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At the District Court in Jerusalem
Sitting as the Court for Administrative Matters

Adm. Pet. 725/03

In the matter of: **T. Rajub *et al.***

all represented by attorneys Adi Landau (Lic. No. 29189) and/or Yossi Wolfson (Lic. No. 26174) and/or Manal Hazzan (Lic. No. 28878) and/or Tamir Blank (Lic. No. 30016) and/or Leena Abu Mukhh Zuabi (Lic. No. 33775) whose address for the purpose of service of court documents is 4 Abu Obeideh Street, Jerusalem 97200
Tel. 02-6283555; Fax. 02-6276317

The Petitioners

v.

Ministry of the Interior *et al.*

by the Jerusalem District Attorney's Office
4 Uzi Hasson Street, Jerusalem
Tel. 02-6208177; Fax. 02-6222385

The Respondents

Petitioners' Reply to the Respondents' Preliminary Response

The Petitioners hereby file with the Honorable Court its reply to the Respondents' preliminary response, as follows:

1. Regarding Articles 2-3 of the Respondents' preliminary response, the Petitioners refer to Article 41-42 of the petition and to Appendix P/22 attached thereto, which describe the administrative promise given to the spouse five months before Government Decision 1813. According to the promise, in February 2002, three months before the said government decision, the spouse would be given temporary-resident status, an A/5 visa.
2. Regarding Article 4 of the Respondents' preliminary response, the Petitioners refer to Article 101 of the petition and to the court actions mentioned there. For example, in Adm. Pet. 813/02, because of the Respondent's failures, the spouse's status was upgraded after the government's decision.

In the matter of the upgrading of the spouse's status in Adm. Pet. 813/02, after the government's decision not to upgrade status, Mr. Shabtai Mizrachi, an official in the

office of Respondent 3, stated in his affidavit that was submitted in Adm. Pet. 434/03, as follows:

In this petition, the petitioners submitted a request for an A/5 visa as far back as 21 August 2000, and the response by the officials was delayed for a long time, for which reason it was decided to approve upgrading of the visa in this case. (Article 12 of the affidavit, emphasis added)

The affidavit of Mr. Mizrachi is attached hereto and marked PR/1. See Article 12 of the affidavit.

These court actions indicate that, contrary to the statement made by Respondents' counsel in Article 4 of the preliminary response, as if, "even in such extraordinary cases... the maximum status that will be granted is a DCO. permit or a B/1 visa, as the case may be, which will be extended periodically until otherwise decided." Although they have procedures for handling this matter, the Respondents acted contrary to the procedure in cases where upgrading of the current status was justified in light of, for example, faulty handling by Respondent 3.

3. Furthermore, the Petitioners will argue that, even though the procedure that is attached to the response is obtuse – a common occurrence with the Respondents – its language indicates that the subject of upgrading relates to applications that have just been approved, and not to applications that have been handled for some time in the framework of the "graduated arrangement." The reason is that the latter applications are regulated by the said government decision, and they do not require a separate procedure. On the other hand, a decision has recently been reached whereby the government's decision will not be applied retroactively to applications predating the government's decision, and the wording of the procedure indicates that it is intended for cases that are approved from that time forth; however, like the other applications that are in the midst of processing, there will not be upgraded.

The state's notice of the change in policy on retroactive application of the government's decision relating to applications that were submitted prior to the government's decision is attached hereto and marked PR/2.

Therefore, the exceptions described in the procedure relate to applications that would be approved after the government's decision, and the Respondents found it appropriate to upgrade applications that were in the graduated arrangement in extraordinary cases, *after the publication of the government's decision.*

4. It is important to mention that the comments made by Respondents' counsel in Article 7 of his response, stating that the Petitioners' contentions regarding the lack of

coordination between officials in the office of Respondent 3 and officials in the office of Respondent 4 will be checked and arranged as soon as possible are totally insufficient. The reason is that *four years have passed*, during which Petitioner 9 made dozens of telephone inquiries to various officials, and some 40 letters were sent, including a pre-HCJ petition, without benefit of any kind. ***During these four years, the Respondents failed to arrange the spouse's lawful stay in Israel, despite approval of the application for family unification and although he met all the requirements set by the Respondents.***

On the matter of the Petitioners' inquiries to the Respondents in the attempt to resolve the problem, see the petition at Articles 24-29 and the attached appendixes, and Articles 31-67 and the attached appendixes.

5. The Petitioners will argue that, as set forth in detail in the petition, in the circumstances of the present case, in which an explicit administrative promise was made to upgrade the application of the spouse prior to the adoption of the government's decision, a promise that was made, *inter alia*, following the negligence of Respondent 3 in handling the application, there is justification to upgrade the status in this case. Contrary to the statements made in Articles 4-8 of the Respondents' response, upgrading has occurred in other extraordinary cases after the date of the government's decision.

For all these reasons, the Honorable Court is requested to set a date for the hearing of the petition, or, alternatively, to issue Order Nisi as requested at the beginning of the petition, and after receiving the Respondents' response, to make it absolute, and also to order the Respondents to pay the costs of suit and attorney's fees.

Jerusalem, today, 18 June 2003

[signed]

*Adi Landau, Attorney
Counsel for Petitioners*