

NORWEGIAN  
REFUGEE COUNCIL

## Legal Memo

### *Travelling Abroad from the West Bank and the Gaza Strip*

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#### OBJECTIVE:

This memo discusses the factual and legal aspects of Israel's policy towards Palestinians travelling abroad from the occupied Palestinian territories (oPt).<sup>1</sup> The fact sheet elaborates on security bans and on the procedure allowing Palestinian residents to inquire about their security clearance before traveling, while referring to the unique situation in the Gaza Strip.

#### BACKGROUND:

Israel began occupying the West Bank and the Gaza Strip in June 1967. Following the occupation, the Israeli military authorities declared the oPt "closed areas" and required Palestinian residents to obtain permits in order to enter and leave the oPt. The Israeli military authorities conducted a census of the population physically present at the time, registered them as residents, and issued identification cards.

Resident status entitled the holders to reside in the oPt, work, move about within the oPt and travel abroad. This entitlement was of paramount importance since prior to the Israeli occupation, the oPt was controlled by Jordan and as a result, many Palestinians had social and economic ties to Jordan – to relatives, properties and businesses. Palestinians of the oPt were also entitled to complete academic studies and receive medical treatment in Jordan. Israel acknowledged the need of the Palestinian population to travel abroad and had, therefore, implemented a policy of "open bridges" between the oPt and Jordan. Residents of the oPt could travel to Jordan, and from there abroad, with no need to obtain prior authorization.

As a result of shifting Israeli policy, the "open bridges" policy underwent restrictive changes. For instance, during the first intifada (1987-1991), each Palestinian resident who wished to travel had to obtain authorization in advance.<sup>2</sup> In 1991, during the First Gulf War, all border passages were closed to Palestinians for a period of a month and a half. In 2014, in the course of 'Operation Brother's Keeper', Israel imposed an exit ban on 30,000 of the residents of the West Bank and sent back 3,394 Palestinians who tried to cross Allenby Bridge from the West Bank into Jordan. **In each of these examples, the policy changes were carried out with no prior notice.** We shall now turn to the procedure regulating travels for traveling of Palestinians outside of the oPt and its changes throughout the years.

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<sup>1</sup> The term "occupied Palestinian territories" in this fact sheet refers to the West Bank and the Gaza Strip, which Israel occupied in 1967. The term does not relate to East Jerusalem since different rules applies to its residents.

<sup>2</sup> Letter from the Minister of Defense office to Knesset Member Dedi Tzucker, 28 January 1993 - <http://www.hamoked.org.il/items/9881.pdf> (Hebrew only).

### Travel Procedure from the oPt and back: Exit Permits

Following the occupation, Israel implemented a procedure regulating the travels of Palestinians outside of the oPt.<sup>3</sup> In order to travel, Palestinians were required to obtain 'exit cards' upon their departure and pay a fee. Most West Bank residents travel through Allenby Bridge to Jordan. Due to Israeli restrictions, only few travel through Ben-Gurion Airport in Israel. Gaza Strip residents used to travel through Rafah Crossing to Egypt or through Allenby Bridge as well (their current situation will be explained below). At the border, the traveller received an exit permit valid for three years, written in Hebrew. The traveller was required to hand in his/her ID card, which he/she had to collect upon return. The exit permit could have been extended 3 times for one year each by filing a request at least 30 days prior to its expiration date, meaning that an oPt resident could have stayed abroad for a maximum of six sequential years. If an extension was not obtained and the traveller did not return on time, his/her residency was revoked.

Previous versions of the procedure prohibited young males (ages 16-25 in one version and under 35 in another) wishing to travel outside the oPt from returning to their country for a period of six to nine months. Exceptions were approved only on humanitarian grounds or for students requesting leave to take exams abroad. The procedure was never published, and most residents were not aware of these restrictions prior to arriving at the bridge. In the procedure's current version, no such restrictions exist.

In some cases, Israel demanded residents who wished to travel to sign a commitment not to return to the oPt for several years.<sup>4</sup> In other cases, Israel demanded that the traveller cooperate with the General Security Service as a condition for approving the travel.<sup>5</sup> The state changed its demands once petitions were filed to the High Court of Justice (HCJ).

**The main difficulty** travellers faced under previous versions of the procedure, was lack of information regarding the existence of a personal security ban on travelling. Each year, hundreds of Palestinian residents were personally banned from leaving their country without their knowledge. They discovered the existence of the ban only upon arriving at the bridge with their luggage, rushing to catch their pre-booked flights out of Jordan and on their way to a scheduled surgery, to begin new studies, to visit a sick relative, or to attend wedding festivities. Many avoided travelling altogether for fear of being refused at the border.

Most residents who were turned back at the border and who later inquired about their status with their local Israeli District Coordination Office discovered that there existed no actual ban and that they were indeed permitted to travel. When travellers with a personal ban filed petitions with the HCJ contesting their bans, the ban was usually removed by the state even before the petition was heard.<sup>6</sup>

### Inquiries Procedure 1993- present

In 1993, the Israeli authorities began implementing a procedure allowing Palestinians residents to inquire about their personal security status, i.e. whether or not they are barred from leaving the oPt,

<sup>3</sup> Order No. 312 – Procedure for residents of the oPt and East Jerusalem traveling for the East Bank, October 1977; Order 401- OPt and East Jerusalem residents traveling to Jordan and Egypt, October 1988; Procedure for Palestinian travelers through the bridge [http://www.cogat.idf.il/Sip\\_Storage/FILES/8/3768.pdf](http://www.cogat.idf.il/Sip_Storage/FILES/8/3768.pdf) (Hebrew Only).

<sup>4</sup> HCJ 612/92 *Mor V. The Israeli Army commander in the West Bank*; HCJ 2723/92 *Abu Daka V. The Israeli Army commander in the West Bank et al.*

<sup>5</sup> HCJ 3927/93 *Salah et al V. The Israeli Army commander in the West Bank et al.*

<sup>6</sup> Exit Permits to East Jerusalem and West Bank residents, Hamoked 1991 - <http://www.hamoked.org.il/items/10100.pdf> (Hebrew only)

before embarking on travel.<sup>7</sup> Since many applicants did not receive answers in a timely manner, petitions to the HCJ were filed.<sup>8</sup> Following the petitions Israel committed to respond to inquiries on the matter within eight weeks, and in urgent cases – such as travel for medical treatment, commencement of studies or a sudden family disaster – to provide an expedited response.<sup>9</sup>

In some cases, people who learned of their personal security ban petitioned the HCJ, and once again, in most of these cases, the bans were lifted by the state even before the petitions were heard.<sup>10</sup>

With the outbreak of the second intifada in 2000, the Inquiries Procedure was frozen. Palestinians could no longer inquire ahead of time on their personal status, and once again, many were sent back from Allenby bridge.

It was only in 2008 and following another petition to the HCJ,<sup>11</sup> that a new and harsher two-phase Inquiries procedure was implemented. According to the new procedure, a Palestinian resident wishing to travel had to submit an inquiry form *in person* at the Israeli District Coordination Office. The form could not be filed by an attorney or by the Palestinian District Coordination Office. After filing, the applicant had to wait four days before he/she could return to the District Coordination Office to receive an answer to the request. If the answer was negative, the applicant needed to wait an additional six weeks in order to receive the reasons underlying the ban. Only once the reasons were provided, could the applicant file an appeal to the District Coordination Office challenging the decision.<sup>12</sup>

Following petitions to the HCJ during 2010-2011<sup>13</sup> and a correspondence between the NGO Hamoked and the Civil Administration and Coordination of Government Activities in the Territories ("COGAT"), the procedure was amended<sup>14</sup> and gradually improved. We shall now turn to address the current version of the procedure.

### **The Current Travel Procedure to and from the oPt West Bank**

Palestinian residents of the West Bank can travel abroad only via Allenby Bridge. As a rule, travel through Allenby Bridge does not require previous coordination. They can travel either with an ID card and an "exit card" or with a Palestinian passport.

In exceptional humanitarian cases, a permit to travel through Ben-Gurion Airport might be obtained. A person between the ages of 18-60 wishing to travel through the airport must submit a special application to the Civil Administration, which includes a security clearance. Once approved, the traveler must return the same way.

Inquiries about personal security status can be filed eight weeks prior to travel. Under the current version of the procedure, an inquiry may be filed not only in person, but also through the Palestinian

<sup>7</sup> Letter from the Minister of Defense office to the NGO Hamoked, 08 August 1993- <http://www.hamoked.org.il/items/9882.pdf> (Hebrew only).

<sup>8</sup> Ibid. 5.

<sup>9</sup> Ibid. 5, response on behalf of the Respondents, 22.09.1993-<http://www.hamoked.org.il/items/452.pdf> (Hebrew only).

<sup>10</sup> E.g. HCJ 5633/95 *Hamoked et al V. The Minister of Defense et al*; HCJ 3290/94 *Hamoked et al V. The Minister of Interior et al*.

<sup>11</sup> 8155/06 *ACRI et al V. The Israeli Army commander in the west bank et al*.

<sup>12</sup> Procedure as to inquires of Palestinians travelling abroad, January 2008 -<http://www.hamoked.org.il/items/8476.pdf> (Hebrew only).

<sup>13</sup> E.g. HCJ 2678/10 *Hamoked el at v. The Israeli Army commander in the west bank*; HCJ 4340/11 *Hamoked el at v. The Israeli Army commander in the west bank et al*.

<sup>14</sup> Procedure as to inquires of Palestinians travelling abroad, March 2011-<http://www.hamoked.org.il/files/2011/113493.pdf>

District Coordination Office, an attorney, or an NGO. Decisions are issued in writing, and where the applicant has a ban, the decision includes an explanation of the appeal process.

There are still many problems with the implementation of the procedure. Between January 2015 and June 2016, the NGO Hamoked filed 24 petitions to the HCJ, each resulting in the lifting of the ban. In July 2016, the HCJ reproached the state for delaying its response until a petition is filed and only then, lifting the personal ban. The court also ordered the Head of Civil Administration himself to explain which measures he plans to take to prevent such conduct in the future.<sup>15</sup>

### The Gaza Strip

On September 22, 2005, Israel completed its unilateral disengagement from the Gaza Strip, in the course of which it evacuated all Israeli settlements from the Gaza Strip and withdrew its military forces from the area.<sup>16</sup> In June 2007, after Hamas seized control over the Gaza Strip, Israel imposed a siege on the Gaza Strip. It closed the border crossings between Israel and the Gaza Strip, thereby denying residents of the Gaza Strip almost any possibility of exit or entry. Although Israel eased some aspects of the siege over the years, the restriction on entering the Gaza Strip or travelling from the Gaza Strip into Israel remains in effect.

Israel supports this restrictive practice by appealing to security concerns, maintaining that any movement between the Gaza Strip and the West Bank may pose a security risk, even when the person requesting permission is not personally considered a threat.<sup>17</sup> On that basis, Israel limits Gaza Strip residents' entry into Israel – including for the sole purpose of reaching the Allenby Bridge – to exceptional humanitarian cases.<sup>18</sup> Gaza Strip residents may be permitted to travel abroad for the following purposes: for medical reasons in life-saving situations; to visit fatally ill first-degree relatives for up to one week; to attend weddings or funerals of first degree family members for up to three days; to attend agricultural or medical conferences; to pursue graduate and doctoral studies; and for work purposes, provided that the traveler is a senior business professional or a member of a national sports team.<sup>19</sup> In addition, travelers who commit not to return to the Gaza Strip or the West Bank for a year, may also apply to leave.

There is a quota of 100 permits per week allocated to Gaza Strip residents wishing to travel through Allenby Bridge and a quota of only 20 permits a week for travelers approved to travel through Ben-Gurion Airport. Travelers must return through the same border through which they exited. When returning through Ben-Gurion Airport or Allenby Bridge, a Gaza Strip resident has 24 hours to re-enter the Gaza Strip through the Erez Crossing, after the lapse of which he/she will be treated as an illegal alien.<sup>20</sup>

Between May 2009 and July 2016, 430 requests of Gaza Strip residents to travel through Ben-Gurion were filed and only 260 were granted. These numbers show that only 3.5% of the quota is filled, suggesting both that the procedure of requesting to travel through Ben-Gurion airport is too complicated and the criteria to receive the permission is harsh.<sup>21</sup>

<sup>15</sup> HCJ 3764/16 *Ali et al v. Army commander*, 05 July 2016.

<sup>16</sup> Declaration Stating the End of Military Rule, 22 September 2005.

<sup>17</sup> HCJ 2748/12, *Muslem et al. v. Commander of the Military Forces in the West Bank et al.*, preliminary response on behalf of the Respondents, 10 April 2012, Article 17.

<sup>18</sup> *Ibid.*, Article 24.

<sup>19</sup> Unclassified status of permissions of Palestinians entry to Israel, passage between Judea and Samaria and the Gaza Strip and travel abroad, 17 July 2016, <http://www.gisha.org/UserFiles/File/LegalDocuments/procedures/general/50.pdf> (Hebrew only).

<sup>20</sup> Procedure of transfer to Gaza Strip after Entering Israel through an International passage, February 2015.

<sup>21</sup> Letter from COGAT to Gisha, 17 July 2016.