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State of Israel

Ministry of Justice

Jerusalem District Attorney's Office

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20 Adar B, 5765

31 March 2005

P.M.JM: 3053/4/T

To: Adv. Yossi Wolfson

HaMoked: Center for the Defence of the Individual

By fax: 6276317

Re: **AP 1238/04 Joubran**

1. According to your telephone conversation and as agreed between you and Adv. Einav Harman, attached please find the updated procedure on grant of visas.
2. My direct number for enquiries is stated above. It is also possible to apply by email Eladm@justice.gov.il

Sincerely,

[-]

Elad Morag

Legal Advisor Representative

State of Israel
Ministry of Interior
Legal Advisor's Office

Jerusalem
9 Adar B, 5768
20 March 2005
MS. 2259-2005

Re: Clarification of the work procedure on grant of status to children in the framework of Regulation 12 of the Entry into Israel Regulations – amendment

According to the provisions of Regulation 12 of the Entry into Israel Regulations, 5734-1974, a child born in Israel to whom Section 4 of the Law of Return does not apply and whose parents are not citizens of Israel, his status shall be as his parents' status. According to the State's notice in HCJ 48/89 Reinhold Issa, the Regulation's interpretation was relaxed and it was determined that when the parents do not have the same status, the child shall receive his status according to the status of the parent with whom he maintains a center of life, even if he is not his father (in the words of Regulation).

On October 25, 2004, a judgment was issued in AP 577/04 Tawani Al-kurd, where it was ruled that Regulation 12 applies also to a person who did not file his application close to birth. The judgment finds that "indeed, the family unit's intactness can be achieved in various ways. The way established in Regulation 12, whereby the child receives the status of the parent, is not the only way. It is possible to give him the parent's status and it is possible to give him another status... the interpretation according to which the Regulation applies also to a person who did not file his application close to birth, but proved a center of life in Israel, matches the Regulation's purpose...".

In view of the findings in the judgment, here is a clarification of the work procedure on handling applications under Regulation 12:

Comment – Regulation 12 is implemented only after the identity of the child's parents has been proven if it was in doubt. If the parents' identity has not been proven, first the regular procedures for establishing parenthood must be followed.

1. This procedure deals with an underage child born in Israel, to whom Section 4 of the Law of Return does not apply and whose parents are not citizens of Israel.
2. If both of the child's parents are permanent residents living with him in Israel, the child shall be given the status of permanent resident.
3. If one parent is a permanent resident and the other is without status in Israel, and once the center of life in Israel of the permanent resident parent and the child has been proven, the child shall receive the status of permanent resident.

4. If the child is registered as a resident elsewhere at the time the application is filed, and if he meets the conditions of article 3 above, first the child shall be given the status of temporary resident (A/5) for two years for continued examination of the existence of center of life in Israel, and thereupon he is to be given the status of permanent resident.

Temporary Order proviso:

On August 1, 2003, the Citizenship and Entry into Israel Law (Temporary Law), 5763-2003, was enacted, stipulating that “despite the stated in any legal provision, including Section 7 of the Citizenship Law, the Minister of Interior shall not grant an inhabitant of the Area citizenship under the Citizenship Law, and shall not give him a license to reside in Israel on the basis of the Entry into Israel Law...”.

In view of the cases that came up following the Temporary Order, the Ministry of Interior decided that insofar as it concerns children registered in the Area who were under age 12 at the time the application on their behalf was filed, the Temporary Order shall not apply, and the following is to be done:

1. [in the case of] A child for whom an application was filed before May 12, 2002 – provided that on the application filing date the child was under age 12 – the application will be handled as stated above, and licences given as stated in article 4 above. If on the application filing date the child was over age 12, the application will be handled as stated above, but if he meets the conditions of the procedure, he will be referred to receive permits to stay in Israel issued by the Commander of the Area, in light of the Temporary Order.
2. [In the case of] A person for whom an application was filed after May 12, 2002, while he was under age 12, the application will be handled according to the above, and licences given as stated in article 4 above. If the child concerned is over age 12, the application cannot be handled in light of the Temporary Order.