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**At the District Court in Jerusalem**  
**Sitting as the Court for Administrative Matters**

**Adm. Pet. 725/03**

**Before the Honorable Judge M. Shidlovski-Or**

In the matter of:

- 1. T. Rajub**
- 2. M. R.**
- 3. 6 minor boys and girls**
- 4. HaMoked: Center for the Defence of the Individual  
founded by Dr. Lotte Salzberger (Reg. Assoc.)**

all represented by attorney Adi Landau of  
HaMoked: Center for the Defence of the Individual  
founded by Dr. Lotte Salzberger  
4 Abu Obeidah Street, Jerusalem 97200  
Tel. 02-6283555; Fax. 02-6276317

**The Petitioners**

v.

**Minister of the Interior**

represented by the Jerusalem District  
Attorney's Office  
4 Uzi Hasson Street, Jerusalem

**The Respondent**

## **Preliminary Response by the Respondent**

In accordance with the ruling of the Honorable Court of 24 April 2003, the Respondent respectfully submits its preliminary response to the petition.

In its response, the Respondent will argue that, because Government Decision 1813 states that "upgrading" of status shall not be made in the context of an application for family unification, the Honorable Court should summarily dismiss the Petitioners petition.

**The grounds for the response are as follows:**

1. On 12 May 2002, the Cabinet adopted Decision No. 1813 ("the government's decision"), which holds that, in light of the security situation, and because of the implications of the immigration and settling of foreigners of Palestinian descent in Israel, including by means of family unification, the Respondent, together with the relevant governmental ministries, will formulate a new policy for the handling of applications for family unification. Until formulation of the procedures, and of new legislation if necessary, to effectuate the policy, applications for family unification with residents of the Palestinian Authority are not to be approved.

2. In addition, Section B (2) of the government's decision states that:

**Applications in the graduated procedure**

**During the interim period, the validity of the permit that was given shall be extended, subject to the absence of any reason to act otherwise. *There shall be no upgrading to a higher status.***

(emphasis added)

3. We see that the government's decision expressly states that a status is not to be upgraded.
4. Note well: the Respondent's offices indeed adopted procedures stating that in extraordinary cases where the handling of an application extended for an unnecessarily and unreasonably long period of time, notwithstanding the complete cooperation of the applicants, handling of the application will not be frozen. However, it is expressly stated that, even in such extraordinary cases, "the maximum status that will be granted is a D.C.O. permit or a B/1 visa, as the case may be, which will be extended periodically until otherwise decided."

A copy of the Respondent's procedures to implement the government's decision, of 1 July 2002, are attached hereto as Appendix A.

5. *In light of the above, and taking into account the said government decision, the request to upgrade the status of the spouse petitioner, which is the subject of this petition, should not be granted. Thus, the petition is irrelevant, in that it does not attack the government's decision, because of which it is not now possible to examine the Petitioners requests.*
6. It should be noted that the question of the legality and validity of the government's decision is being heard by the Supreme Court in HCJ 4609/02, *Imad Abu Assad et al. v. Prime Minister et al.* All matters relating to the government's decision are being heard in action.
7. The Respondent has two tangential comments to make in this regard. First, the Petitioners' contention in Section 40 of their petition is without basis, in that the comments of Ms. Porat were made prior to the Cabinet's adoption of Government Decision 1813. Second, the Respondent deems it relevant to mention that a check will be made of the Petitioners' contentions regarding the lack of coordination between officials on behalf of Respondent and security officials in the D.C.O. (Captain Lerner), and to the degree that there is a problem on this point, the matter will be resolved as quickly as possible.



## Appendix A

### THE STATE OF ISRAEL

Ministry of the Interior

Office of the Legal Advisor

Jerusalem

1 July 2002

To: Attorney Osnat Mandel, Head of the HCJ Petitions Division, State Attorney's Office

In follow-up to a meeting that was held in regards to the below-mentioned matter, the criteria formulated by our ministry, with the agreement of the director of the Population Administration are as follows:

Re: **Criteria for application of the government's decision in extraordinary cases**

#### **The relevant cases**

1. Applications in which decisions have not yet been given, for the reason that the time taken for handling them extended for an unnecessarily long and unreasonable amount of time, notwithstanding the complete cooperation of the applicants. Applications that are submitted after 1 September 2001 will not be considered extraordinary pursuant to this section.
2. Applications in which there are special humanitarian reasons justifying exception or temporary postponement of application of the government's decision. Such reasons are, for example, where one of the couple or the children in their custody suffer a serious illness. These applications will be forwarded for review to an inter-ministerial committee for humanitarian matters.
3. Applications as to which petitions were filed with the court before adoption of the government's decision, and in the course of the court litigation, the state made a commitment to carry out an additional act or acts to advance the handling of the file in order to reach a decision on the application.
4. Applications in which a decision to reject the application was made before adoption of the government's decision, which decision was errant at the time it was made, provided that the applicants requested the Ministry of the Interior within a reasonable period of time to correct the errors.

#### **Proposed policy for handling the said files**

Except for Section 2 above, in which the exception from the government's decision will be temporary and will be examined periodically and handled by local solutions, in all the other cases, as a rule, the treatment of the application will be in a manner such that the government's decision does not apply, in the sense that the handling of the application will continue, and where the application is approved, the maximum status that will be granted is a D.C.O. permit or a B/1 visa, as the case may be, which will be extended periodically until otherwise decided.