The Jerusalem District Court sitting as a Court for Administrative Affairs

Petition No. 727/06

Before the Hon. Justice Moshe Sobel

The Petitioners:

1. **……Nofal**
2. **……Nofal**
3. **……Nofal**
4. **……Nofal**
5. **HaMoked: Center for the Defence of the Individual founded by Dr. Lotte Salzberger, - Registered non-profit association,** represented by counsel, Attorney Adi Lustigman

v.

The Respondents:

1. **The Minister of the Interior**
2. **The Director of the Population Administration**
3. **The Director of the Population Administration Office in East Jerusalem**

   Represented by the Jerusalem District Attorney

JUDGMENT

1. This petition has undergone changes as a result of a decision taken by the Interior Ministry (hereinafter: **the respondent)** after its submission. In its present version the petition challenges the respondent's decision to permit Petitioners 3 and 4 (hereinafter: **the petitioners**) to remain in Israelby means of stay-permits rather than A/5 temporary residency visas as well as various directives in the respondent's Procedure No. 2.2.0010 regarding registration and granting of status to a child, only one of whose parents is registered as a permanent resident in Israel (hereinafter: **child registration procedure)**.

Petitioners' Status

2. The petitioners are the two oldest daughters (of six children) of Petitioner 1, a permanent resident of Israel (hereinafter: **the mother**). The mother married Petitioner 2, a resident of Nablus in 1987, and lived with him in Nablus from that year until 2001. Petitioner 3 was born in Nablus on November 11, 1988. Petitioner 4 was born in Beit Jalla on 13 November 1989. In 2001 the family moved to Jerusalem and has lived there ever since. In 2002 the respondent took the mother's identity card away from her. It was returned in June 2003 after intervention by HaMoked: Center for the Defence of the Individual (Petitioner 5). After October 13, 2003 the petitioners contacted the respondent requesting to arrange the status of the mother's children. Since the Citizenship and Entry into Israel Law (Temporary Order) 5712-2003 - was already in force, Section 1(3) of which permitted granting an Israeli residency visa to a minor resident of the Area only if he or she was under the age of 12, the respondent did not permit the petitioners to submit requests for the petitioners, who were older than 12. The submission of applications for them was only possible after the amendment to the temporary order of August 1 2005, which raised the cut off age from 12 to 14 and determined that a minor resident of the Area whose age exceeds 14 could obtain a DCO permit from the commander of the Area. As such, an application to arrange the petitioners' status was filed on November 28, 2011. On September 13, 2006 (following submission of the application), the Respondent decided to grant them DCO permits.

3. The petitioners claim that they are entitled not only to DCO permits but to temporary residency status for two years and permanent status thereafter. They reach this conclusion by two claims. The **first** is the argument that they are not considered **"residents of the Area**" as defined in Section 1 of the temporary order; hence the law's restrictions do not apply to them in any way. According to the petitioners, after the respondent had returned their mother's Israeli residency and registered their four siblings (three of whom were born outside Israel and the fourth in Jerusalem) in the population registry, they too should

be considered Jerusalem residents, and this in the view of the statutory right to family unity and the basic principle requiring equating the status of a child to that of his custodial parent. The **second** argument was that even if the temporary order applied to the Petitioners, Petitioner 4 is still initially entitled to a permanent residency visa, by virtue of Section 1(a)3 of the law as amended on August 1 2005, which enables the respondent to grant a residency visa to a minor resident of the Area aged up to 14 in order to prevent separation from his custodial parent who is legally present in Israel. Granted, Petitioner 4 had already reached the age of 14 on the date this law was enacted. However, on October 13 2003, when the first request to arrange the petitioner's status in Israel was submitted, Petitioner 4 was 13 years and 11 months old. As for Petitioner 3, who was about 15 when the first request was submitted, it is argued that her status should be compared to that of her mother and five siblings, so that she, too, may continue to live in Israel, with a stable status which confers social rights, rather than merely through DCO permits which require frequent renewals and do not confer social rights. As far as the petitioners are concerned, this comparison is possible by virtue of Section 3c of the Temporary Order Law which permits a respondent to grant a resident of the Area status in Israel in order to advance a unique or important matter of state. The petitioners argue that the interest of preventing humanitarian injustice and a splitting of the status of siblings is such a matter.

4. I have decided to accept Petitioner 4's request and reject that of Petitioner 3. I will begin with the question of the application of the Temporary Order Law. On this issue the law is with the Respondents. Section 1 of the Law defines the term **"resident of the Area"** as:

> **[S]omeone who has been registered in the population registry of the Area, as well as someone who resides in the Area notwithstanding the fact that he has not been registered in the population registry of the Area, but excluding a resident of an Israeli settlement in the Area.**

This definition is valid since the amendment of the Temporary Order Law on August 1 2005. Before that amendment the wording of the definition was:

> [I]**ncluding anyone residing in the Area even though he is not registered in the population registry of the Area, and excluding a resident of an Israeli settlement in the Area.**

The present definition applies to "**two different population groups who have no connection in the language of the section –one that is registered in the population registry of the Area and one that is not**". Thus "**for the purposes of applying the Temporary Order Law with its amended definition, suffice it that the respondent is registered in the population**

registry of the Area, and there is no need to examine his actual ties to the Area also." (AP 1621/08 **State of Israel vs. N. Hatib**, January 30 2011). The fact that the petitioners were registered after their birth (in the Area) in the Area's population registry, and are still registered in it, suffices to apply to them the amended version of the definition "**resident of the Area**" that was valid on the date of the decision regarding their request to arrange their status , and as a consequence, the Temporary Order Law. As to the original definition which prevailed at the time the October 13 2003 request for arranging the petitioners' status was submitted, this definition was interpreted in case law, such that "**registration in the registry *prima facie* establishes the assumption that the applicant for Israeli does have other connections to the Area, other than the registration. Therefore, in the absence of other particulars, the Interior Ministry may rely on the registration and assume that the provisions of the Temporary Order Law apply to the applicant for Israeli status. Nevertheless, in accordance with the restrictive interpretation of the definition of 'resident of the Area', the Interior Ministry must enable the applicant for status to convince it by producing administrative evidence, that apart from registration in the registry, he lacks any additional connection to the Area, so that the Law shall not apply to him. If the applicant for status discharges this burden, the normal arrangements applying to granting of status in Israel shall apply to him."** (AP 5569/05 **Interior Ministry v. 'Aweisat**, October 10 2008). N.B.: In order to discharge this burden, it is not sufficient for the applicant for status to indicate connections linking him to Israel on the date the application is submitted. As noted, he must produce evidence proving "**that apart from registration in the registry he lacks any additional connection to the Area.**" In other words, "**an applicant for status who is registered in the population registry of the Area must prove that he has no connection to the Area other that registration; and not to prove that he has some connections to Israel… even if the applicant for status has connections of one kind or another to Israel this is not sufficient to rule out the possibility of his being defined a resident of the Area. This is because in tandem with his connections to Israel, it is possible that apart from the registration he has additional connections to the area.**" (AP 5718/09 **State of Israel v. Srur**, April 27, 2011). According to this test, the petitioners must be viewed as not having met the burden of persuading that they lack any additional connection to the Area other than their registration therein. The petitioners were both born in the Area and lived there with both their parents for most of their childhood: Petitioner 3 – until the age of 13, and Petitioner 4 – until the age of 12. The petitioners make no claim regarding any connection that they had with Israel during those years. Their father is also registered in the registry of the Area. In any case, it has not been proven that they lacked any connection to the Area other than being registered therein on any of the

dates on which arrangement of the petitioners' status in Israel was requested, i.e. from October 2003 onward, even if on said dates there were connections of one kind or another between them and Israel. As was explained in the aforesaid AP 5718/09:

> **[A]lthough the existence of a center-of-life in Israel in the two years preceding the request is a condition for receiving Israeli status in accordance with the child registration procedure, this does not mean that anyone who spent two years in Israel prior to submitting his application is no longer 'a resident of the Area'. The condition of a two year period of residency in Israel prior to submitting an application is a general condition that applies to anyone requesting to receive status in Israel – including individuals who are not residents of the Area. The examination of a center-of-life in the two years preceding submission of the application is not intended to rule out the minor's being resident of the Area, but rather to ensure that said foreign minor requesting status in Israel, whether he is a resident of the Area as defined in the Temporary Order Law, or not, indeed lived permanently in Israel during the relevant period.**

Thus, henceforth even if it is possible to view the petitioners as has having permanently lived in Israel on the dates of the requests to arrange their status in Israel, for the purpose of the application of the **Temporary Order Law** they remained, on said dates, "**residents of the Area**."

5. The significance of the application of (Section (1)3 to the petitioners is that every request to arrange their status submitted until August 1 2008 was to be rejected , in light of the provision of Section 2 of the Law, which, at the relevant times, prohibited the Interior Minister and the military commander of the Area from granting a resident of the Area a residency visa in Israel pursuant to the Citizenship and Entry into Israel Law 5712 - 1952, or a stay permit for Israel under security legislation in the Area. Until August 1, 2005, this ban was relaxed regarding minor residents of the Area on condition that the minor's age did not exceed 12 and that his residency in Israel was required to prevent his separation from his parent who was legally present in Israel (Section (1) 3 of the Temporary Order Law in its original wording). The two petitioners, who at the time of the initial request for permanent residency visas on 13 October 2003 were already over the age of 12 (Petitioner 3 was nearing 15 and Petitioner 4, 14) were therefore not entitled to residency visas or DCO permits, even if these were necessary to prevent their separation from their mother, an Israeli resident. The change in the law in this connection occurred on August 1 2005 with the addition of Section 3a to the Temporary Order

Law, which enabled the Interior Minister, firstly **"to grant a minor, resident in Israel, whose age exceeds 14, a visa to reside in Israel in order to prevent his separation from his custodial parent who is lawfully present in Israel",** and secondly " **to approve a request for the granting of a stay permit for Israel by the area military commander to a minor resident of the Area above 14 years of age,** On the date these provisions were legislated, the two petitioners were over the age of 14) Petitioner 3 was over 16 and Petitioner 4 over 15). Thus the respondent decided on September 13 2006 that he was not authorized to grant them visas for residency in Israel, but merely approve their being granted DCO permits by the military commander of the Area.

6. Petitioner 4 challenges this decision with the argument that on October 13 2003, when the first request to arrange her status in Israel was submitted, she was under the age of 14. The respondent rejects this argument on a factual basis, maintaining that no request to arrange the petitioners' status in Israel was submitted on October 13 2003, but rather only a request to arrange the status of their younger siblings who were under the age of 12 at the time. With regard to the petitioners, all that was requested was to "**inform us how they might arrange their status in Israel"**, and the actual request in their matter was submitted only on November 28 2005, by which time both of them were older than 14. The respondent's position cannot be accepted, since on October 13 2003 the Temporary Order Law was in force, and given the fact that on that date the two petitioners were over the age of 12, it is clear that the most that could be requested on their behalf at the time was to receive instructions on how their status in Israel could be arranged, notwithstanding the Law. Nevertheless, it is clear from the request that it related to the petitioners as well, since it included birth certificates, vaccination records and school report cards for all **five** children , including the petitioners, (the mother's sixth daughter was born later , in 2004). It has been determined more than once that when a resident of the Area attempts to submit a request for Israeli status, but submission is prevented by the Interior Ministry due to the legal situation prevailing at the time, one should view the date of the attempt to submit the request as the date of submission for the purpose of applying mitigating directives that were enacted subsequently either in case law or in amendments to the Temporary Order Law (AP (Jerusalem) (Jerusalem) 1238/04 **Jubran v. the Interior Minister**, August 19 2009; AP (Jerusalem) 771/06 **Abu Gweila v. the Interior Minister**, August 7 2007; AP (Jerusalem) 182/07 **Hilibiya v. the Interior Minister,** October 10, 2007; AP 8386/08 **al-Sawahreh v. the Interior Ministry**, December 14 2009).

   Since on this decisive date (October 13 2003) Petitioner 4 had not yet reached the age of 14, and since onconstitutionalthe date of the decision on this

petitioner's request (September 13 2006), the amended version of the Temporary Order Law, which enables granting a residency visa in Israel to a minor resident of the Area up to th**e age of 14 to prevent separation from his custodial parent who is lawfully present i**n Israel was in force, such a status should have been granted to her rather than settling for a DCO permits on the grounds that on the date of the amendment to the Law and on the date of the decision she had already passed the age of 14. This much was ruled by this court in a number of judgments which the respondent did not appeal. In AP 771/06 (above) the minor, who was under 14 on the decisive date for examining the request (July 2002), but over 14 on the date of the amendment to the Temporary Order Law, and later on the date of the decision in her matter. In spite of this, the petition was accepted and the respondent was ordered to grant her **an** A/5 permanent residency visa. The court (in the words of the President M. Arad) found that raising the age of entitlement in the amendment of 2005 was actively applicable, in view of the purpose of the amendment to make the Temporary Order Law more proportionate. Similarly, in AP 600/06 (Jerusalem) **Abu Ramuz v. Interior Minister** (October 28 2007) a decision was made after the 2005 amendment to the Law, when the minor was already over the age of 14. Notwithstanding this, the petition was accepted, and the respondent was ordered to grant the minor a temporary residency visa on the grounds that on the date the request was submitted (January 2005), he was not yet 14. In AP 1238/04 (above), the minor was 13 at the time the application was submitted: hence the request was rejected before the amendment to the Temporary Order Law. During a delay in hearing the petition (as a result of waiting for the judgment in AP 5569/05) the law was amended. It was ruled that the respondent must grant the minor a temporary residency visa, and thereafter upgrade it to a permanent residency visa, even though, at the time the law was amended, she had already turned 14. This, because of the purpose of the amendment to expand the circle of those eligible for status and reduce the impingement on the right to family life and the rights of minors to live with their custodial parent. This finding served the court (Deputy President Y. Tzur) in AP 8386/08 (above) in accepting a petition and granting permanent residency to a minor who, at the decisive time for determining her request was 12 years and 11 months old, but on the date of the amendment to the Law in 2005 had passed the age of 14. The case before us is no different from all these cases. In our case too, Petitioner 4 was younger than 14 on the date which is to be considered the date on which she submitted her request for status. When a decision was reached on the request (September 2006), the amended Law was in force, by virtue of which a minor whose age (on the date of submission) is less than 14 is entitled to an Israeli residency visa. Thus the respondent should have granted Petitioner 4 a temporary residency visa in order to prevent her separation from her mother, who was lawfully residing in Israel at the time as a permanent resident.

7. Unlike Petitioner 4, Petitioner 3 was already over 14 years of age on October 13 2003, when the first approach was made to arrange the status of the mother's children in Israel. Accordingly, the respondent was correct in applying Section 3(a)2 of the Temporary Order Law, which permits granting her DCO permits only. One cannot accept Petitioner 3's to pin her entitlement to a temporary residency visa rather than the DCO permits she was granted on Section 3c of the Temporary Order Law. Section 3c authorizes the Interior Minister to grant a resident of the Area an Israeli residency visa when this "**is in the special interest of the State**." This provision is an exception to the prohibition on granting status to a resident of the Area, set forth in Section 2 of the Temporary Order Law ("**Notwithstanding the provisions of Section 2**"). However, regarding the interest of preventing the separation of a minor from his custodial parent who is lawfully present in Israel, there is no need for the exclusion of Section 2 by means of Section 3c, since Section 3a contains an explicit exclusion for this purpose, which also commences with the words "**Notwithstanding the directives of Section 2**", and includes a comprehensive and detailed arrangement for situations involving a minor resident of the Area who seeks to live in Israel with his custodian parent. The array of balances that served the legislator in drafting the content of Section 3a is exhaustive, and it cannot be bypassed using Section 3c, which is designed to protect the special needs of the State, rather than individuals. Moreover, Petitioner 3's argument that Section 3c is designed, inter alia, to prevent humanitarian injustices which she would likely endure if her status were not equal to that of her mother and siblings, is contradicted by Section 3(a)1 of the Temporary Order Law, which defines a special settlement (subject to submission of an application to a professional committee) for, inter alia, circumstance in which granting a temporary Israeli residency visa is requested "**for special humanitarian reasons…to a resident of the Area …whose relative is lawfully present in Israel**." This is further proof that Section 3c was not designed to solve humanitarian problems (see also AP 600/06, above, para. 24). In any event, even if Petitioner 3could base her status claim on Section 3c, this court would not have the authority to order status be granted in view of Item 3(12) in the first addendum to the Administrative Affairs Courts Act 5760 - 2000, which excludes decisions in accordance with Section 3c of the Temporary Order Law from the jurisdiction of the Court for Administrative Affairs.

8. In light of the aforesaid, Petitioner 4's request to upgrade her status is accepted such that the respondent must grant her an A/5 temporary residency visa. Petitioner 3's request for a status upgrade is rejected.

Child Registration Procedure

9. The petitioners (including Petitioner 5, which is a non-profit association promoting human rights) challenge a number of provisions in the child registration procedure , which, they argue, led to an improper handling of the mother's request to grant her children Israeli status. During the proceedings in the petition and following comments by the court, the respondent formulated the procedure and also made several corrections thereto. The procedure still contains several provisions which – in the petitioners' opinion – must be amended, and we shall address these now.

10. The procedure determines that when a request is submitted for the granting of status to a child, only one of whose parents is registered as a permanent resident of Israel, then ''**Duration processing leading up to provision of response is, usually six months from the day of the submission of the application, subject to all relevant documents being attached thereto and to the applicant's cooperation**." The procedure further stipulates that if the position of security agencies is required, processing may exceed six months. The petitioners argue that a six-month period is too long when the issue is a status request for a child below the age of 14, which – according to the procedure – does not require the position of security agencies regarding him or his foreign parent. The only test required for such a child is where his center-of-life was in the two years preceding submission of the request. The petitioners therefore believe that processing should be restricted to three months, from the date on which the applicants submitted all the documents required of them. Conversely, the respondent believes that the six-month period is reasonable, considering the particularly heavy workload of the regional population registry office in East Jerusalem, and the investigations the office must conduct regarding the child's and his Israeli resident parent's center-of-life in the two years preceding the submission of the request.

    A 'center-of-life' examination is conducted according to the respondent's Procedure 1.1.3.0001. The procedure details a long list of documents which the processing official must request upon submission of the request (affidavit; rental agreement or an agreement for purchase and sale; authorization from the local authority; house bills, confirmations from the Mother and Child Station, confirmations from the health care provider; confirmation from the National Insurance Institute; bank statements; letters from employers; wage slips; confirmation of studies and school completion certificates of the children; Israeli (and foreign) travel documents. In addition, the official must send queries to the National Insurance Institute and Education Ministry for relevant details on the family's center-of-life. After receiving all these, the official must sort the documents, examine them, request additional documents where necessary, and authenticated them (including by means of comparing between them, contacting the source that gave the confirmation, verifying the data

appearing in the documents vis-a-vis the population registry). The procedure also stipulates that questioning regarding the applicant's and his family's center-of-life must be conducted, and that to inasmuch as doubts arise, and missing or contradictory data is uncovered, a hearing must be held. All these actions which depend inter alia on external sources and require extensive investigation of data from different sources, take time. Since the procedure sets the commencement of the six months on the date the request is submitted, and considering the court does not replace the discretion of the administrative authority with its own, one cannot say that setting a six-month period, instead of three months as requested by the petitioners, exceeds the bounds of reasonableness and creates cause for the court's intervention.

11. The child registration procedure makes no reference to a situation in which processing of a status request for a child exceeds the period of time stipulated in the procedure for reaching a decision on the request. The petitioners' position is that when the reason for a delay in the decision lies in the respondent's conduct and is not connected to the applicants, the minor should be granted permanent status in Israel which confers social rights, until a decision is made. In this matter, the petitioners draws a parallel to the Interior Ministry's procedures on family unification between Israeli citizens and foreign spouses and the matter of extension of visas in the framework of the graduated procedure, according to which the absence of a decision on the due date leads to granting or extending the visa. The respondent rejects this argument, asserting that there is no place for granting any status whatsoever to a minor before investigation of the relevant data has been completed and it is clear that the conditions for accepting have been met.

    This court (Deputy President D. Cheshin) referred to this issue (AP (Jerusalem) 8340/08 **Abu Gheit v. The Interior Minister** (December 10 2008), stating:

> **The respondents' general position is, as recalled, that according to the provisions of the two procedures cited above, 'there is no possibility of granting an 'interim' status to children for whom a request was submitted for registration in Israel, prior to proving a 'center-of-life…. I believe that the respondent's general position, according to which the children are not entitled to any status until fulfillment of the two year center-of-life requirement exceeds the range of reasonableness. This, since it is liable to expose them to an unacceptable reality of living in Israel unlawfully for a substantial period of time (about two years), with no schooling (despite them being of compulsory education age). This result cannot be reconciled with the recognition of the need to respect 'the child's**

> **best interest' (Carlo, para. 2) nor with the special character of Regulation 12, as a regulation intended to advance human rights in the two central aspects on which President Beinisch insisted: 'the first is the aspect pertaining to the right of the parent to a family life. The second aspect relates to the minor's independent and autonomous right to live his life alongside his parents (Aweisat, para. 20)…It is therefore my opinion that as a rule, and in the absence of special reasons for not doing so, the respondent must grant the child a permit to remain in Israel temporarily during the interim period until fulfillment of the center-of-life requirement, enabling the child to live legally with his parents, and also to enroll in a school in Israel."**

Although no operative orders were issued against the respondent in that case, in view of the specific circumstances of the respondents therein, the court unequivocally clarified that the existing arrangement could not continue and that the respondent must change it. The respondent may not ignore these logical and clear words of the court, which are indeed broader than the arguments put forth by the petitioners in the petition before us, but they also provide a response thereto (see also AP (Tel Aviv) 2887/05 **Sergei v. the Interior Minister**, January 29 2007). The respondent must therefore, within a reasonable time, amend the procedure such that it conforms with the rulings in AP 8340/08, at least to the scenario regarding which the petitioners argued, i.e. when a decision on a minor's status request is not received on the procedurally-allotted date, and when the delay lies in the respondent's conduct rather than that of the applicant's. Since the judgment in A P 8340/08 referred to circumstances in which the only investigation required is of a center-of-life, indeed if the minor's age is over 14 on the date of submission of the request, for which the position of security agencies is required as a condition for the request's acceptance, the respondent shall not be obligated to grant a temporary stay-permit before receipt of the position of these agencies.

An additional provision of the child registration procedure challenged by the petitioners stipulates that for the purpose of upgrading an A/5 temporary status to permanent status, the child must be less than 14 years old upon termination of the two years in which he had temporary status and having been under the age of 14 on the date the request was submitted is insufficient. In the meantime, this procedural provision was revoked in a Supreme Court judgement in the above AP 5718/09, thus obviating the need to address this issue in the context of the present petition.

12. One of the procedure's directives deals with a situation in which the request to grant a child status is intertwined with a request for regularization of another family member:

> **Inasmuch as a single application is filed for a spouse and children and there is an objection regarding the parent and/or one of the children over the age of 14, (at the time of submission of the application), a refusal letter must be issued stating that the family unification application for the invited and/or the relevant child is refused on security or criminal grounds and adding that inasmuch as the applicants wish to continue processing the remaining family members, they must contact the office within 45 days, and inform the office of this fact (without payment of new fees). The application will be processed according to the procedure from the point at which processing ceased.**

The petitioners argue that this directive is unreasonable and should be revoked, since refusal to grant status to a family member of the child for security or criminal reasons need not work to the detriment of the child against whom no such preclusion exists, and there is no place to shift the duty of notifying the respondents of the intention to proceed with the request for the child to the parents in order to prevent it from being discontinued. Moreover, although notification does not require payment of a new fee, it might still delay processing of the request, pushing it 'to the back of the line', while increasing the load on the employees of the population administration in East Jerusalem

The respondent's reaction to these arguments is that denial of an Israeli status request for the foreign parent or one of the child's siblings is likely to change the family's plans to move to Israel and cause it to remain in the Area. In his words, this explains the need for notification from the parents that the request in the matter of the child's status is still relevant. This explanation is unacceptable. The procedure allows for the submission of a status request for the child both separately from and jointly with a status request submitted for the foreign parent. Even if a joint application is submitted for parent and child, the procedural provision is is that "**Granting of status to children under the age of 14 (at the time of submission of the application) is not be subject to an examination of the foreign parent by the agencies, regardless of whether or not an application was filed for said parent**." This is in line with the respondent's declaration that "**as a rule he does not employ a policy that links requests by different family members**", AP (Jerusalem) 1084/06 **Siam v. the Interior Minister**, February 18 2007). Accordingly, a minor, one of whose parents is an Israeli resident, is entitled to Israeli residency status or

stay-permit to prevent separation from said parent, to the extent that the minor meets the demands of the child registration , even if there is a security or criminal preclusion to allowing the presence of his other parent or any of his siblings in Israel. The minor is thus entitled to have his request continue to be processed without delay, even if a relative's request is rejected. It is unreasonable to halt processing of the minor's request because of the rejection of a request by his parent or sibling, and to require the parents to contact the population administration's office within 45 days with a request to continue processing the child's request. This is an unnecessarily burdensome directive, which delays processing of the child's request and provides cause for rejecting the request only because his parents did not request the advancement of its processing within 45 days. A person submitting a request is presumed to wish to pursue it as long as he does not declare otherwise. It is not superfluous to reiterate that a condition for the child's entitlement to status in Israel is his presence in Israel together with his parent, an Israeli resident, during the two years preceding submission of the request. The respondent must in any case continue examining the request for as long as no notification has been received from the parents of its withdrawal due to the rejection of the foreign parent's request or that of another sibling of the minor. On must not create a new obligation on the applicant to report that he has not withdrawn his request.

This being so, the respondent must delete the final section of the above mentioned procedural provision, starting with the words"**and adding**", or alternatively, to replace this final section with a provision noting the possibility of requesting population authority office to terminate processing of the request for status after its submission.

13. With reference to upgrading a minor's status from an A/5 temporary residency visa to a permanent residency visa, the procedure states:

> **It should be mentioned to the parent submitting the request (if need be, in Arabic as well) that three months before the end of the two years, documents and evidence of a center-of-life in Israel must be submitted for examination prior to receiving the permanent visa (fee paid at the start of the process)."**

The obligation to notify in Arabic also, was added to the procedure in accordance with the petitioners' request during the hearings on the petition. The petitioners requested that the notification in Arabic be verbal and written; however, the procedure does not refer to written notification. Since the temporary permit is granted for two years, there is a great deal of logic in the request that guidance to parents in the matter of actions they must take before the end of the two years should be written. The obligation to give written notice is also obvious from the judgment in AP (Jerusalem) 402/03 **Judah v.**

Interior Minister (October 26, 2004) which endorsed an agreement between the parties, according to which applicants to the population administration office would be given written notice concerning the need to apply for the minor's permanent status at the end of the two years in which he has temporary status. Written notification enables parents to remember and ensures control over the granting of guidance to parents by the processing official. It is not surprising that the form notifying approval of a request for a DCO permit, which is enclosed as an attachment to the respondent's procedures No. 5.2.0011 in the matter of granting status to a foreign spouse married to a permanent resident and No. 5.2.0008 in the matter of processing the granting of status to a foreign spouse married to an Israeli citizen, which includes (in Section 8) written notice of the applicant's obligation to request an extension of the permit two months prior to its expiry. In the absence of an explanation by the respondent for the lack of a similar provision in the child registration procedure , it is incumbent upon him to add to this procedure that the notification to the parent shall also be given in writing (including in the Arabic language when this is the language that the parent speaks).

14. The petitioners argue that the revised procedure does not clarify that a DCO permit granted to a minor, who was over the age of 14 at the time the request was submitted, and likewise an A/5 temporary residency visa that was not upgraded, shall continue to be granted while the Temporary Order Law is in effect, also after the minor reaches adulthood, subject to the absence of a criminal or security preclusion to continued residency in Israel. Yet, the amended procedure adequately relates to this: "**A minor who received a DCO permit or A/5 temporary status, and reaches the age of 18, subject to submission of applications for status extension, shall remain in the status he possessed immediately before reaching age 18. The existing status will not be upgraded, and will be extended, subject to the provisions of the Law, to Interior Ministry procedures and – inter alia – the position of the agencies and a center-of-life examinations**". The petitioners' argument is therefore rejected.

15. At one stage the petitioners also requested relief in the matter of publishing the child registration procedure. The procedure has since been published on the Internet. The respondent has also taken upon himself to publish the procedure in Hebrew and Arabic on the notice board in the office of the population administration. Similarly the issue of publicizing procedures was resolved in the judgment in AP 530/07 (Jerusalem) **The Association for Civil Rights in Israel v. the Interior Minister** (December 5, 2007). Thus there is no need to issue additional operative instructions on said matter.

16. In conclusion: I instruct as aforesaid in paras. 8, 11, 13 and 14. Since the petitioners' arguments were only partially accepted no costs order is issued.

Moshe Sobel 54678313 – 727/06
The secretariat shall send the judgement to parties' counsels.

Given today, 18 Iyyar 5771, 22 May 2011
in the absence of the parties