Tel: 02-6466590; Fax: 02-6467011

The Respondent

Response on behalf of the Respondent

1. The petition herein concerns the request made by the petitioner, a runner from the Gaza Strip, to allow his passage from the Gaza Strip to the Judea and Samaria Area, through Israeli territory, between April 9 and April 13, 2014, in order to participate in the second Bethlehem Marathon - "Right to Movement Palestine Marathon".¹
2. According to the information on the event website, the marathon will be held in partnership with the Bethlehem Governorate, the Palestinian Olympic Committee, KVINFO – Danish Center for Gender, Equality and Ethnicity, and Right to Play.
3. The respondents will argue that the petition must be dismissed.
4. The respondents will argue that **the petition must be dismissed** for lack of cause to intervene in their decision, **since the petitioner, a resident of Gaza, like any foreign national, has no lawful right to enter Israel for any purpose whatsoever**. The respondents' decision to deny the petitioner's passage was made in accordance with the policy of separation between the Gaza Strip and the Judea and Samaria Area, a policy that has been upheld by the Honorable Court on numerous occasions. The petitioner's matter is not one of the humanitarian exceptions in which entry into the Judea and Samaria Area by Gaza residents is approved under the policy in place on this issue.
5. The decision in the petitioner's matter was reached in a manner consistent with government policy whereby entry into Israel by residents of Gaza – defined by the Ministerial Committee for Security Affairs (the Security Cabinet) as a "hostile territory" – even if solely for the purpose of traveling to the Judea and Samaria Area, is limited to humanitarian cases only, with an emphasis on urgent medical cases.

6. **According to the policy, in the absence of a legal obligation**, and given the armed conflict between Israel and the Hamas organization, which is in control of the Gaza Strip, travel by Gaza residents to the Judea and Samaria Area is not possible. However, alongside the aforesaid policy, the respondents have implemented **a limited number of exclusions** in which travel may be allowed for **exceptional humanitarian reasons**. In accordance with this policy, the respondents have formulated criteria for examining individual applications.

This policy has been **repeatedly reviewed and upheld by the Honorable Court** (including recently, see, AAA 4620/11 **Qishawi v. Minister of Interior** (unpublished, August 7, 2012 and HCJ 495/12 **Izzat v. Minister of Defense et al.** (unpublished, September 24, 2012)). This policy was established around various political and security considerations, including the fact that Gaza has come under the control of Hamas, a terrorist organization intent on destroying the State of Israel, as well as the incessant activity against the State of Israel by terrorist organizations in Gaza. These organizations attempt, *inter alia*, to set up branches of the Gaza terrorist network inside the Judea and Samaria Area, and to bolster the network already active in the Judea and Samaria Area.

7. In the context of this policy, and having examined the circumstances of the case at hand, it has been decided to deny the petitioner's application due to the respondents' position that **participation in a marathon does not constitute humanitarian grounds justifying approval of the application**.
8. The policy criterion on which the petitioners rely, which concerns entry for the purpose of participating in events sponsored by the Palestinian Authority (Sec. 16 in the section titled Entry into Israel in the policy document, Exhibit P/12 attached to the petition, on which we elaborate below), reflects political considerations and considerations relating to the foreign relations between Israel and the Palestinian Authority, and is, by its nature, subject to an individual assessment of each request on its merits and decision-making based on political interests which are at the broad discretion of the respondents.
9. Therefore, approval of the application depends on the status of relations between the Israeli authorities and the Palestinian Authority and not on the status of relations between the individual applicant and the State of Israel, as the application was not filed by the individual with respect to a private humanitarian matter, unlike an application to receive medical treatment in Israel, or visit a sick relative, for example.
10. The respondents will argue that there is no legal cause to intervene in the decision and that the petition must be dismissed with no costs order against the respondents. We specify below.

General Background – Travel between the Gaza Strip and the Judea and Samaria Area – the Separation Policy

11. The petitioner, a resident of the Gaza Strip, as any other foreign national, has no lawful right to enter Israel for any purpose whatsoever. The state has broad powers and discretion to decide who enters its territory, all the more so when the person concerned is a resident of a hostile territory or country engaged in armed conflict with Israel. So, for example, in the judgment in HCJ 4620/11 **Qishawi v. Minister of Interior** (issued August 7, 2012) (Judiciary website) the Honorable Court held as follows:

The premise for review, as accepted in any sovereign state, is that **foreign nationals have no vested right to enter the territory of the State of Israel**. Based on the sovereignty

principle, the authorities of the state have broad discretion to decide who enters its territory, although this discretion is subject to judicial review according to the causes for review practiced in administrative law. As ruled on more than one occasion, **this rule is relevant also to applications for entry permits made by Gaza residents**. (Emphases hereinafter have been added).

12. The above indicates that the petitioner has no lawful right, nor, *a fortiori*, any vested right, to receive a permit to enter Israel, even if for the purpose of traveling to the Judea and Samaria Area, since Gaza residents have no right to enter Israel in the first place, and the case involves, at most, denial of a **privilege only**.
13. Moreover, government policy on the entry of Gaza residents into Israel is highly restrictive. To emphasize, on September 19, 2007, following the Hamas takeover of the Gaza Strip in June 2007, the Ministerial Committee for Security Affairs (the Security Cabinet) declared the Gaza Strip as a **“hostile territory”** (Ministerial Committee Resolution B/34). Subsequent thereto, it was decided that entry into Israel – even if solely for the purpose of traveling to the Judea and Samaria Area – **as well as travel between the areas without transit through Israel, would be limited to exceptional humanitarian cases, with an emphasis on urgent medical cases** (hereinafter: **the separation policy**).
14. The separation policy was established around various political and security considerations, including Hamas’ rise to power in Gaza, the incessant activity against the State of Israel by terrorist organizations in Gaza, which includes firing rockets at Israel, terrorist attacks and other attempts to harm civilians and soldiers, as well as constant attempts by these organizations to set up branches of the Gaza terrorist network inside the Judea and Samaria Area, and to bolster the network already active in the Judea and Samaria Area.
15. One of the rationales for this policy is the concern that ties between Gaza and Judea and Samaria residents would be exploited for the purpose of advancing terrorist activity, whether knowingly or by deception. Note that terrorist organizations work relentlessly to transfer the terrorist network currently operating in Gaza into the Judea and Samaria Area, to transfer knowledge that would bolster the existing terrorist network and to set up new terrorist networks. They do so, *inter alia*, by using Gaza residents who enter the Judea and Samaria Area via humanitarian applications for hostile purposes. The respondents seek to address this significant security challenge, *inter alia*, by decreasing movement between the Gaza Strip and the Judea and Samaria Area – the separation policy.
16. Given these grounds and the balance between them and the humanitarian needs of the residents of the area, entry by Gaza Strip residents into the area, and, *a fortiori*, settlement therein, are permitted in exceptional humanitarian cases only.
17. The policy regarding travel to and from Gaza, including the separation policy, has been repeatedly reviewed and upheld by the Honorable Court, both generally, including by way of upholding the Settlement Procedure, and specifically, by examining the various humanitarian criteria stipulated in the document entitled **“Policy on Movement of People between the State of Israel and the Gaza Strip”** (Exhibit P/2 attached to the petition), with respect to travel between the Gaza Strip and the Judea and Samaria Area. So, for example, in H CJ 2088/10 **HaMoked: Center for the Defence of the Individual v. West Bank Commander** (issued May 24, 2012) (on the Judiciary website), a case in which the separation policy, as reflected in the Settlement Procedure, was reviewed and upheld in a general sense, the Honorable Court saw fit to rule, *inter alia*, that:

[...] [I]n the difficult security situation in which we live, at a time when terrorist organizations in the Gaza Strip and the Judea and Samaria Area continue to make efforts to harm the State of Israel and its residents, permitting free travel between the two areas raises real concern about the potential use of this platform for maintaining contacts with terror activists in the different areas – military training, recruiting, transmitting information, orders and the like.

[...]

Over the years during which Israel controlled the Gaza Strip and the Judea and Samaria Area, though the two were then considered a single territorial unit [...], security considerations played a central role. Upon termination of the military government in the Gaza Strip in 2005 after the disengagement process, and more so since the Hamas takeover of the Gaza Strip in 2007, concern that travel between the areas would be used for terrorism has greatly increased, particularly in the absence of effective Israeli control over the Gaza Strip [...].

Indeed, as the respondents explained in detail in their response, their current policy, which was enshrined in the procedure which is the subject of this petition, is deeply rooted in the prevailing political-security reality. As the respondents clarified, in the reality that has been in place particularly since the disengagement process was completed and Hamas took over the Gaza Strip, and in view of the fact that the Gaza Strip is a separate territory enclosed by a fence, terrorist elements have difficulty dispatching terrorists from within this area to Israel. At the same time, Gaza is home to an elaborate terror network which puts a great deal of effort into sending a human terrorist network out of the area – to Israel and the Judea and Samaria Area. Security officials estimate that the Gaza Strip has become a center for information on terrorism, for developing military capabilities and for warehousing advanced weapons. Security officials estimate that terrorist organizations strive to transfer the fight against Israel to the Judea and Samaria Area, including by means of transferring knowledge, military capabilities and explosives experts. Therefore, recruiting Gaza residents who are in the Judea and Samaria Area or wish to travel thereto has become a common practice that may advance the goals of terrorist organizations. Security officials stressed that there is a real danger that explosives experts with expertise in manufacturing deadly explosives and projectile weapons would enter the Judea and Samaria Area. This reality, thus according to the respondents, forms the foundation of the restrictive policy they formulated, a policy which, as stated, permits travel from Gaza to the Judea and Samaria Area only in exceptional humanitarian cases.

[...]

The difficult security situation in which we find ourselves is not new and it seems that, sadly, the respondents' description of the potential risk in allowing free travel between Gaza and the Judea and Samaria Area has not come out of thin air. In this state of affairs, and in view of the current reality, it seems that anyone can see that it is impossible to allow free travel between Gaza and the Judea and Samaria Area as the petitioners seek and that a restrictive policy on this issue does conform with the respondents' obligation to maintain the security of both Israel and the Area. In this state of affairs, we too have not found that the flaw of unreasonableness occurred in the formulation of a restrictive policy of permitting travel between Gaza and the Judea and Samaria Area per se.

And in HCJ 1892/10 **Abu Sardaneh v. Judea and Samaria Area Military Commander** (issued August 11, 2010) (Judiciary website):

As stated, the competent authority has decided that in the current circumstances, travel, even by family members, cannot be allowed other than in exceptional cases, and the petitioners' matter does not come under these terms. Considering the current security reality and the intense tension in the Gaza Strip in particular, the respondents' decision not to grant the petitioners' request appears reasonable and there is no cause for our intervention therein. This policy is based on the government resolution regarding various restrictions imposed on the Gaza Strip and on movement to and from Gaza. This decision has been brought to judicial review before this court and no grounds for intervention therein have been found [...].

On this issue see, among many: HCJ 5829/09 **Mansour et al. v. West Bank Commander** (not yet published, issued on July 30, 2009), HCJ 8731/09 **Berlanti Jaris Bolous Azzam v. West Bank Commander** (TakSC 2009(4), 3550 (2009)); HCJ 11120/05 **Osama Hamdan v. GOC Southern Command** TakSC 2007(3), 2071 (2007); HCJ 1912/12 **Ibrahim Aqr'a v. Military Commander**, unpublished (judgement dated 6 June 2012); HCJ 495/12 **Izzat v. Minister of Defense** (issued September 24, 2012) (Judiciary website).

18. We further recall that in the background, following disengagement from the Gaza Strip, Israel's obligations with respect to Gaza's population has changed significantly, which may also affect the matter at hand. So, for example, in HCJ 5268/08 **Anbar v. GOC Southern Command**, TakSC 2009(4), 10368 (2009), Honorable Justice Hayut stated the following regarding the scope of Israel's obligations with respect to prisoner visits:

6. One of the considerations the competent officials must weigh in establishing the policy concerning entry into Israel from the Gaza Strip relates to the duties applicable to Israel vis-à-vis the civilian population therein. **Over the years, substantial changes have occurred in the scope and nature of these duties.** When Gaza was held under "belligerent occupation" the legal regime applicable therein was determined in accordance with the rules of international public law and the law, jurisprudence and administration of Israel were not implemented therein (for a review see HCJ 1661/05 **Hof Aza Regional Council v. Knesset of Israel**, IsrSC 59(2) 481, 514-516 (2005)). On 12 September 2005, following the implementation of the disengagement plan from the Gaza Strip and northern Samaria, the GOC Southern Command issued a proclamation regarding termination of the military administration. Since then, the Gaza Strip has no longer been under "belligerent occupation" as far as international law is concerned, and Israel has had no effective control over what transpires in this territory (see the Al Bassiouni case, §12; CrimA 6659/06 John Doe v. State of Israel, §11 (not yet published, 11 June 2008)). **As a result, the duties incumbent upon Israel vis-à-vis the civilian population have changed in substance and scope as compared to those incumbent upon it when the military administration was in place.**

[...]

7. **Considering all the aforesaid, I have not been convinced that in our matter there is cause to intervene in the decision of the competent officials, which established a general policy preventing the entry of Gaza residents into Israel for the purpose of prison visits. Permitting residents to enter Israel for this purpose is not among the**

basic humanitarian needs of Gaza residents which Israel is obliged to allow even today. What lies at the foundation of the policy implemented by the respondents are clearly political and security considerations and it conforms to and effectively implements the cabinet decision passed for these reasons.

19. It is not superfluous to note, prior to addressing the petitioner's matter, that the fact that Gaza Strip residents may exit the Gaza Strip via Rafah Crossing, which opens and closes intermittently at various times, subject to Hamas and Egyptian policy, without any involvement on the part of the State of Israel, plays a role in the overall considerations that should be taken into account in this context.

The Policy on Travel between the Gaza Strip and the Judea and Samaria Area – the Rule, and the Exceptions

20. As stated, the respondents' policy, which has been repeatedly upheld by the Honorable Court, is that travel by Gaza Strip residents to the Judea and Samaria Area is generally not permitted. However, at the same time, **and despite the absence of a vested right thereto**, the respondents have also put in place exclusions. Accordingly, and in accordance with Resolution B/34, **travel between the Gaza Strip and the Judea and Samaria Area is made possible in exceptional humanitarian cases**, with an emphasis on urgent medical cases.
21. According to this policy, the respondents stipulate criteria listing the exceptional humanitarian cases in which such travel will be made possible (see on this issue, the website of the Coordinator of Government Activities in the Territories, http://www.cogat.idf.il/Sip_Storage/FILES/3/2533.pdf) (Exhibit P/12 attached to the petition). The **main** humanitarian cases in which such travel is permitted are urgent medical treatments, visits to relatives suffering from a serious illness and attending the wedding or funeral of a first-degree relative. In addition, for various considerations, mostly relating to Israel's foreign relations, other individuals, such as staff members of international organizations have also been permitted to travel.
22. In their petition, the petitioners refer to criterion 16 in the section entitled "**Entry into Israel**" in the policy document, according to which: "Periodically, and subject to submission of a detailed request from Palestinian Authority representatives in the Judea and Samaria Area and to the authorization of the minister of defense, residents of the Gaza Strip are permitted to enter Israel in order to participate in conferences or special events sponsored by the Palestinian Authority". This criterion reflects political considerations and considerations relating to the foreign relations between Israel and the Palestinian Authority, and is, by its nature, subject to an individual assessment of each request on its merits and decision-making based on political interests (this is reflected, *inter alia*, in the first clause of the section "periodically"...) The section certainly does not **compel** the authority to permit passage at the request of the Palestinian Authority, and certainly does not confer upon the petitioner a right, or even an interest, to have his travel permitted at the request of the Palestinian Authority, and it is quite doubtful that it gives the petitioner standing to challenge the refusal.
23. In addition to the discretion granted to the respondents to take security considerations into account, they are vested with discretion to take broad political considerations into account in the implementation of their policy, whether these are economic humanitarian considerations or broader foreign policy considerations. In any case, the decision in each and every case is made within the extremely broad discretion the state has in deciding on entry into Israel from the Gaza Strip, which is broader still when it concerns a criterion that is connected to political considerations in matters between Israel and the Palestinian Authority.

24. Therefore, approval of the application **depends on the status of relations between the Israeli authorities and the Palestinian Authority and not on the status of relations between the individual applicant and the State of Israel**. As is known, the authorities have the broadest discretion in political and foreign relations matters and the court does not usually intervene in this discretion (see, for example, remarks made in AAA 4620/11).
25. The aforesaid indicates that **the policy is that, in the absence of a legal obligation**, and given the armed conflict between Israel and Hamas, the organization in control of the Gaza Strip, travel by Gaza residents to the Judea and Samaria Area is not possible. However, alongside the aforesaid policy, the respondents have implemented **a limited number of exclusions** in which travel is allowed for **exceptional humanitarian reasons**. As stated, this is the respondents' policy, as repeatedly upheld by the Honorable Court. As emerges from the judgments cited above, the Court has not intervened in the respondents' policy with respect to, as an example only, preventing travel between the Gaza Strip and the Judea and Samaria Area for the purpose of family visits (**Jarb'u**); entry into Israel for the purpose of prison visits (HCJ 5268/08, the **Prison Visits case**); travel for professional conferences (HCJ 2748/12, **Rafiq Maslam**); academic studies (see cases cited above); visits to medical patients that are unwarranted by the medical condition (HCJ 1912/12, **Ibrahim Aqr'a**; and worship on Temple Mount (**Qishawi**), and more.
26. Alongside the aforesaid, it is emphasized that the policy on the entry of Palestinians from the Gaza Strip into Israel, even for the purpose of travel to the Judea and Samaria Area, is frequently reviewed by the competent officials. These officials examine the issue vis-à-vis the political and security situation, which changes from time to time.

The Main Relevant Facts

27. We first wish to correct the information given to Gisha, representing the petitioner, in response to their communication to the HCJ Department. In the response to Gisha's letter indicating an HCJ petition would soon be submitted, dated Wednesday, April 2, 2014, the respondents **erroneously** stated that the Palestinian Authority had not filed an application in the petitioner's matter. This response was the result of an error made in good faith. The petitioner's name was, in fact, submitted for approval and the request was denied, as detailed below. In any event, the response provided to Gisha's letter did explicitly address the respondents' position on the petitioner's matter, which is that the application was reviewed on its merits and rejected for failing to meet policy requirements.
28. According to a database query, on March 26, 2014, the Coordinator of Government Activities in the Territories received a request from the Palestinian Authority Civil Affairs Office to issue the petitioner a permit for entry into Israel and the Judea and Samaria Area for April 10, 2014, returning April 13, 2014, for the purpose of participating in the Bethlehem Marathon. The petitioner's was one of 30 names of Gaza Strip residents listed in the application.
29. The application was reviewed on its merits and rejected by the competent officials on the same day.
30. In accordance with the decision in the matter of the 30 individuals, on March 27, 2014, the Gaza DCO provided an identical response to Gisha's inquiry in the petitioner's specific matter. This response was followed by a letter indicating the intent to file an HCJ petition.
31. Last year, on April 9, 2013, the Coordinator of Government Activities in the Territories received an application for Israeli entry permits for the purpose of participating in the first Bethlehem marathon from the Palestinian Authority Civil Affairs Office. In that application as well, the

petitioner was named in a list of 26 Gaza Strip residents. This application was also refused, with respect to the entire list, based on policy considerations.

32. Accordingly, a similar request made by Gisha last year was refused on April 10, 2013.
33. In previous years as well, a request was made by the Peres Center for Peace on March 10, 2013, to allow the petitioner's travel from Gaza abroad in order to participate in a marathon. This request was also refused based on policy considerations.
34. In February 2009, Gisha's request to approve the petitioner's travel from Gaza abroad in order to participate in a running tournament was received. The request was approved. As stated in the petition, the permit was not used and the petitioner did not travel.
35. In April of 2008, the petitioner's request to travel from Gaza abroad in order to participate in the Olympic Games and in a training camp held before the games was approved. The petitioner entered Israel from Gaza via Erez Crossing on April 10, 2008 and traveled to Jordan from the West Bank on May 18, 2008. He returned to the Gaza Strip via Allenby Bridge and the Judea and Samaria Area on August 27, 2008.
36. In January 2008, the Coordinator of Government Activities in the Territories received an application from the petitioner. It was denied based on criteria. The database contains no information regarding the nature of the January 2008 request.

From the General to the Particular

37. The respondents maintain that the petition must be dismissed for lack of cause, as the respondents' decision meets legal requirements, is not flawed and causes no violation to the petitioner's rights.
38. **We recall once again that the premise for the review is that the petitioner, a resident of the Gaza Strip, like any foreign national, has no lawful right to enter Israel for any purpose whatsoever.**
39. The decision in the petitioner's matter was reached in a manner consistent with government policy whereby entry into Israel by residents of Gaza – defined by the Ministerial Committee for Security Affairs (the Security Cabinet) as a “hostile territory” – even if solely for the purpose of traveling to the Judea and Samaria Area, is limited to humanitarian cases only, with an emphasis on urgent medical cases. **According to the policy, in the absence of a legal obligation**, and given the armed conflict between Israel and the Hamas organization, which is in control of the Gaza Strip, travel by Gaza residents to the Judea and Samaria Area is not possible. However, alongside the aforesaid policy, the respondents have implemented **a limited number of exclusions** in which travel may be allowed for **exceptional humanitarian reasons**. In accordance with this policy, the respondents have formulated criteria for examining individual applications.
40. Thus, the respondents' decision to deny the petitioner's passage was made in accordance with the policy of separation between the Gaza Strip and the Judea and Samaria Area, a policy that has been upheld by the Honorable Court on numerous occasions. The petitioner's matter is not one of the humanitarian exceptions in which entry into the Judea and Samaria Area by Gaza residents is approved under the policy in place on this issue. As stated, this policy has been **repeatedly reviewed and upheld by the Honorable Court** (including recently, see, AAA 4620/11 **Qishawi v. Minister of Interior** (unpublished, August 7, 2012 and HCJ 495/12 **Izzat v. Minister of Defense et al.** (unpublished, September 24, 2012), both generally and specifically with respect to

travel between Gaza and the Judea and Samaria Area for the purpose of academic studies. This policy was established around various political and security considerations, including the fact that Gaza has come under the control of Hamas, a terrorist organization intent on destroying the State of Israel, as well as the incessant activity against the State of Israel by terrorist organizations in Gaza. These organizations attempt, *inter alia*, to set up branches of the Gaza terrorist network inside the Judea and Samaria Area, and to bolster the network already active in the Judea and Samaria Area.

41. In the context of this policy, and having examined the circumstances of the case at hand, it has been decided to deny the petitioner's application due to the respondents' position that **participation in a marathon does not constitute humanitarian grounds justifying approval of the application.**
42. The policy criterion on which the petitioners rely, which concerns entry for the purpose of participating in events sponsored by the Palestinian Authority (Sec. 16 in the section titled Entry into Israel in the policy document, Exhibit P/12 attached to the petition, on which we elaborate below), reflects political considerations and considerations relating to the foreign relations between Israel and the Palestinian Authority, and is, by its nature, subject to an individual assessment of each request on its merits and decision-making based on political interests which are at the broad discretion of the respondents.
43. Therefore, approval of the application depends on the status of relations between the Israeli authorities and the Palestinian Authority and not on the status of relations between the individual applicant and the State of Israel, as the application was not filed by the individual with respect to a private humanitarian matter, unlike an application to receive medical treatment in Israel, or visit a sick relative, as an example.
44. Note well: establishing these criteria does not reflect a departure by the respondents from their longstanding policy: **"The State may allow people to enter in order to achieve goals it is interested in advancing at that time for whatever reason – but it has no obligation to do so and there is no room for the Court to compel it to do so"**, (See, §4 of the opinion of Honorable Justice M. Naor in *Izzat*).
45. **We note, beyond requirement, that in the matter at hand, the position of the respondents relies on a number of considerations for rejecting the application.** First, retention of the framework of the policy of separation between the Gaza Strip and the Judea and Samaria Area and the restrictive access policy – the authorities do not intend to approve the entry of Gaza residents for all sporting events, or generally for all events organized to some degree by a Palestinian Authority body. Second, the application was also denied because of the large number of people who requested passage (as stated above, the application named 30 individuals wishing to participate in the marathon); Third, the nature of the event – a local marathon organized under the title "Right to Movement", which has a political character and although the Palestinian Olympic Committee is involved, is led by a private organization in partnership with other private and local organizations.
46. Clearly, from the point of view of the authorities, participating in an event such as this differs significantly from participating in the Olympic Games.
47. The fact that the petitioner was granted a permit to participate in the Olympic Games and other running tournaments in 2008 and 2009 does not give rise to an obligation on the part of the authority to approve the current application. The authority has extremely broad discretion in applications to enter Israel in general and in applications of this sort in particular.

48. The respondents also wish to argue briefly, in order to complete the picture, and considering all the aforesaid, that granting the requested remedy means introducing a new, additional exclusion, by way of recognizing participation in a marathon and other events that lack political justification, as independent humanitarian grounds. The respondents believe that this would mean a broad and significant opening, contradicting the respondents' policy.
49. In this state of affairs – considering the purposes underlying the separation policy – as explained above – the respondents' position is that there was no room to approve the application and that there is clearly no room for the Court to intervene in the respondents' decision.
50. As stated, this is the respondents' policy, as repeatedly upheld by the Honorable Court. As emerges from the judgments cited above, the Court has not intervened in the respondents' policy with respect to, as an example only, preventing travel between the Gaza Strip and the Judea and Samaria Area for the purpose of family visits (**Jarb'u**); entry into Israel for the purpose of prison visits (HCJ 5268/08, the **Prison Visits case**); travel for professional conferences (HCJ 2748/12, **Rafiq Maslam**); academic studies (see cases cited above); visits to medical patients unwarranted by the medical condition (HCJ 1912/12, **Ibrahim Aqr'a**; and worship on Temple Mount (**Qishawi**), and more.
51. It follows that there is no room to recognize this as humanitarian grounds and therefore, for this reason also, there is no flaw in the respondents' decision itself.
52. We note that inasmuch as the petitioner's entry into Israel for the purpose of traveling to the Judea and Samaria Area is examined, the position of security officials with respect to the petitioner's specifics will have to be obtained.
53. This response is supported by the affidavit of the operations branch department head at the office of the Coordinator of Government Activities in the Territories, attached to this response.

6 Nissan 5774
6 April 2014

Erin Safdi-Atilla, Adv.
[signed]
(Acting) Senior State Attorney Deputy

ⁱ See website: <http://palestinemarathon.com/>