

High Court petition to halt the Israeli military's discriminatory and draconian restrictions on the entry of foreigners to the West Bank

Today, June 23, 2022, HaMoked, together with 19 individual petitioners, petitioned the High Court of Justice to halt the Ministry of Defense's new Procedure for Entry and Residence of Foreigners in the West Bank. The petition was filed by Attorneys Yotam Ben Hillel and Leora Bechor.

The petition details the severe harm of the new procedure, set to come into force on July 4. Among the petitioners: Dr. Benjamin Thomson, a Canadian nephrologist who would not be able to continue running his project to train Palestinian doctors; Bassem Khouri, CEO of a Palestinian pharmaceutical company who would be severely limited in his ability to bring to the West Bank employees, investors, suppliers and quality control experts from abroad; and nationals of the U.S., Canada, the EU and Jordan who would not be able to live with their Palestinian spouses in the West Bank.

The new procedure is highly restrictive, setting invasive and extraneous criteria on entry and stay of foreign passport holders seeking to work, volunteer or study in the occupied Palestinian territories (oPt). Among other things, the procedure sets extreme limitations on the duration of visas and visa extensions, preventing people from working or volunteering for a Palestinian institution for longer than a few months. Most of the visas are single entry only, preventing a person from leaving the West Bank and returning during the period of the visa. Visa extensions are highly restricted; in most cases a person must exit the oPt, in some cases remaining abroad for a year before they can apply for a new visa.

Whole categories of visits are excluded from the procedure. There is no provision for the entry of foreign journalists working for Palestinian media outlets, for example, nor for foreign teachers in elementary or high schools. The procedure also does not address, and so effectively does not enable cultural visits or tourism, nor family visits by siblings, grandparents or grandchildren.

Jessica Montell, Executive Director of HaMoked: "It is not only foreigners who will be harmed by this new procedure, but Palestinian society as a whole. The procedure limits the ability of Palestinian society to benefit from contacts with the world. It dictates a micro-management of Palestinian universities that is a serious blow to academic freedom. And it prevents tens of thousands of families from living together. There is no justification for this highly restrictive and discriminatory procedure and we expect the court to prevent its entry into force until it is fundamentally revised."

Separating Families: The procedure would deny thousands of Palestinian families the ability to live together without interruption and lead a normal family life. The procedure states that Israel has the authority, which under the Oslo Accords was given exclusively to the Palestinian Authority, to approve requests by foreign spouses for residency status in the oPt. According to the procedure, no request for residency status is to be approved "unless it is consistent with the guidelines from the [Israeli] political echelon...". Spouses without residency status will now only receive 3 or 6 month visas, and then have to leave the West Bank for a period of several months before they can submit a new visa



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application. The procedure also sets prohibitively high security guarantees for entry into the oPt, up to NIS 70,000 (approx. US\$20,000).

Restricting Academic Freedom: The procedure will severely infringe the academic freedom of Palestinian universities, denying them the right to set academic priorities and recruit foreign faculty and students. In the new procedure, COGAT (a unit of the Israeli Defense Ministry) sets academic qualifications for lecturers, and prohibits foreign lecturers from teaching two semesters in the same year. Only people whom COGAT determines are “distinguished researchers” may receive a special 27-month-long permit, if they “contribute significantly to academic learning, to the Palestinian economy, or to advancing regional cooperation and peace”. Even for these people, the cumulative period of stay would be limited to a maximum of five years.

The new procedure, for the first time, sets a quota of 150 student visas and 100 “distinguished” lecturers in Palestinian universities. Currently there are no such quotas: from Europe alone, in 2020, 366 Europeans were teaching or studying in Palestinian universities through the Erasmus+ program. (1,671 Europeans were teaching or studying in Israeli universities through this same program.)

Blatant Discrimination: The new procedure completely excludes nationals of Jordan, Egypt, Morocco, Bahrain and South Sudan – although these states maintain diplomatic ties with Israel. Holders of passports from these countries can only enter the West Bank in exceptional and humanitarian cases and for limited periods. This draconian and discriminatory exclusion applies also to dual nationals; for example, a holder of both a U.S. and a Jordanian passport would be considered solely as a Jordanian for the purposes of this procedure, and would not be able to teach, work, study or volunteer in the West Bank.

A Violation of Legal Obligations: As the occupying power, the Israeli military can act in the West Bank only for one of two reasons: to ensure its own legitimate security interests and for the benefit of the local population. The military may deny a specific individual entry to the West Bank for security reasons. However, there is no legitimate security reason for these draconian restrictions on the entry of foreigners to the West Bank, and they certainly do not advance the welfare of the local population.

The petition details the violations of human rights and humanitarian law of the new procedure, including the rights to family life, to freedom of occupation and employment, to health, education and culture. As shown in the petition, the procedure also runs contrary to principles set by Israel’s Supreme Court and to the Oslo Accords.

The petition demands that the Israeli military allow Palestinians to live with their spouses without fear of forced separation. Palestinian society must be able to benefit from international cooperation, and institutions be able to set their own policies and priorities regarding recruitment of volunteers, students, lecturers and other workers from foreign countries.

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