The Supreme Court sitting as the High Court of Justice

HCJ 7302/07

Before: The Honorable President D. Beinisch
The Honorable Vice-President E. Rivlin
The Honorable Justice Emeritus A. Procaccia

Petitioners:
1. Hotline for Migrant Workers
2. Association for Civil Rights in Israel
3. Israel Religious Action Center - Israel movement for progressive Judaism
4. Physicians for Human Rights – **Israel**
5. ASSAF – Assistance Association for Refugees and Asylum-Seekers

v.

Respondents:
1. Minister of Defense
2. Minister of the Interior
3. Prime Minister of Israel
4. Attorney General

Petition to grant an order nisi

Dates of hearings:	12 Tishri 5768	(September 24, 2007)
	21 Adar I 5768	(February 27, 2008)
	8 Tishri 5769	(October 7, 2008)
	6 Adar 5769	(March 2, 2009)
	26 Kislev 5771	(December 13, 2009)
	24 Adar II 5771	(March 30, 2011)

On behalf of the Petitioners: Anat Ben-Dor, attorney at law; Yonatan Berman, attorney at law

On behalf of the Respondents: Yochi Genessin, attorney at law

Judgment

President D. Beinisch:

Factual background

1. In recent years, and before our eyes, a process is taking place whereby the State of Israel is being transformed into an attractive country that draws foreigners from various places throughout the world into its territory. Many people gather at its gates – by sea, by air and by land – and seek to be allowed to enter its borders and live there, whether for short periods of time or forever, for a wide variety of reasons. It appears that these people primarily constitute part of an international migration movement, occasioned by the phenomena of poverty and unemployment in many countries. The Petition before us, which was filed approximately four years ago, focuses on one of the aspects of this widespread phenomenon and concerns the group of aliens who enter Israel – illegally – via its border with the African continent. In recent years, the entry of these aliens – the majority of whom are residents of various African countries – via the land border with Egypt, has become a common and extensive phenomenon, resulting, *inter alia*, from the fact that this border in relatively long and predominantly, if not entirely, devoid of fences and obstacles. According to the State's argument, the scope of this phenomenon significantly increased in 2007, when 5,208 persons entered Israel in this way; of these, 1,643 arrived in June and July 2007. According to data provided by the State, some 6,900 persons entered Israel illegally in 2008 – a 30% increase over the 2007 data; in 2009, on the other hand, this datum amounted to 2,719 persons, as at September 17, 2009. The updated data recently filed by the State show that in 2010, the number of persons who entered Israel illegally increased considerably, to 13,984 aliens for the entire year. From the beginning of 2011 and up to April 11, 2011, 2,163 aliens entered Israel illegally.

This phenomenon presents complex problems and challenges for Israel, which require it to provide an adequate response in order to prevent unlawful mass immigration to Israel, while, at the same time, complying with its duties as a member state of the

international community and refraining from violating the rights of persecuted persons in such a way as to endanger their lives or their liberty, if they to be deported from Israel. At the core of this balance system stands the real fear of expansion of the phenomenon to dimensions that the State of Israel will have difficulty handling without harm to either side of the equation – the State of Israel and its residents on the one hand and the aliens who enter its borders on the other hand. In the course of its attempts to arrive at various solutions for coping with the implications of this phenomenon, few years ago the State formulated a policy, pursuant to which, in certain cases, anyone who entered Israel illegally via the Sinai Peninsula and was found in the area under Israeli sovereignty or on its international border, was returned to Egypt immediately upon their entry into Israel (hereinafter: Coordinated Return). At the time of the filing of this Petition, it was argued before us that this policy was based on a diplomatic agreement between the Prime Minister of Israel at the time and the President of Egypt at the time.

2. In brief, it may be said that during the period in which the Petition was filed, and in accordance with the guidelines for the Coordinated Return mechanism, as they were presented in the first Response by the State to the Petition which was filed on September 23, 2007, it was customary that upon the seizure of a person who entered Israel illegally via its border with Egypt, the person was questioned by a member of the Border Police or a soldier of the Israel Defense Forces who was appointed for that purpose. The questioning procedure included the provision of personal data, such as the ethnic origin of the person in question, and the documentation in his possession. At that stage, and provided there was no suspicion that the person in question had an affinity to terrorist activity or constituted another security risk, the possibility of returning him to Egypt was examined, in light of his personal data. The decision was made, as necessary, in consultation with a jurist from the Judge-Advocate General's Office of the Israel Defense Forces. At that time, it was determined that the alien in question, pending his Coordinated Return to Egypt, would be held in a military facility, under adequate conditions, and that legal supporting documentation for his return would be prepared. It was further determined that the return to Egypt of anyone who entered Israel illegally would be coordinated with the relevant Egyptian authorities.

3. Pursuant to an incident that took place in August 2007 (hereinafter: the August Incident), in which the State of Israel acted in accordance with the Coordinated Return policy described above and deported to Egypt a group of aliens – most of whom were citizens of Sudan – who had entered Israel on foot via the southern border, and whose fate, following

their deportation, was uncertain, the Petition before us was filed on August 28, 2007 by a number of human rights organizations. The Petition sought to examine the policy in question, primarily with respect to the matter of asylum-seekers, who are protected under the 1951 United Nations Convention Relating to the Status of Refugees (Israel Convention Series 65, 5), and the 1967 protocol appended thereto, (Israel Convention Series 690, 3) (hereinafter: the Refugee Convention or the Convention). The Petition asked the Court to order the State not to act in accordance with the Coordinated Return policy and to refrain from deporting anyone who entered Israel without a permit and was found in the area under Israeli sovereignty or on its international border, including asylum-seekers. The Court was further requested to order the State not to deport the unlawful entrants before they were allowed to meet with representatives of the Office of the United Nations High Commissioner for Refugees (hereinafter: the Commission or the UNHCR) and to file an application for asylum; before an individual examination was conducted with respect to arguments of persecution or fear for the safety of the unlawful entrant, in his country of origin or in the country to which he would be deported; before a hearing was held by the entity competent to order the deportation; and before the unlawful entrant was allowed to have access to human rights organizations or to other entities that were likely to help him. According to the Petitioners, the manner in which the State acted in implementing the Coordinated Return policy contradicted the principle of non-refoulement ("non-return"), which is anchored in the Refugee Convention and imposes upon the State a duty of refraining from deporting or expelling a refugee to a place in which his life or his liberty is endangered.

4. The State, for its part, made it clear from the very beginning that the Coordinated Return policy was intended as a means of coping with Israel's unique situation, as set forth above – the vast numbers of aliens illegally entering its territory via its land border with Egypt. According to the State, the policy described above is consistent with the duties incumbent upon Israel under international law, most of which are founded on the Refugee Convention, and does not constitute cause for intervention by this Court. In this context, it was argued by the State that the policy of Coordinated Return to Egypt is consistent with Resolution 58, which was adopted in 1989 by the Executive Committee of the United Nations High Commissioner for Refugees. Generally speaking, according to the rule set forth in that resolution, refugees and asylum-seekers who had found asylum in a certain state (hereinafter: the Absorbing State or the First State of Asylum) would not be transferred to another state. The aforementioned Resolution 58 further stated that, should a refugee or an asylum-seeker nonetheless move from the Absorbing State to another state, he could be returned to

the Absorbing State, provided that two conditions were fulfilled: first, the refugee or asylum-seeker would be protected against return to his country of origin, and second, the refugee or asylum-seeker could expect to receive basic humane treatment until a solution was found for him, possibly in coordination with the Commission. According to the State, in light of the diplomatic agreements that have been formulated, these two conditions were fulfilled when refugees or asylum-seekers were returned to Egypt according to the Coordinated Return policy. It was further argued that the mechanism is also consistent with Israeli domestic law, and, for this purpose, the State referred to HCJ 1764/99, Abu Muammar, Head of the al-'Azazmeh Tribe, v. Minister of the Interior (March 21, 1999).

5. The first hearing on the Petition took place on September 24, 2007. In the course of the hearing, the State again presented the guidelines that it had formulated for the purpose of implementing the Coordinated Return mechanism, and announced that it intended to anchor this mechanism of operation in a procedure, whose formulation had not yet been completed. Accordingly, the State was requested to update the Court with respect to the procedure to be formulated and, in so doing, to comment on the manner in which the Coordinated Return to Egypt was to be examined, with special emphasis on the manner of performing the initial clarification, which was intended to examine whether the person in question was an asylum-seeker claiming recognition as a refugee, or an alien who was not seeking asylum and who belonged to the group defined by the State as "work migrants." The State was further asked to comment, in its notice, on the training given to those handling the persons claiming refugee status and their qualification to examine the arguments pertaining to that status. Pursuant to that decision, on December 3, 2007 the State filed a supplementary notice, in which it announced that it had formulated a new procedure: the "Procedure for Immediate Coordinated Return of Infiltrators of the Israeli-Egyptian Border" (hereinafter: the Coordinated Return Procedure or the Procedure).

Following formulation of the Procedure, in which the initial clarification was assigned to soldiers who were present at the site within the framework of their essential roles as defenders of the border, which was also a source of security risks, the Petitioners set forth their position on the subjects that they deemed to require improvement in the procedure. Indeed, at the time the Coordinated Return policy was declared, the mechanism for handling its implementation was still in its infancy and caused quite a number of practical and legal difficulties. The diplomatic agreement on which the State relied in its arguments was also vague and undefined. Moreover, the State had difficulty stating what became of the group of

persons who were deported in the August Incident. Furthermore, at the time the Petition was filed, the problem raised therein had grown and become more acute in light of the fact that, at the time, many of those who crossed the southern border into Israel were Sudanese citizens, some of them Darfur refugees. With regard to the latter, no one could dispute that they were entitled to asylum. Under those circumstances, we also saw the importance of a more in-depth clarification of the issue and the improvement of the Procedure presented by the State, along with the mechanisms for implementing it. We therefore decided to leave the Petition pending and to ask the State for updates, on an ongoing basis, as to the changes and improvements made to the Procedure and its overall application.

6. Accordingly, we held four additional hearings on the Petition and asked the State for update notices. In the notices that were filed from time to time, and in the hearings that we held, the State provided ongoing updates on the improvements that it had made to the Procedure and the manner of handling and training the Israel Defense Forces and Border Police personnel who were responsible, *inter alia*, for its implementation.

Thus, the notices by the State indicated that, in the course of the period during which the Petition was pending, the efforts to establish a Special Unit responsible for in-depth questioning procedures within the Ministry of the Interior had borne fruit. The role of that unit is to perform an exhaustive and comprehensive questioning of persons seeking asylum in Israel, in order to ascertain the extent to which they met the requirements for gaining refugee status in Israel. It further transpired that the new unit had engaged employees who speak various languages and had trained them in various fields – including training in the initial record-keeping, training with the participation of professional entities with expert knowledge of various areas of Africa, and a course in inquiry and questioning procedures, which concerned the actual practice of those procedures. The State clarified that some workers in the unit are in charge of questioning aliens in an Israel Defense Forces facility in southern Israel, after the aliens in question are detained and arrested by Israel Defense Forces troops near the southern border. The State further emphasized the involvement of representatives of the Office of the United Nations High Commissioner for Refugees in Israel in this training, and even provided details as to the scope of the applications that were handled by the Questioning Unit employees.

In addition, we were also told that, concomitantly, the Israel Defense Forces had formulated a military training program for soldiers posted near the Egyptian border to

take part in the questioning procedure, as part of the implementation of the Coordinated Return policy. The training program that was formulated includes survey courses on various legal subjects, the powers vested in Israel Defense Forces troops regarding the treatment of the unlawful entrants, the military orders governing their handling and the socioeconomic and political situation in African countries. Subsequently, and after an additional hearing had been held before us, we were informed in an update notice that training programs of this type had begun to be implemented. It was emphasized that only soldiers who had attended at least one training program would be authorized to perform the questioning according to the Procedure, to complete the relevant form and, if necessary, to participate in performing a Coordinated Return. In accordance with the policy that was in effect at the relevant time, these questioning procedures, as set forth above, were implemented with the aliens shortly after their entry into Israel, and only thereafter was a decision made as to whether the alien would be transferred to the Ministry of the Interior for further handling.

In the course of time, the State also informed us that additional changes and improvements had been made in the procedure for handling the aliens who enter Israel illegally via its southern border, and in the Coordinated Return process, and that a new procedure for that issue had been formulated (hereinafter: the Updated Procedure). Basically, an additional update notice indicated that the framework of the original Procedure had been preserved and that, in addition, other entities had been authorized to perform various operations pursuant to the Procedure as one of the processes for handling aliens who enter Israel illegally.

It was also made clear to us, in the course of the hearings, that, whenever aliens who enter Israel illegally via the Egyptian border claim refugee status during their initial questioning, a Coordinated Return is not conducted; rather, those aliens are transferred to the Questioning Unit in the Ministry of the Interior for further clarification. It also transpired, on the basis of the data provided by the State, that during the years in which the Petition was pending, relatively few Coordinated Returns had been implemented, all of them in one sector of the southern border, where, according to the State, there was proper coordination between the Egyptian and Israeli forces.

7. Notwithstanding the aforesaid changes and improvements that were made in the Procedure, the Petitioners insisted on maintaining both aspects of their Petition – both the general aspect, which concerns the legality of the Coordinated Return policy as a whole,

and the individual aspect, which concerns various changes that they believe should be made in the Procedure. During the period when the Petition was pending, they also presented arguments about *prima facie* breaches of the Procedure. The State responded to these arguments, commenting on various incidents that took place during that period, and explained that when circumstances required the assimilation of procedures, it was done.

8. Everything set forth above indicates that, since the Petition was filed – and, in many ways, as a result of the Petition – numerous developments have taken place with respect to the issue that it sought to raise, regarding the ways in which the situation and status of the aliens who cross the Egyptian border and enter Israel via the Sinai Desert are clarified.

Thus, and most importantly, the Ministry of the Interior established a special questioning unit whose employees were trained to handle applications by persons seeking asylum in Israel, as is customary in many other countries throughout the world. The establishment of the unit was accompanied and supported by the United Nations High Commission for Refugees. In that unit, training was given to employees in charge of initial identification and questioning – including in an Israel Defense Forces facility in the South, after the detention and arrest of the aliens by Israel Defense Forces troops – as well as to employees in charge of performing in-depth interviews of the aliens (Refugee Status Determination – RSD). In addition, the State formulated a proper handling procedure for the affairs of aliens who enter Israel illegally from the Egyptian border, and, as set forth above, many changes and improvements were made in that procedure during the period the Petition was pending. These included the establishment of a mechanism that was meant to locate the asylum-seekers among those aliens, in such a way as to enable their cases to be transferred to the competent authority in the Ministry of the Interior for further handling; special training of soldiers responsible for questioning those aliens; formulation of appropriate questioning forms; and definition of the competent military entities for handling these matters. It also came to light that, during the time that had elapsed since the Petition was filed, the guidelines with regard to asylum-seekers were clarified, so that it seemed that any alien who claimed, upon encountering military personnel after crossing the border, that his life or his liberty would be at risk if he were returned to Egypt or to his country of origin, was transferred to the Questioning Unit in the Ministry of the Interior for further handling, and the Coordinated Return procedures did not apply to him. It further transpired, as set forth above, that, in any event, only a few Coordinated Returns were carried out, and only in certain sectors – those in which there was proper coordination between the Egyptian and the Israeli

sides – and only in cases involving aliens who, after entering Israel, told the soldiers who questioned them that they wanted to enter Israel in order to find work. The State further argued that, in any event, the number of returned persons was rather small, relative to the number of entrants who had been caught on the border. Thus, for example, the State pointed out that, between the beginning of 2009 and September 12, 2009, in the sector where, as set forth above, the State felt there was adequate coordination, 23 Coordinated Return incidents were implemented, in which 217 aliens were returned, out of a total of 1,093 persons who had entered and had been caught in that sector. In addition, the State emphasized to us that, throughout the years, a change had taken place in the population that made up the majority of aliens crossing the border illegally: whereas, in the first two years in which the Petition was handled, most of the aliens had been Sudanese who claimed to have come from Darfur, in the last two years, most of the entrants were from Eritrea, and in light of the situation there, a temporary policy of non-refoulement is in force with regard to those aliens.

9. Before our decision on the Petition was handed down, additional events took place that had a substantive impact on the subject of the Petition. These events are the geopolitical changes that occurred in the area and changed the political reality in Egypt. As set forth above, from the outset, we were troubled by the fact that, if and insofar as any unwritten arrangement existed with Egypt, it was *prima facie* an unsatisfactory one. With the overthrow of the government, we became even more troubled, in view of the increasing risk of uncertainty with regard to the prevailing situation in Egypt and, accordingly, with regard to the fate of the aliens being returned to that country.

Therefore, as a result of these changes, and in order to examine their connection to the Petition, we decided to hold yet another hearing – the sixth in number – on the Petition, which took place on March 30, 2011. At the end of the hearing, we asked the State to file a supplementary affidavit, including updated comments on the prevailing reality on everything pertaining to the implementation of Coordinated Returns in accordance with the Procedure, in light of the geopolitical changes in the area and additional factual changes regarding the situation in Sinai. On April 18, 2011, the State filed a supplementary affidavit, on behalf of the commanding officer of the Edom Division, Brig. Gen. Tamir Yidei. The affidavit indicated – as the representative of the State had informed us during the hearing – that as a result of the recent developments in Egypt, it was not possible to implement the Coordinated Return mechanism in accordance with the framework that had been agreed upon in the past. This being the case, in early March 2011, Brig. Gen. Yidei ordered that

implementation of the Coordinated Return procedure be suspended for the time being. The affidavit further indicated that, in 2010, Brig. Gen. Yidei had ordered that no Coordinated Returns of women and children were to be implemented, given the fear for their well-being because of the hardships involved in the return trip. The latter order had probably taken into account the situation prevailing in the Sinai, which poses a real danger for those infiltrating into Israel with the assistance of border smugglers, who misuse their power, thereby causing this helpless group to incur real harm – both physical and mental.

10. On May 19, 2011, the Petitioners filed a Response to the supplementary affidavit by the State. In their Response, the Petitioners emphasized two aspects. The first of these was the change that had taken place in the geopolitical reality in the area, resulting in the fact that there is no longer any diplomatic agreement between Israel and Egypt. In light of this change, the Petitioners argued, the main basis for the State's argument about the legality of the Coordinated Return mechanism had been undermined. As for the second aspect, the Petitioners appended two affidavits by citizens of Eritrea, which *prima facie* indicated that, in April 2011, when they attempted to enter Israel, they were prevented from entering by Israel Defense Forces troops and were returned to Egypt without having been questioned in accordance with the Procedure. The Petitioners argue that these affidavits indicated a discrepancy between the declarations by the State – that Coordinated Returns have been stopped for the time being – and the actual situation. It should be noted that, in addition to these affidavits, three other affidavits – which were filed by the Petitioners prior to the hearing on March 30, 2011 – attest to additional cases in which Israel Defense Forces troops *prima facie* prevented citizens of Eritrea from entering Israel, without having implemented the provisions of the Procedure in their cases.

11. In an additional decision dated May 29, 2011, which was handed down pursuant to the Response by the Petitioners, the State was asked to file a supplementary notice "in which it will clarify whether, in its opinion, under the circumstances at the present time and in light of the reality prevailing in Egypt, Coordinated Returns are being implemented in accordance with the Procedure, without such a move endangering the lives or liberty of the deported persons."

On June 13, 2011, the State filed its last supplementary Response. Within the framework of that notice, the State again declared that, at this time, and since March 2011, no more Coordinated Returns to Egypt are being implemented, pending the adoption of a new decision in the matter. In addition, the State appended a copy of the Coordinated Return Procedure, which expressly stated that the Procedure was suspended "for the time being, pending the resumption of tactical coordination with the Egyptian security forces," and that it would be possible to renew it "when the conditions that enable the continued implementation of the Procedure are resumed," and only in accordance with a written instruction by the Operations Division in coordination with entities from the Judge-Advocate General's Office. At the same time, the State made it clear that this decision, with regard to the suspension of the Procedure for the time being, had been made despite the fact that the events in Egypt had not led to the discontinuation of contacts between Israel and Egypt, and that close cooperation and coordination between the two states have continued at all times, on all levels and on a variety of issues. This position was supported by the Deputy Director-General for the Middle East in the Ministry of Foreign Affairs. The State further emphasized that, in any event, coordination between Israel and Egypt is not a *sine qua non* for the implementation of the Coordinated Return procedure.

Decision

12. Under the factual circumstances extensively described above, and in light of the suspension of the Coordinated Return procedure, we have come to the conclusion that the Petition should be denied, subject to the fact that the parties reserve the right to pursue their arguments, should the issue arise again in the future.

As set forth above, throughout the entire time the Petition was pending, it remained founded on two principal arguments. The first of these concerned the legality of the Coordinated Return procedure as a whole and sought the remedy of a Court order for its termination; the second concerned individual arrangements that were formulated within the Procedure for the purpose of its implementation.

This being the case, once the State decided to suspend implementation of the policy for the time being, the granting of a remedy which seeks to cancel it becomes devoid of any practical meaning today, because, as long as the Coordinated Return procedure is not being implemented, it remains theoretical. As a rule, this Court does not customarily addresses itself

to issues of a theoretical nature, other than in exceptional cases, where a judgment can only be rendered with respect to a general question that does not involve a specific case (see Administrative Petition Appeal 1789/10, Esther Saba v. Israel Lands Administration (November 7, 2010)). We believe that the subject matter of the Petition does not fall within the confines of the exception to the rule. Furthermore: since the Petition was filed, so many changes have taken place in its relevant normative and factual infrastructure that today, and in its present format, there is no further remedy that can be sought within its scope.

In addition, under the circumstances of the case, we believe that we are actually incapable of granting the remedy sought by the Petitioners, because the present factual reality does not enable examination of the policy attacked by the Petition in a way that gives proper consideration to all of the factors involved. As stated above, both the State and the Petitioners sought to examine the legality of the Coordinated Return policy – *inter alia*, in light of the outline of action that was formulated between Israel and Egypt for the purpose of its implementation. Whereas the State, as stated above, referred to a diplomatic agreement that was formulated in the past between the leaders of the states, the Petitioners attacked that agreement and argued that it was not sufficient to ensure compliance with the obligations imposed by international law on this issue. As stated, this vague and undefined arrangement appeared difficult for us as well; moreover, the data presented by the Petitioners left unanswered questions about the situation of the returned persons. However, given that the Coordinated Return policy has been terminated for the time being, there is no longer any cause for examining the legality of an arrangement that is not being followed. To all of the above, we must add that, for quite some time, the situation prevailing in Sinai has been creating real risks for Israel. This is because, aside from its nature as an exposed and insecure border area that enables uncontrolled entry of aliens into Israel, it also constitutes a dangerous pivotal point for the smuggling of weapons and drugs, as well as extensive and fertile ground for human trafficking. In light of these risks, and as the representative of the State declared before us during the hearings, the Government decided to build a fence along the southern border, and that fence is currently under construction. Obviously, once the fence is completed, an additional change will take place in the factual circumstances relevant to the case before us – a change that may well have implications for the issue that constitutes the object of the Petition.

Considering all the above, we believe that at the present time there is no justification, nor even any proper basis, for subjecting the suspended policy of the State to judicial review. Should it be decided, in the future, to reinstate the Coordinated Return policy,

the Petitioners will have the right to pursue their arguments, which will be examined in light of all of the factual and legal aspects that will be relevant at that time. In light of our conclusion about examining the legality of the policy as a whole, and given the present factual reality and the suspension, in practical terms, of the Coordinated Return Procedure, we also do not believe, at this time, that the Court should address itself to the second aspect of the Petitioners' arguments, which concerns the various sections of the Procedure, in which, as stated, many changes and improvements have been made over the years. The amended Procedure, after all its metamorphoses, can only be examined within the framework of a new, focused petition, if and insofar as this is required again in the future, and not within the framework of the Petition before us.

Nonetheless, in light of the difficulties to which the Coordinated Return policy gives rise, especially given the chaotic situation which presently prevails in Sinai and the fear for the well-being of the returned aliens, we assume that, should it be decided to reinstate the policy of returning aliens to Egypt and, accordingly, to reinstate the Procedure, it will be done in accordance with the generally accepted standards of international law, including the provision of appropriate guarantees, in order to safeguard the well-being of the returned persons with a high level of certainty.

13. In addition to this Judgment, we would nonetheless like to state that the issue that was raised in the Petition before us is, of course, not unique to the State of Israel, notwithstanding the fact that our security-related and geopolitical reality has unique aspects. Many countries throughout the Western world have found it necessary in recent decades, to establish various arrangements with regard to the proper handling of asylum-seekers who gather at their gates, because of the obligations of those countries under refugee laws. These arrangements are based on a complex and complicated system of balances – on one hand, preserving the sovereign right of the State to decide who may enter it; and, on the other, upholding the duty of protecting the human rights of this group, which seeks to flee the fear of hunger, wars or persecution and to provide itself with an alternative for a better life. Over the years, the Office of the United Nations High Commissioner for Refugees has emphasized its position on the importance of establishing various procedural arrangements, to enable proper and effective handling of applications made by asylum-seekers from various countries, while establishing general guidelines for assisting all countries in implementing the provisions of the Refugee Convention with regard, *inter alia*, to the definition of the term "refugee" and the ways of dealing with persons seeking to be granted such a status. Accordingly, many countries have adopted various arrangements, based, *inter alia*, on these

principles. This is not surprising, given that the establishment of procedures and processes for handling aliens who cross borders illegally, and the possibility that some of those aliens are asylum-seekers, doubtlessly make it necessary to take into account international rules and standards based on the Refugee Convention.

In Israel, as stated, the phenomena of unlawful entry by aliens, especially via the southern border, imposes an especially difficult task upon the authorities of the State: finding a solution that will reduce the number of uncontrolled entries while acknowledging the need to deal properly with the status of those who are entitled to asylum.

14. Therefore, at this time and under the circumstances that have arisen, we find that there is no further remedy that can be sought within the scope of this petition; we deny the petition, while reserving the parties' right to pursue their arguments, and with no order for costs.

The President

Vice-President E. Rivlin:

I concur.

The Vice-President

Justice Emeritus A. Procaccia:

I concur.

Justice Emeritus

It is therefore decided as stated in the ruling by President D. Beinisch.

Given this day, 5 Tammuz 5771 (July 7, 2011).

The President The Vice-President Justice Emeritus

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