

Field: Visas	Field Code: 5
Subject: Procedure on Security Agency Comments	Subject Code: 2

Procedure No: 5.2.0015
Page 1 of 5
Last revised: 15.04.2010

Disclaimer: The following is a non-binding translation of the original Hebrew document. It is provided by HaMoked: Center for the Defence of the Individual for information purposes only. The original Hebrew prevails in any case of discrepancy. While every effort has been made to ensure its accuracy, HaMoked is not liable for the proper and complete translation nor does it accept any liability for the use of, reliance on, or for any errors or misunderstandings that may derive from the English translation. For queries about the translation please contact site@hamoked.org.il

Procedure on Security Agency Comments regarding Family Unification Applications

1. General

- 1.1 In exercising his discretion pursuant to the Entry into Israel Law and the Nationality Law, the Minister of Interior may take into account, *inter alia*, the question of whether approving an application made by a foreign national for residency in Israel is liable to generate risks for public order and safety, national security, or vital national interests.
- 1.2 Therefore, as part of the protocols governing family unification applications submitted by Israeli citizens and permanent residents for status for their foreign spouses, the Ministry of Interior is required to send the information included in the application to security and police officials (hereinafter: security agencies) and obtain their recommendations and opinions as to whether approval of the application would put public safety, national security, or vital national interests at risk.
- 1.3 Referral to security agencies is necessary both at the application submission stage, prior to its approval, and every year during the graduated procedure, certainly in the last stage of the procedure – prior to granting Israeli citizenship or permanent residency status to the foreign spouse.
- 1.4 In addition to the question of the gravity of the information in their possession, when examining an application and making their recommendation to the Ministry of Interior, security agencies also relate to the question of whether the information they have concerns the Israeli spouse or the foreign spouse; the type of information: conviction, open police cases, and/or intelligence information; and the spouses' current graduated procedure stage.
- 1.5 Upon receipt of security agency recommendations, the Ministry of Interior will consider the opinions presented to it as set forth above.

2. Processing

- 2.1 When the relevant procedure requires referral to security agencies prior to a decision on the application, a query will be sent to security agencies, specifying the identity of the Israeli spouse

Field: Visas	Field Code: 5
Subject: Procedure on Security Agency Comments	Subject Code: 2

Procedure No: 5.2.0015
Page 2 of 5
Last revised: 15.04.2010

- the applicant, the identity of the foreign spouse - the sponsored spouse, and the spouses' current graduated procedure stage.

- 2.2 Where security agency comments indicate that application approval may be precluded due to criminal activity or for security reasons, the Israeli spouse must be notified, as per Section 3 below, in writing (mailed by registered post to the address indicated on the application form), that given information received from security/police (as appropriate) officials, the Ministry of Interior is considering rejecting the application for the reasons listed in a summary that will be provided as appropriate, and that the spouses may respond in writing (hereinafter: the response) within 30 days from the date on which the letter is sent. The letter must indicate that inasmuch as the couple's response contains factual arguments regarding one of the spouses, the response must be supported by an affidavit (in addition to the affidavit the couple is required to provide at the application submission stage). The letter should contain the summary of information received from security officials or the summary of criminal information, as received from the police.

Letter template is attached hereto as Appendix 1.

- 2.3 If no response is received, as detailed above, within 30 days of the date on which the letter is sent, the application may be rejected, and a detailed rejection letter mailed out.
- 2.4 If a response is received, ensure that the required affidavit is attached. If the response does not contain an affidavit, issue a letter requiring the affidavit be completed in order to refer the response to security agencies. Inasmuch as the affidavit required in the supplementary letter is not provided within 14 days, the application may be rejected and a detailed rejection letter mailed out. Once a complete response is received, it is to be transferred to the relevant National Police Headquarters / security officials in order to obtain their position.
- 2.5 The response of the relevant official will be provided to the Ministry of Interior within 30 days. Inasmuch as security officials need to make further inquiries, they will notify the relevant desk of same and the desk will issue an interim response to the couple indicating that the matter is under security agency review.
- 2.6 Once the relevant National Police Headquarters/security officials provide their comments on the response, the desk must make a decision on the application. If the application is rejected, a detailed rejection letter will be mailed out as per Section 3 below.
- 2.7 Since the applicants are given an opportunity to respond prior to the final decision, the decision may not be appealed to the branch office again. The response letter will indicate that the decision may be appealed to the competent judicial instance, or to the Appellate Committee, pursuant to Procedure 1.5.0001, where relevant.

3. Security Agency Response:

Anything stipulated in this section is subject to Section 2 above, with respect to the opportunity to respond prior to the decision.

3.1 Application submission stage – reasons related to the sponsored spouse (the foreign national)

Field: Visas	Field Code: 5
Subject: Procedure on Security Agency Comments	Subject Code: 2

Procedure No: 5.2.0015
Page 3 of 5
Last revised: 15.04.2010

- 3.1.1. When security agencies recommend rejecting the application for reasons related to the sponsored spouse's convictions and the Ministry of Interior considers and finds the recommendation must be adopted and the application must be rejected, a letter will be sent to the applicant noting that his family unification application for his spouse has been rejected because the foreign spouse has been convicted of offenses. The rejection letter will list the offenses.

The rejection letter template is attached hereto as Appendix 2.

- 3.1.2. When security agencies recommend rejecting the application for reasons related to open cases against the sponsored spouse and the Ministry of Interior considers and finds the recommendation must be adopted and the application must be rejected, a letter will be sent to the applicant noting that his family unification application for his spouse has been rejected due to pending criminal investigations against the sponsored spouse. The rejection letter will include a list of pending cases and note that the applicant may reapply for the sponsored spouse if and when the cases are closed.

The rejection letter template is attached hereto as Appendix 3.

- 3.1.3. When security agencies recommend rejecting the application for reasons related to intelligence information and the Ministry of Interior considers and finds the recommendation must be adopted and the application must be rejected, a letter will be sent to the applicant noting that his family unification application for his spouse has been **rejected**. The rejection letter will include a brief summary of the intelligence information on which the rejection was based.

Rejection letter template, to which a brief summary provided by security agencies must be added, is attached hereto as Appendix 4.

When the negative recommendation given by security officials is based on intelligence information relating to a conflict of interests, the application will be referred to the Director of the Population Immigration and Border Authority for a decision.

- 3.1.4. In exceptional cases in which security agencies are of the opinion that a brief summary cannot be provided as set forth above, the rejection letter will be issued absent the brief summary, noting that the application was rejected for reasons related to criminal activity or a threat to national security or vital national interests and that no further details can be provided for reasons related to security or the public good.

- Template for rejection due to activity that threatens national security and no further details can be provided is attached hereto as **Appendix 5**.
- Template for rejection due to criminal activity is attached hereto as **Appendix 6**.

3.2 Application submission stage – reasons related to the Israeli spouse

- 3.2.1 In general, a family unification application will be rejected for reasons related to the applicant in exceptional cases, such as when the applicant is serving a prison sentence or is held in detention and/or is the subject of an open police case for which he is expected to receive a lengthy prison sentence in the near future, or is in remand pending disposition of his case.

Field: Visas	Field Code: 5
Subject: Procedure on Security Agency Comments	Subject Code: 2

Procedure No: 5.2.0015
Page 4 of 5
Last revised: 15.04.2010

3.2.2 Therefore, in cases in which security agencies recommend rejecting the application for reasons related a conviction for which the applicant is serving or is likely to serve a lengthy prison sentence and/or is in remand pending disposition of his case, a rejection notice will be issued to the applicant accordingly, noting that upon his release, he may file a new family unification application for the foreign spouse and that at the spouse must leave Israel at this time.

- Template for rejection letter due to convictions is attached hereto as Appendix 7.
- Template for rejection letter due to open police cases for which the applicant is expected to be sentenced to a lengthy period of detention/imprisonment in the near future or where the applicant is in remand pending disposition of his case, is attached hereto as Appendix 8.

3.3 During graduated procedure – reasons related to the sponsored spouse (the foreign national)

3.3.1 Convictions

As stated in the application submission stage.

Responses will be issued in accordance with the above attached appendices.

3.3.2 Open police cases

3.3.2.1 As a rule, when the sponsored spouse is the subject of a pending police case, opened after approval of a previous residency permit granted as part of the graduated procedure, discretion will be exercised on a case by case basis, taking into account the type and gravity of the offense, the gravity of its consequences, the number of offenses for which cases have been opened, etc.

Letter template is attached hereto as Appendix 8 9.

3.3.3 Intelligence information

3.3.3.1 As a rule, when there is intelligence information against the sponsored spouse, discretion will be exercised on a case by case basis, taking into account the degree and severity of involvement, etc.

Responses will be issued in accordance with the appendices attached to the application submission stage.

3.4 During graduated procedure – reasons related to the Israeli spouse

3.4.1 When, after entering the graduated procedure, the applicant is detained/imprisoned; and/or is the subject of a police investigation for which he is expected to be sentenced to a lengthy prison sentence; or is in remand pending disposition of his case, the matter will be considered on its merits and according to its circumstances. The detention/imprisonment will be taken into consideration when a request to extend the permit is submitted, provided that the foreign

Field: Visas	Field Code: 5
Subject: Procedure on Security Agency Comments	Subject Code: 2

Procedure No: 5.2.0015
Page 5 of 5
Last revised: 15.04.2010

spouse is still married to the applicant, maintains a center-of-life in Israel, and there are no other criminal or security grounds for rejecting the application. Among the factors to be taken into account: the time that has elapsed since application approval, custody of minor children, strength of ties to Israel, etc.

3.5 End of graduated procedure

- 3.5.1. Prior to granting final status, as per the relevant procedure, security agencies will be consulted again. Security agency responses will be reviewed in accordance with Sections 3.3 and 3.4.