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

Adm. Pet. 413/03
CMot 7117/03

In the matter of:

- 1. T. Alsadeh**
- 2. W. A.**
- 3. HaMoked: Center for the Defence of the Individual – Reg. Assoc.
And Six Others**

represented by attorney Adi Landau
of HaMoked: Center for the Defence of the Individual
4 Abu Obeideh Street, Jerusalem 97200
Tel. 6283555; Fax. 6276317

The Petitioners

v.

Director, Population Administration Office in East Jerusalem

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

The Respondent

Respondent's Response to the Petition

In accordance with the decision of the Honorable Court, the Respondent respectfully submits its response to the petition.

This petition deals with the Respondent's rejection of Petitioner 1's request to obtain a temporary status of the A/5 kind (a temporary identity card) for the spouse, Petitioner 2, in accordance with Government Decision 1813, of 12 May 2003.

Following the filing of the petition, the Government of Israel published the Proposed Nationality and Entry into Israel (Temporary Order) Law, 5763 – 2003 (hereinafter: the Proposed Bill). Pursuant to the Proposed Bill, the DCO permit held by Petitioner 2 on the eve of adoption of the government's decision can be extended, but he is not allowed to be granted a higher status, in the form of the temporary identity card that he requests.

The Respondent suggested to the Petitioners that they settle for the DCO permit, but the Petitioners rejected the suggestion. Therefore, the Honorable Court will be requested to dismiss the petition, based on the following:

The facts and the Respondent's position

1. Petitioner 1 submitted an application for family unification for her husband. The file's number is 1643/94. On 14 October 1999, the application was approved for a 12-month period, and the Petitioners received a referral to obtain a DCO permit.
2. On 4 January 2001, the Petitioners' request was approved for an additional 12 months, and they received a referral to obtain the DCO permit.
3. On 20 November 2001, the Petitioners submitted a request to the Respondent for an A/5 visa (temporary identity card) for the spouse. As part of the graduated process, the Respondent directed questions to security officials to obtain their position as regards the request.
4. On 6 February 2002, the Respondent received the security officials' position, whereby handling of the Petitioners' application should be delayed for six months. In accordance with the security officials' position, the said officials summoned the spouse to questioning on 4 March 2002.
5. On 12 May 2002, before receiving the position of the security officials, the government adopted Decision 1813. According to the government's decision, and in that, at the time of adoption of the decision, the security officials had not formulated their final position regarding the spouse, the Petitioners' request was not approved.
6. After the petition was filed, the government of Israel formulated the Proposed Bill, which states, in Section 2:

During the period in which this Law shall be in effect, notwithstanding the provisions of any law..., the Minister of the Interior shall not grant a resident of the region nationality pursuant to the Nationality Law and shall not give a resident of the region a permit to reside in Israeli pursuant to the Entry into Israel Law, and the regional commander shall not give such resident a permit to stay in Israel pursuant to the defense legislation in the region.

7. According to Section 4(1) of the Proposed Bill:

The Minister of the Interior or the regional commander, as the case may be, may extend the validity of a permit to reside in Israel or of a permit to stay in Israel that was held by a resident of the region prior to the commencement of this Law.

8. It should be emphasized that the explanatory notes to Section 4 of the Proposed Bill clarify that:

A transition provision is proposed that enables extension of the residency permits and permits to stay in Israel that the resident of the region had on the eve of the proposed law taking effect. It should be noted that this provision enables extension of the validity of the said residence permit or stay permit that the resident of the region had prior to the commencement of the proposed bill *but does not allow the said resident to obtain a permit of a kind other than the one he had* (emphasis added).

9. It should also be mentioned that, also according to Government Decision 1813, it was not allowed to upgrade the permit or residence permit that Petitioner 2 held on the eve of adoption of the government's decision, but only to extend the residence permit or permit that he had. Even had the Petitioners been included in the exceptions to the government's decision, granting an A/5 visa to the spouse would not have been allowed. The most that was allowed would have been a referral to obtain a DCO permit.
10. In light of the above, and in accordance with the government's policy, it is not permissible to grant the spouse an A/5 temporary visa, for the reason that on the eve of the adoption of the government's decision and the Proposed Bill that followed it, he held a DCO permit, *and thus the petition must be dismissed.*
11. Nevertheless, the Respondent agrees, in accordance with the policy described above, to extend the DCO permit of the spouse, and has so advised counsel for the Petitioners.

[The referral of the spouse to obtain the DCO permit is attached to this response and marked R/1.]

12. For the above reasons, the Respondent does not oppose the temporary order.

Therefore, the Honorable Court is requested to dismiss the petition to grant the spouse an A/5 visa, and to refer the spouse to obtain a DCO permit in accordance with the Respondent's position, and such without an order for costs.

Jerusalem, 3 Tamuz 5763

3 July 2003

[signed]

Tamar Weiner, Attorney
Assistance District Attorney
Jerusalem District