At the Supreme Court **HCJ 8134/14**
Sitting as the High Court of Justice

1. **_____ Abu Jamal**
2. **_____ Abu Jamal**
3. **_____ Abu Jamal**
4. **_____ Abu Jamal**
5. **HaMoked: Center for the Defence of the Individual, founded by Dr. Lotte Salzberger - RA**

represented by counsel, Adv. Benjamin Agsteribbe
Of HaMoked Center for the Defence of the Individual,
founded by Dr. Lotte Salzberger
Tel: 02-6283555; Fax: 02-6276317

The Petitioners

v.

1. **Minister of Interior**
2. **Advisory Humanitarian Committee to the Minister of Interior**

represented by the State Attorney's Office
Ministry of Justice, Jerusalem
Telephone: 02-6466010; Fax: 02-6467011

The Respondents

Response on behalf of the Respondents

According to the decision of the honorable court (the Honorable Justice D. Barak-Erez) dated April 16, 2015, the respondents hereby respectfully submit a response on their behalf to the above captioned petition as amended and to the request for an interim order, as follows:

A. Background

1. The above captioned petition – concerns the request of petitioner 1 (hereinafter: the **petitioner**), the mother of petitioners 2-4 (hereinafter: the **children**) and the widow of one of the perpetrators of the terror attack which was committed on November 18, 2014, in the Har Nof synagogue in Jerusalem, to revoke the decision of respondent 1 (hereinafter also: the **Minister of Interior**) to deny petitioner's application for a stay permit in Israel.

2. As indicated by the petition and its exhibits, the petitioner is registered in the population register in the Area. As of 2010, the petitioner has been staying in Israel (under a DCO permit), which was given to her according to section 3 of the Citizenship and Entry into Israel Law (Temporary Order), 5763-2013 (hereinafter: the **Temporary Order Law**). As is known, section 3(2) of the Temporary

Order Law empowers the Minister of Interior to approve a request for a stay permit in Israel by the Area commander "**with respect to a female resident of the Area who is over 25 years of age – for the purpose of preventing her separation from her spouse who lawfully resides in Israel**"; and by virtue of said power the family unification procedure between the petitioner and her husband, who was registered as a permanent resident in the Israeli population register, was initiated.

3. The children are minors born in 2008, 2010 and 2012, who are registered as permanent residents in the population register in Israel.

4. On November 19, 2014, a decision was made by the East Jerusalem bureau of the Population and Immigration Administration (PIA) (see **Exhibit P/4 to the petition**) to cease the family unification procedure of the petitioner in Israel; the above, in view of the death of the husband. In addition, petitioner's matter was brought before the Advisory Committee to the Minister of Interior for the purpose of receiving a recommendation according to section 3A1 of the Temporary Order Law (hereinafter: the **humanitarian committee**); the above, for the purpose of examining the question, whether there is a special humanitarian reason which justifies the grant of a stay permit in Israel to the petitioner. Section 3A1 of the Temporary Order Law provides, as is known, that the Minister of Interior is empowered, for special humanitarian reasons and with the recommendation of the humanitarian committee, to give, *inter alia*, a stay permit in Israel, namely, a DCO permit, to a resident of the Area, whose family member lawfully resides in Israel.

5. On November 23, 2014, the members of the humanitarian committee conducted a discussion (by phone) in the question of whether there was a special humanitarian reason which justified the grant of a stay permit in Israel to the petitioner. At the bottom line, the recommendation of the committee, unanimously given by all of it members, was that no special humanitarian reason existed as aforesaid (see **Exhibits P/10A and P/10B to the petition**). In the recommendation delivered by it to the Minister of Interior, the humanitarian committee noted that petitioner's husband was one of the terrorists in the murderous attack on the Har Nof synagogue in Jerusalem, in which four worshipers and a policeman who came to rescue the worshipers were murdered; that the family unit ceased to exist after the husband's death; that the sponsored spouse had a stay permit in Israel as of 2010; and that to the extent she resided in Israel beforehand, she did so without a permit.

   The humanitarian committee also mentioned the existence of family members of the petitioner who were living in the village of Sawachra in the Area (in close geographical proximity to the children's current place of residence). With respect to the children, the humanitarian committee noted that petitioner's children were permanent residents, who would have to join their mother and move with her to her place of residence due to their young age. However, it was clarified that the status of the children in Israel would not be affected by the status of the mother; and that it would not be prejudiced as a result of their relocation to the Area with their mother. At the conclusion of its recommendation the humanitarian committee referred to the recommendation of the Israel Security Agency (ISA) as follows: "The above in the framework of handling the families of the murderers, the purpose of which is to create deterrence and convey a public message that terror attacks of this sort will not take place without a comprehensive and complete response."

6. On November 25, 2014, the Minister of Interior notified that petitioner's stay permit in Israel had been revoked. The Minister of Interior also notified that he adopted the recommendation of the humanitarian committee, to deny petitioner's application for a stay permit for humanitarian reasons according to section 3A1 of the Temporary Order Law. The grounds for the decision, as specified in a letter which was sent to the petitioner on the date the decision was given (see **Exhibit P/5 to the petition**), were the fact that the family unit ceased to exist as a result of the husband's death; the

duration of petitioner's lawful presence in Israel (from 2010 only); the fact that the family members of the petitioner lived in Sawachra; and the lack of a special humanitarian reason for granting a stay permit in Israel.

7. On November 30, 2014, the original petition of the petitioners was filed with the honorable court and an interim injunction was issued, which prohibits the deportation of the petitioner from Israel until otherwise decided.

8. Following the response which was filed on behalf of the state, the petitioners were permitted to raise any argument they deemed appropriate in petitioner's matter; in order to bring the issue, including all aspects associated therewith, before the Minister of Interior (a photocopy of the written arguments dated December 25, 2014 was attached **to the petition as Exhibit P/7**).

9. On March 24, 2015, the Minister of Interior gave his final decision which specified the grounds for denying petitioner's application for a stay permit in Israel (a copy of the decision was attached to the **petition as Exhibit P/8**). In his decision the Minister of the Interior described the backdrop against which the discussion was made, the recommendations of the humanitarian committee and referred to the arguments raised by the petitioners. The Minister of Interior clarified in his decision, *inter alia*, that the mere existence of children would not result in the grant of status to the foreign parent in each and every case, and emphasized that in the framework of the deliberation a general review of the circumstances was made and that one detail alone could not automatically cause the grant of status.

   At the bottom line the Minister of Interior clarified that the fact that the petitioner had children who were permanent residents of Israel was considered by him and by the humanitarian committee; and that after the entire data involving the matter, including all of petitioner's ties to the Area, were considered, it was concluded that "**no special humanitarian reasons existed in her matter which justified the grant of a stay permit in Israel**."

10. On April 16, 2015, the above captioned revised petition was filed with the honorable court.

B. Petitioners' Arguments

11. The petition at hand is directed, as aforesaid, against the decision of the Minister of Interior dated March 24, 2015.

12. With respect to the decision which was given the petitioners argued that the factual infrastructure underlying the decision was flawed, in view of the fact that the respondents have, ostensibly, failed to examine issues which were relevant to petitioners' humanitarian circumstances. In this context arguments were raised, *inter alia*, regarding the ramifications of the relocation to the Area, an ostensible reliance on partial facts, petitioner's ties to Israel, etc.

13. On the substantive level the petitioners argued that the decision of the Minister of Interior was ostensibly premised on extraneous considerations, in view of the fact that no security argument was raised against the petitioner and no argument was made to the effect that her stay in Jerusalem was dangerous (see section 39 of the petition). It was further argued that the decision of the Minister of Interior was ostensibly arbitrary and discriminating (see sections 47 and onwards of the petition). Towards the end of the petition the petitioners argued that their right to family life was ostensibly unjustifiably violated; and that the principle of the child's best interest was injured.

C. Respondents' Position

14. Respondents' position is that the decision of the minister does not justify judicial interference; hence – the petition should be denied.

15. The underlying premise for the discussion is obviously the very broad discretion vested in the Minister of Interior regarding the decisions made by him according to the Temporary Order Law being the subject matter of our discussion, all subject to the specific provisions of the law and the special arrangements established therein. And it was so held:

> "The discretion vested in the Minister of Interior is especially broad when the grant of a permit or license for special humanitarian reasons is concerned, like the case at hand (and compare: HCJ 2629/03 **Ibashin v. Minister of Interior** (not reported, September 28, 2008) paragraph 8 of the judgment of Justice E. Hayut). The above is coupled with the fact that that section 3A1 of the Temporary Order Law does not include criteria which define the characteristics of said "special humanitarian reason" which justifies the Minister of Interior's acceptance of an application submitted according to section 3A1(a)(1) of the Temporary Order, other than the determination – in the negative – according to which the fact that the family member of the applicant for a permit or license, who lawfully resides in Israel is his spouse, or that the spouses share common children – does not constitute a special humanitarian reason…" (HCJ 1905/03 **'Akal v. State of Israel** (reported in the Judicial Authority Website, December 5, 2010).

See and compare on the issue of the broad discretion vested in the Minister of Interior regarding the grant of status and stay permits in Israel, also: HCJ 758/88 **Kandel v. Minister of Interior**, IsrSC 46(4) 505 (1992). Said broad discretion reflects, in the words of the President Barak "the principle – which is common in the modern democratic states – that the state has broad discretion to prevent foreigners from settling down therein…" (HCJ 4156/01 **Dimitrov v. Ministry of Interior**, IsrSC 56(6) 289 (2002)) (hereinafter: **Dimitrov**).

16. And note: section 2 of the Temporary Order Law provides that: "**For as long as this Law is in force, notwithstanding the provisions of any law including section 7 of the Citizenship Law, the Minister of Interior will not grant a resident of the Area […] citizenship pursuant to the Citizenship Law and he will not grant him a stay permit in Israel pursuant to the Entry into Israel Law, and the Area commander will not grant a resident of the Area a permit to stay in Israel according to security legislation in the Area**"; However, the Temporary Order Law includes – as is known – exceptions, including the power vested in the Minister of Interior to grant a stay permit in Israel in special humanitarian cases, according to section 3A1 of the law, and according to the recommendation of the humanitarian committee.

17. In 2010, the petitioner was granted, for the first time, a stay permit in Israel following the request of her spouse to commence a family unification procedure in Israel, having been registered as a permanent resident in the population register in Israel. The permit was granted to the petitioner according to the provision of section 3 of the Temporary Order Law, which empowers the Minister of Interior to approve, at his discretion, inter alia, the grant of a stay permit in Israel to a resident of the Area "for the purpose of preventing her separation from her spouse who lawfully resides in Israel."

18. As the marital connection (by virtue of which the permit was granted) expired, upon the death of petitioner's spouse on November 18, 2014, the basis for said permit ceased to exist; and the East

Jerusalem bureau of the PIA has rightfully determined on November 19, 2014, that said procedure terminated.

19. Under the circumstances of the matter, and in view of the fact that the children have a permanent residency status in Israel, petitioner's matter was also heard by the humanitarian committee and the by the Minister of Interior, whose final decision, against which the (revised) petition at hand is directed, was given as aforesaid on March 24, 2015.

20. The respondents are of the opinion that petitioners' arguments on the procedural level, concerning the factual infrastructure upon which the decision is based – should be denied. According to case law, a decision should satisfy, as is known, four tests, to meet the requirement for proper factual infrastructure: collection of data; relevance of the data to the case; reliability of the data; and the existence of substantive evidence (HCJ 987/94 **Euronet Golden Lines (1992) Ltd. et al. v. Minister of Communication et al**., IsrSC 48(5) 412 (1994)). It was also held in **Euronet** that for the purpose of collecting the data which are required for establishing the necessary facts required for making the decision, the authority must act reasonably, according to the nature of the power, the identity of the authority and the circumstances of the matter (*ibid*, page 423).

    It seems that in the case at hand there can be no dispute that the petitioners were given the opportunity to submit, through their counsel, their entire arguments in writing, as they found appropriate, without any restriction. Hence, petitioners' right to present their arguments and to be heard was realized. All arguments were seriously considered by the Minister of Interior before his final decision was given. Clearly, the fact that after having considered the entire considerations the Minister of Interior did not accept petitioners' position, does not indicate that the procedure which took place or that the factual infrastructure underlying the decision were flawed.

21. In that context it should be noted that contrary to what is implied by the petition, the fact that several family members of the petitioner (her father and his children from his second marriage) live in Israel was certainly known to the respondents (see for instance the description of the "family of the sponsored spouse", which was presented to the humanitarian committee in a meeting dated November 23, 2014, **Exhibit P10A to the petition**). In addition, it seems that the argument, according to which the petitioner's mother who lives in the Area is a sick woman, was raised for the first time only in the context of the revised petition (see section 43 of the petition). In as much as said argument was not mentioned in the context of the complementary arguments which were delivered by the petitioners to the Ministry of Interior, it indeed raises questions. In any event, according to respondents' position, said detail, even if accurate, cannot change their conclusion concerning petitioner's stay in Israel.

22. And now we would like to respond to the arguments raised by the petitioners on the substantive level, with respect to the conclusion of the Minister of Interior concerning the absence of special humanitarian reasons in this case. As specified below, respondents' position is that considering the entire data which were before the Minister of Interior, his decision is reasonable and does not raise any cause for intervention.

23. The Minister of Interior specified in his decision the reasons which lead him to the conclusion that petitioner's matter did not constitute a special humanitarian case which justified the grant of a stay permit in Israel. In this context it should be clarified that the principle which was discussed by the Minister of Interior in his decision is that a minor depends on his parents and his parents do depend on him (see and compare AAA 7088/03 **Nadia Mahamid v. Minister of Interior** (given on March 1, 2004)). Namely, the general rule is that the mere fact that a foreign resident is a parent to a minor who is an Israeli citizen (or in our case – a minor having a permanent residency status in Israel) will not justify the grant of status to the parent, other than in special humanitarian cases (see and

compare HCJFH 8916/02 **Dimitrov v. Ministry of Interior** (reported in the Judicial Authority Website, July 6, 2003)); HCJ 8030/03 **Smuyolov v. Ministry of Interior** (reported in the Judicial Authority Website, July 1, 2004)); This approach is also manifested in section 3A1(e)(1) of the Temporary Order Law, according to which the fact that the family member of the permit applicant who lawfully resides in Israel is his spouse, or that the spouses share common children "**will not, in and of itself, constitute a special humanitarian reason**" (see and compare a recent decision: HCJ 4327/13 **al-Latif v. Minister of Interior in the Government of Israel** (reported in the Judicial Authority Website, January 1, 2015)).

24. Hence, both the Temporary Order Law the constitutionality of which was confirmed by an expanded panel of this honorable court (see HCJ 466/07 **Gal-on v. Attorney General** (reported in the Judicial Authority Website, January 11, 2012); and HCJ 7050/03 **Adalah v. Minister of Interior (**reported in the Judicial Authority Website, May 14, 2006); and the judgments of this honorable court, according to which a person's right to status in Israel does not automatically grant his parents right to status, lead to the conclusion that the continued stay of the petitioner in Israel require a special humanitarian reason.

25. However, in the case at hand, as specified in the decisions of the Minister of Interior, he was of the opinion that no special humanitarian reason existed as aforesaid, particularly in view of the young age of petitioner's children; the place of residency of the vast majority of petitioner's extended family in the Area and its close proximity to the previous place of residency in Israel; and the fact that the medical records which were attached did not indicate that the children were in an emergency medical condition. In this context it should be noted that the statement made in the petition according to which the children "are not healthy" (see for instance section 50 of the petition), does not lead to the conclusion that are in a medical condition which can justify the grant of a permit to their mother, resident of the Area, for special humanitarian reasons.

26. In addition, as was also emphasized in the decision of the Minister of Interior, the permanent residency status of the children in Israel will not be prejudiced as a result of their relocation to the Area with their mother, while still minors. Section 78 of the petition raises a concern regarding a future change of policy which will prejudice the status of the children; however, said concern has no basis. Anyway, it is clear that in view of the statements included in the decision of the Minister of Interior, the permanent residency status of the children in Israel will not undergo any change if and to the extent they relocate with their mother to the Area; and the respondents obviously stand by their said statement in this regard.

27. Accordingly, as noted by the Minister of Interior in his decision, the children will be able to periodically visit their family in Israel without any difficulty. In addition, to the extent the children require medical treatment, which should be specifically given in Israel, they will be able to, as a general rule, enter Israel, by virtue of the fact that they have permanent residency status in Israel.

28. This is the place to note that there is no room to accept petitioners' arguments according to which the decision of the Minister of Interior is ostensibly an arbitrary and discriminating decision. In this context it should be clarified that a permit or license to stay in Israel for special humanitarian reasons are granted in exceptional cases, and in view of the unique circumstances of each and every case. An inherent difficulty is embedded in any attempt to compare between cases, and hence is the high hurdle posed before anyone who raises a discrimination argument in this context.

The Minister of Interior emphasized this point in his decision, while pointing out that "**Humanitarian applications, by their nature, are not identical, and no pre-defined list of circumstances exists which may justify the acceptance of such applications. Each case is examined according to its unique circumstances**."

29. Subject to the above and without derogating from the basic difficulty to compare between special humanitarian reasons raised in different cases, respondents' position is that the examples presented by the petitioners do not give rise to a claim of discrimination, arbitrariness or deviation from common practice. Thus, for instance, AAA 10993/08 **A. v. State of Israel** (reported in the Judicial Authority Website, March 10, 2010), mentioned by the petitioners, concerned a status applicant who stayed in Israel about 28 years and whose 12 years old child had AIDS; AP (Beer Sheva) 313/06 "Physicians for Human Rights" Association v. Minister of Interior (reported in Nevo, July 14, 2007) concerned a status applicant who stayed in Israel for about 14 years (although without a permit), who stayed in a battered women's shelter in Israel and who had six children in the ages five - twelve; And also in the **Dimitrov** judgment, which undoubtedly contained very important statements, including, *inter alia*, the need to take into consideration the child's best interest, the petition for an order nisi (HCJ 4156/01) for the grant of status in Israel to a parent of an Israeli citizen was denied by a panel headed by the honorable President (*emeritus*) Barak; and the petition for a further hearing in the judgment was denied by the Honorable Justice Mazza (HCJFH 8916/02 **Dimitrov v. Ministry of Interior** (reported in the Judicial Authority Website, July 6, 2003).

30. Moreover: in an array of judgments the honorable court denied petitions which were directed against decisions not to grant status in Israel for humanitarian reasons, and clarified that the scope of the court's intervention in decisions of this sort is narrow and would be limited to exceptional cases. See for instance: HCJ 10609/07 **Zuabi v. Ministry of Interior** (reported in the Judicial Authority Website, May 17, 2011) (which concerned a petitioner who was born and raised in Israel as a citizen, her immediate family (including the petitioner herself and her children) resided in Israel as of the date of the petition and it was explicitly held that her center of life was in Israel. On the other hand, for many years the petitioner and her children stayed in Israel unlawfully, and when she was twenty years old she renounced her Israeli citizenship); HCJ 6953/08 **Fahima v. Minister of Interior** (reported in the Judicial Authority Website, December 23, 2008)(which concerned a resident of the Area who married an Israeli citizen and argued that he had a right to receive status for humanitarian reasons due to the illness of their two children, the pregnancy of his Israeli wife and his desire to convert into Judaism. The petition was denied on the grounds that the medical condition of the children was not so severe and also, *inter alia*, due to petitioner's criminal record); HCJ 3057/09 **Muchthasab v. Minister of Interior** (reported in the Judicial Authority Website, November 3, 2009)(which concerned adult petitioners whose mother was a permanent Israeli resident. They argued that they had no connection with their father, that all members of their immediate family were living in Israel and that the denial of their permit application would completely severe the relationships between the family members); and also HCJ 190/12 **Tamimi v. Minister of Interior** (reported in the Judicial Authority Website, February 1, 2012)(which concerned a petitioner who was a permanent resident and who applied for status for humanitarian reasons for his wife who stayed lawfully in Israel under DCO permits. The petitioner reasoned his application by a kidney disease from which he was suffering, as a result of which he needed the constant assistance of the petitioner, who took care of him and of their three minor children).

31. The above also leads to the conclusion that the argument, according to which the decision of the Minister of Interior was ostensibly premised on extraneous considerations, should be denied. In this context it should be noted that the absence of security preclusion for petitioner's stay in Israel does not indicate that extraneous considerations were considered in her matter. Indeed, a security (or criminal) preclusion may constitute, in and of itself, a reason for a denial of an application for a stay permit in Israel; However, the absence of such preclusion <u>does not</u> indicate, in and of itself, that the decision not to grant a stay permit in Israel was flawed.

Moreover: the circumstances of the death of the father of the family in the terror attack in the Har Nof synagogue were discussed by the humanitarian committee. An ISA representative mentioned

the relevance of deterrence considerations. The entire data pertaining to petitioner's matter were presented before the Minister of Interior, including, the circumstances of death of the father of the family. The minister pointed out in his decision that "the entire circumstances will be examined in the case of a woman whose husband passed away from natural causes, as well as in the case of a woman whose husband passed away from unnatural causes." For the purpose of making his decision the minister was entitled to take into consideration the entire data presented before him; and said data lead him to the conclusion that no special humanitarian reason existed in petitioner's matter and that "there was no justification for the acceptance of the application for the extension of the stay permit of Mrs. Abu Jamal in Israel." (see the last paragraph of the decision dated March 24, 2015).

32. Parenthetically, it should be noted that petitioners' arguments concerning the violation of the right to family life are very general and the respondents are of the opinion that they cannot assist the petitioners. As is known, fundamental rights, of whatever nature, are not absolute, and their violation by law which befits the values of the state of Israel, which was enacted for a proper objective and to an extent no greater than required, or by an explicit authorization included in any such law – is lawful (see and compare AppBarAss 3761/00 **Kostin v. Israel Bar Association, Central Committee**, IsrSC 56(2) 227 (2001); HCJ 10203/03 **"National Commander" Ltd. v. Attorney General**, IsrSC 62(4) 715 (2008); HCJ 1661/05 **Regional Council Hof Aza et al., v. The Knesset of Israel et al**., IsrSC 59(2) 481 (2005); HCJ 8276/05 **Adalah Legal Centre for Arab Minority Rights in Israel v. Minister of Defense**, IsrSC 62(1) 1 (2006)).

33. The Temporary Order Law being the subject matter of our discussion, the constitutionality of which was confirmed as aforesaid by an expanded panel of this honorable court, does not specify the reasons for the grant of status for special humanitarian reasons, and leaves broad discretion to take into consideration the entire circumstances of the matter. As clarified by the Minister of Interior in his decision, humanitarian applications, by their nature, are not identical and a pre-defined list of circumstances which justify the acceptance of such applications does not exist. Accordingly, case law refers to the examination of the specific circumstances of each and every case and emphasizes that the child's best interest should indeed be considered, but this is not enough. As specified above, the rule is that the child does not grant status to his parents, and said rule will be deviated from only in exceptional humanitarian cases. The entire circumstances of the case at hand lead the Minister of Interior to the conclusion that there was no room to accept petitioner's application for a stay permit in Israel for special humanitarian reasons and said conclusion reconciles with the Temporary Order Law (see section 3A1(e)(1) of the Temporary Order Law; *supra*, section 23).

34. In conclusion: respondents' position is that the decision of the Minister of Interior to deny petitioner's application for a stay permit in Israel pursuant to section 3A1 of the Temporary Order Law, does not give rise to a cause for judicial intervention. Therefore, the honorable court is requested to deny the above captioned petition as well as the request for an interim order.

35. This response is supported by an affidavit on behalf of the respondents.

Sivan 10 5775
May 28, 2015

(Signature)

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Nachi Ben Or

Senior Deputy A at the State Attorney's Office

1. On December 25, 2014, petitioners' legal counsels submitted a notice on their behalf, along with a letter to respondent 1 ("**Minister of Interior**"), specifying written arguments in petitioner 1's matter.

2. On March 24, 2015, the Minister of Interior gave his conclusive decision, specifying the reasons for the revocation of petitioner 1's stay permit in Israel.

   - A copy of the decision of the Minister of Interior dated March 24, 2015, is attached and marked **RS/1**.

Nissan 10, 5775
March 30, 2015

Nachi Ben Or
Senior Deputy A in the State Attorney's Office
Minister of Interior

Nissan 4, 5775
March 24, 2015
No. 1924-2015

To
The Population Authority

Re: **Mrs. Abu Jamal – Revocation of Stay Permit in Israel – HCJ 8134/14**

Following my decision dated November 25, 2014, the petition of Mrs. Abu Jamal in HCJ 8134/14 and her additional arguments in writing dated December 25, 2014, were submitted for my perusal.

After I have reviewed the entire information which was submitted for my perusal, I decided that there was no room to change my decision dated November 25, 2014, for the reasons specified below.

In the framework of HCJ 8134/14 which concerns the decision to revoke Mrs. Abu Jamal's stay permit, the state enabled the petitioners to submit arguments in writing, to the extent they had additional arguments beyond those specified in the petition, which they thought should be before the Minister of Interior.

In the framework of the additional arguments which were submitted by Mrs. Abu Jamal's legal counsels it was argued that she satisfied the conditions established by the procedure of the population

z and immigration authority concerning the examination of applications for the grant of status to spouses of Israelis in the event that the Israeli spouse passed away or in the event of divorce. As far as they are concerned, according to said procedure, in view of the fact that children are involved – a fact which constitutes an indication of humanitarian reasons according to the procedure - the petitioner should have been given status in Israel.

According to the procedure, the existence of children constitutes a condition for the submission of the matter of a widow or a divorcee to the inter-ministerial committee (and in our case, to the advisory committee to the Minister of Interior according to the Temporary Order). However, the mere fact that a matter was submitted to the committee does not obligate to grant status in Israel, and the existence of children, including the age of the children, constitutes only one of the entire considerations which are examined in the context of the humanitarian issue, and is not the exclusive consideration. Moreover, the mere existence of children will not result in the grant of status to the foreign parent in each and every case. In the framework of the deliberation a general review of the circumstances is made and one detail alone cannot automatically cause the grant of status. The entire circumstances will be examined in the case of a woman whose husband passed away from natural causes, as well as in the case of a woman whose husband passed away from unnatural causes.

The summary of the committee's deliberations and the recommendations submitted by it to me indicate that both the committee and the undersigned were aware of the fact that Mrs. Abu Jamal's children are permanent Israeli residents. However, after I have examined the entire details involving the matter, and the entire ties of Mrs. Abu Jamal which pertain to the Area, I came to the conclusion that no special humanitarian reasons existed in her matter which justified the grant of a stay permit in Israel, all as specified herein-below.
The policy concerning permanent Israeli residents implemented as of 2000 (according to the "Sharansky Affidavit") provides with respect to minors that "those who were minors when their parents moved their center of life outside Israel, in general, their residency in Israel will be examined from the date they became adults, and for this purpose the period which preceded the date on which they became adults will not be taken into consideration." Accordingly, the status of Mrs. Abu Jamal's children, as permanent Israeli residents, will not be prejudiced by the fact that they moved to the Area with their mother, while still minors.

This case concerns very young children, who will naturally live with their mother in the Area. The place of residency in the Area is very close to the previous place of residency in Israel, and the vast majority of the mother's extended family lives in that place in the Area (including Mrs. Abu Jamal's mother and six of her siblings from the same mother and father and their family members). At the same time, considering the fact that the children continue to have permanent residency status in Israel while moving to the Area to live with their mother, as a general rule, they will be able to periodically visit their family in Israel without any difficulty.

In the context of the additional arguments raised by Mrs. Abu Jamal's legal counsels it was argued that her children were under medical supervision in Israel. However, neither the arguments which were raised nor the medical records which were attached indicate that the children suffer from an emergency medical condition, which also does not justify, in and of itself, according to the current policy, the grant of a stay permit in Israel to Mrs. Abu Jamal, but rather – at the utmost – the stay of her exit from Israel for the duration of the emergency condition. In any event, to the extent the children require medical treatment, which should be specifically given in Israel, they will be able, as a general rule, to enter Israel, by virtue of the fact that they have permanent residency status in Israel.

According to section 3A1 of the Temporary Order, the Minister of Interior is vested with the authority to grant a stay permit or residency status in Israel, when special humanitarian reasons exist. The law does not specify these reasons and grants broad discretion for the consideration of all circumstances relevant to the cases discussed pursuant to this section. Humanitarian applications, by their nature, are not identical, and no pre-defined list of circumstances exists which may justify the acceptance of such applications. Each case is examined according to its unique circumstances.

Taking into consideration the entire circumstances described above, coupled with the reasons which were specified in my decision dated November 25, 2014, I decided that there was no justification for the acceptance of the application for the extension of the stay permit of Mrs. Abu Jamal in Israel.

Sincerely,

(signed)
Gilad ERda, MK

2 Kaplan At., Kiriat Ben-Gurion, Jerusalem 91950, Tel: 02-6701400, Fax: 02-5666376