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At the Court of Appeals
Jerusalem District

Appeal 1399/17

In the matter of:

1. _____ 'Aweisat, ID No. _____
2. _____ Qanbar, ID No. _____
3. **HaMoked: Center for the Defence of the Individual,
founded by Dr. Lotte Salzberger – RA**

All represented by counsel, Adv. Benjamin Agsteribbe (Lic. No. 58088) and/or Sigi Ben Ari (Lic. No. 37566) and/or Hava Matras-Irron (Lic. No. 35174) and/or Anat Gonen (Lic. No. 28359) and/or Daniel Shenhar (Lic. No. 41065) and/or Bilal Sbihat (Lic. No. 49838) and/or Abir Jubran-Dakawar (Lic. No. 44346) and/or Nasser Odeh (Lic. No. 68398) and/or Nadia Daqqa (Lic. No. 66713) and/or Eliran Balely

Of HaMoked Center for the Defence of the Individual,
founded by Dr. Lotte Salzberger
4 Abu Obeida St., Jerusalem, 97200
Tel: 02-6283555; Fax: 02-6276317

The Appellants

v.

1. **Minister of the Interior**
2. **Population and Immigration Authority**

Represented by counsels of the legal department
15 Kanfei Nesharim Street, Jerusalem
Tel: 02-5489888; Fax: 02-5489886

The Respondents

**Urgent Appeal, Urgent Application for Interim Injunction and Interim
Order and Application for Expansion of Arguments**

An urgent appeal and urgent application for interim injunction and interim order are hereby filed against respondents' decision to immediately revoke the status of appellant 1, the son of appellant 2, who resides in Israel for years in the framework of a family unification procedure with his mother, appellant 2. In view of respondents' inappropriate conduct in proceedings which were instituted by the respondents against appellant 1 and his family members, proceedings in which they also brazenly tried to deprive him of the right to due process as will be detailed in this appeal below, the urgent interference of the honorable court is required, to ensure that appellant 1 is not distanced from Israel until all legal proceedings in his matter are exhausted.

It should be clarified that due to the urgency of the matter a concise appeal is hereby filed briefly addressing appellants' main arguments against respondents' decision. The appellants therefore request the honorable court to enable them to complete their arguments within one week.

The Factual Part

The Parties

1. **Appellant 1** (hereinafter: **appellant 1**) born in 1995, is a West Bank resident and the son of a permanent Israeli resident, who resides in Israel for many years. It should already be emphasized at this point that appellant 1 is the nephew of the perpetrator _____ Qanbar who executed the attack in Armon Hanatziv neighborhood in Jerusalem on January 8, 2017.
2. **Appellant 2** is the mother of appellant 1 and **half-sister** of _____ Qanbar.
3. **Appellant 3** is a not-for-profit registered association which has taken upon itself, *inter alia*, to assist residents of East Jerusalem and their family members, victims of cruelty or deprivation by state authorities, including by defending their rights in court, either in its own name as a public appellant or as counsel to persons whose rights had been violated.
4. **Respondent 1** (hereinafter: **respondent 1** or the **Minister of the Interior**) is the Minister whose decision to revoke appellant 1's permanent status in Israel according to section 11(a)(2) of the Entry into Israel Law is challenged in this appeal.
5. **Respondent 2** is the Population and Immigration Authority, the executive arm of respondent 1 which conducted the proceeding against which this appeal is filed.

Factual background and exhaustion of remedies

6. Appellant 2 and her spouse, originally a resident of the Occupied Palestinian Territories (OPT), were married in 1993. From this marriage they had four children. Their son, appellant 1 was born in 1995.
7. From the date on which they were married until 2008, my clients' family lived in the OPT. In 2008, they moved to reside in Jerusalem and had been living there ever since and until this very day. In 2009, family unification applications were submitted for the four children of the family, and from 2010 onwards, appellant 1 has been receiving stay permits in Israel. It should also be noted that in 2010, appellant 1's parents divorced. It should be emphasized that appellant 2 is only half-sister of _____ Qanbar.
8. Finally, it should be noted that appellant 1, who attended schools in Jerusalem and currently works in odd jobs, was neither interrogated nor suspected of having been connected in any way to the act

executed by his half-uncle, the connection with whom, considering the circumstances, was not very close.

9. Following the attack in Armon Hanatziv neighborhood on January 8, 2017, in which appellant 1's uncle was involved, appellant 1 was notified by the respondents on January 10, 2017 that respondent 1 had initiated proceedings for the revocation of the family unification procedure undertaken by appellant 1 with his mother.
10. On January 18, 2017, a hearing was held to appellant 1 in respondent 2's offices.
11. On January 25, 2017, respondents' decision was received by appellant 3 in its offices, stating that the allegations which had been raised against appellant 1 in the notice regarding the intention to revoke his status, were not refuted in the hearing. In addition, in the decision it was noted, for the first time, that a privileged opinion had been transferred by security agencies. In view of the above, the managing director of respondent 2's offices in East Jerusalem, Mrs. Hagit Zur, notified that she decided to currently stay the procedure undertaken by appellant 1 and to revoke at this point the stay permit which had been granted to him.

A copy of the decision of the managing director of respondent 2's offices in East Jerusalem is attached hereto and marked **A**.

Appellants' arguments in a nutshell

12. Respondents' outrageous decision to revoke appellant 1's stay permit due to the actions of his second-degree relative, is fundamentally inappropriate and should be revoked. It is a decision which is completely contrary to the provisions of the law, case law and procedures and is therefore unlawful. In addition, it is an unreasonable decision given on the basis of extraneous considerations, severely violating the basic right of appellant 1 and his family members to family life.
13. It should be emphasized that the decision was given despite the fact that appellant 1's arguments, according to which appellant 1 had no connection to or knowledge of his uncle's deeds, of which he also disapproved, were not refuted by the respondents. And to be precise, the decision itself indicates that no security allegation was raised against appellant 1.
14. For appellants' detailed arguments, the honorable court is referred to the written arguments and to the arguments specified therein. The honorable court is requested to regard the written arguments attached hereto as an integral part of this appeal.

A copy of the written arguments is attached hereto and marked **B**.

15. Respondents' decision reiterates word for word the notice regarding the intention to revoke the status, making no pertinent reference to the factual claims and weighty legal arguments which were raised in the written arguments and which refute the allegations raised by the respondents against appellant 1.
16. The decision as drafted indicates that it is based on the position of security agencies according to which:

Several individuals in your extended family are suspected of having connections to ISIS and of being involved in terror activity.

It should be noted that even now in the framework of the decision, and after oral and written hearings were held to appellant 1 in which the appellants tried to understand who these extended family

members were against whom suspicions were raised for which the appellants are punished, the identity of these family members is still a mystery!

In addition, the respondents note in the decision that these are mere suspicions, that and nothing else. Namely, the respondents turned the tables and rushed to revoke appellant 1's status based on mere suspicions which have not been adequately clarified. The appellants have many more arguments against this inappropriate decision, but these will be raised in the framework of the expanded arguments the submission of which was requested from the honorable court in this statement of appeal.

17. In addition, it should be noted that before respondents' decision was delivered to the appellants, the respondents issued a notice to the media from which appellant 1 and his family members learnt of the decision. In view of the fact that the content of said notice attests more than anything else to its inappropriateness, parts therefrom are hereby quoted:

The Minister of the Interior Aryeh Deri revoked in the past hour the status of the family members of the perpetrator _____ Qanbar. As is remembered, immediately after the attack which took place in Jerusalem about two weeks ago, in which four soldiers were killed, Minister Deri notified that he would act expeditiously for the revocation of the status of the perpetrator's family members residing by virtue of a family unification procedure...

Minister Deri clarified: "Only immediate and practical actions will deter perpetrators. I am confident that the revocation of the status of the family members will operate as a warning sign for others contemplating to execute attacks and kill Israeli citizens."

18. Hence, the Minister's words quoted above expose the real motive behind his decision in the case of appellant 1 and his family members. The respondents were neither concerned with a security risk posed by appellant 1 nor with the need to protect public safety. What the respondents were concerned with was to satisfy public opinion by collective punishment for vengeance and deterrence purposes, for all to see and beware. All of the above, against distant family members who did nothing wrong. However, the revocation of family unification procedure for the reasons specified in the above Minister's notice, while violating the fundamental right to family life, in a bid to deter potential perpetrators, is patently unlawful and has no basis whatsoever in the law.

Conclusion

19. As aforesaid, in view of the tight schedule afforded to the appellants, a concise appeal is hereby filed together with an urgent application for orders which would prohibit the taking of any enforcement measures against appellant 1 until the proceedings in the appeal are terminated.
20. As noted in the beginning of this appeal, the appellants wish to expand their arguments appearing in the statement of appeal within seven days, and in this context they will add to the arguments which had already been raised in the framework of the written and oral arguments, arguments to the effect that the respondents had no power to act in the matter at hand as well as arguments regarding additional flaws which occurred in the submission of the oral and written arguments and thereafter.
21. In view of all of the above, the honorable court is requested to accept the applications for the orders, to enable the appellants to properly file expanded arguments and to direct the respondents to reinstate the family unification procedure, to its previous state.

Jerusalem, January 26, 2017

(File No, 96755)

Benjamin Agsteribbe, Advocate
Counsel to the appellants