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## <u>At the Supreme Court in Jerusalem</u> <u>Sitting as the High Court of Justice</u>

## HCJ 9961/03

In the matter of:	HaMoked: Center for the Defence of the Individual, founded by Lotte Salzberger (Reg. Assoc. No. 58-016-3517)
	represented by attorneys Avigdor Feldman and/or Micha'el Sfard and/or Avim Yariv and/or Miri Hart 6 Simtat Beit HaShoeva Street, Tel Aviv Tel. 03-5608833 Fax. 03-5607176

v.

- 1. Government of the State of Israel
- 2. Prime Minister of the State of Israel Mr. Ariel Sharon
- 3. Minister of Defence Mr. Shaul Mofaz
- 4. Seam Area Administration, Ministry of Defence
- 5. Military Commander in Judea and Samaria

all represented by the State Attorney's Office Ministry of Justice, Salah a-din Street, Jerusalem

## **Request for Expedited Hearing**

The Honorable Court is requested to set a date as early as possible for an oral hearing on the petition herein. The grounds for the said request are as follows:

- 1. This petition involves the legality of the decision that the route of the separation wall (or "separation barrier") will penetrate into the territories that Israel has occupied since June 1967, and that the wall erected by the occupying power will be built on privately owned land and on state lands of territory held under belligerent occupation. The petition also deals with the policy for issuing permits, imposed by the IDF on the seam area between the wall and the Green Line, within which a legal system is being operated that cannot be described in any other term but an Apartheid government that discriminates between Jews and Palestinians.
- These very questions are now being raised, upon the request of the UN General Assembly, before the International Court of Justice in The Hague. A copy of the referral of the question for the opinion of the International Court of Justice is <u>attached hereto</u>.

- 3. The Petitioner believes that, prior to the international court dealing with the legality of the separation wall on the question of whether it breaches the laws of war, of whether this breach constitutes a war crime, or a crime against humanity, it is right and proper that the highest court in Israel hear the matter, and if rectification is necessary, that it do so by directive given by our sovereign judicial institutions.
- 4. To the best of Petitioner's knowledge, the hearing in the international court in The Hague is set for 23 February 2004; thus, the Court is requested to conduct a hearing on this petition prior to that date.
- 5. Furthermore, it seems that a hearing in the Honorable Court, before the issue is brought to the international tribunal, is also in the interest of the Respondents, who surely would like to obtain an internal Israeli decision prior to defending in foreign courts a position that may fail to withstand Israeli judicial review.
- 6. In our opinion, it would not be proper for the State of Israel to present its position to a foreign or international court without that position being reviewed by our High Court of Justice, in which the very same position is pending and is being challenged on constitutionality grounds.
- 7. In addition, even if the hearing in The Hague were not to hear issues raised in this petition, the petition's subject alone dictates an urgent hearing as regards the relief requested, for the passage of time and the continuing construction, the expropriation, the paving, and the destruction is liable to make the relief requested irrelevant.
- 8. Therefore, and for the reason that a temporary injunction has not been ordered in this file, it is proper to set an expedited hearing date that will enable an examination of the contentions raised in the petition before irreversible facts are created on the ground.
- 9. The Respondents' counsel, Attorney Blass, informed the undersigned that he leaves the request to the discretion of the Honorable Court.

In light of the above, the Honorable Court is requested to set a date as early as possible for the hearing of this petition.

[signed] Micha'el Sfard, Attorney [signed]

Avigdor Feldman, Attorney