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At the District Court in Jerusalem **Adm. Pet. 612/04**
Sitting as the Court for Administrative Matters

In the matter of:

1. **_____ Dahud**
   of Sur Bahir, Jerusalem
2. **_____ Dahud**
   of Sur Bahir, Jerusalem
3. **A minor boy**
4. **A minor girl**
5. **A minor boy**
   Petitioners 3-5, who are minors, by their natural guardian, Petitioners 1 and 2
6. **HaMoked: Center for the Defence of the Individual founded by Dr. Lotte Salzberger (Reg. Assoc.)**
   of 4 Abu Obeidah Street, Jerusalem 97200

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 Leena Abu-Mukh Zuabi (Lic. No. 33775) and/or Shirin Batshon (Lic. No. 32737) and/or Hava Matras-Irron (Lic. No. 35174) whose address for the purpose of the service of court documents is
4 Abu Obeidah Street, Jerusalem 97200
Tel. 02-6283555; Fax. 02-6276317

The Petitioners

v.

1. **Minister of the Interior**
2. **Director, Population Administration in East Jerusalem**

both represented by the Jerusalem District Attorney's Office
4 Uzi Hasson Street, Jerusalem 94152
Tel. 02-6208177; Fax. 02-6222385

The Respondents

Petition for Order Nisi

A petition is hereby filed for an Order Nisi, directed to the Respondents and ordering them to show cause:

A. Why Respondent 2 does not make a decision on the request of Petitioners 1 and 2 to permit Petitioner 2 to continue to stay in Israel, in the framework of the family unification procedure, and why he does not approve the Petitioners' request to extend the Petitioner 2's visa.

B. Why, in light of the failure of Respondent 2 to meet the timetable set for deciding annual requests made in the framework of the family unification procedure, the Respondents do not establish, during the period of delay for which Respondent 2 is responsible, a proper and orderly administrative process regarding the stay in Israel of invitees in the family unification procedure.

The grounds for the petition are as follows:

1. The petition involves the failure of Respondent 2 (hereinafter: the Respondent) to comply with rules that he set, whereby an extension of permit or visa to reside in Israel held by persons who are in the family unification procedure will be approved within three months (increased from the original two-month period) from the day the request is submitted. The timetable is subject to the married couple meeting the relevant conditions.

   The purpose of this rule is to ensure continuity of lawful stay in the case of persons whose request for family unification has been approved and who are taking part in the graduated arrangement for examining entitlement to permanent residency.

2. Invitees in requests for family unification reside in Israel with their families, with all that such residence entails. They seek a permanent job and lead a family life that requires them, as a matter of course, to go into public places. As a result of the Respondent's failure to comply with the rules that he set, the Population Administration's office in East Jerusalem takes an average of one year or more to make the decision on the annual requests for extension of the visas. As a result, invitees in the family unification procedure, most of whom waited four or five years just to receive initial approval of their request, are forced to live in total suspension until the Ministry of the Interior makes a decision on their request.

3. The obvious perversity of this situation is apparent in the case of the Petitioners herein. In 1996, Petitioner 1, a resident of Israel, submitted a request for family unification on behalf of his wife, Petitioner 2, a resident of the West Bank. The request was approved five years later, in 2001. Since then, the Petitioners have been involved in the family unification procedure. Petitioner 2 lived in Israel for years and raised the couple's three

children, who are Israeli residents. In August 2002, the Petitioners submitted a request to extend Petitioner 2's permit to stay in Israel. From that time to the present, ***one year and eight months*** have passed, but the Ministry of the Interior has not yet made a decision on the request.

4. The Respondent's foot-dragging in the handling of the request infringes the fundamental rights of Petitioners 1-5 to family life and to dignity. As a result of the Respondent's failure to arrange her status in Israel, Petitioner 2 is exposed daily to delays, arrest, and the threat of deportation. She is denied her liberty. She is denied freedom of movement. She cannot leave her home, a fact that places her in a kind of house arrest. The whole family, in particular the minor children, suffers from financial and psychological instability because of the uncertainty of the mother's status.

5. For these and other reasons, the Petitioners request that a system-wide solution be found to bring to an end the situation described above, from which the Petitioners' family and many other families in their situation suffer. The Petitioners request that the Honorable Court order the Respondents to approve the extension of the visas and permits to stay in Israel for short periods, until final decision is made on the requests for family unification. This application is made as regards those cases in which the Respondents do not meet the three-month timetable that was set for approving the annual requests.

The Petitioners

6. Petitioner 1 is a permanent resident of the State of Israel and has lived in Jerusalem his entire life. He is married to Petitioner 2 and is the father of Petitioners 3-5.

7. Petitioner 2 married Petitioner 1 in 1996, and lives with him in Jerusalem. Petitioner 2 is the mother of Petitioners 3-5.

8. Petitioners 3-5 (hereinafter: the children or the Petitioners' children) are permanent residents of the State of Israel. They are the children of Petitioners 1 and 2 (hereinafter: the Petitioners).

9. Petitioner 6, a registered non-profit society with offices in East Jerusalem, aids individuals who fall victim to the abuse and oppression by state authorities, and defends their rights in court, whether in its name as a public petitioner or as counsel for individuals whose rights have been violated.

The facts

10. Petitioners 1 and 2 married in Jerusalem in 1996. Since then, they have lived in Jerusalem, in the home of Petitioner 1's parents in Sur Bahir.

11. In 1996, immediately following their marriage, Petitioner 1 submitted a request for family unification for Petitioner 2. The request was given file number 816/96. Petitioner 1 attached many documents to the request indicating that the center of the family's life was in Jerusalem.

12. The couple has three children. The children were born in Jerusalem and are duly registered as Israeli residents in the population registry and in their parents' identity cards. The children – _____, aged six, ____, aged four and a half, and ____, aged eighteen months – are insured in the Leumit Health Fund. ____ studied this year in the compulsory kindergarten at the school in Sur Bahir. ___ remained at home this year and will attend kindergarten next year. ____, the infant, remains at home with his mother.

13. The Petitioners have been recognized as residents by the National Insurance Institute for some years now and receive the children's allotment. Petitioner 2 is a homemaker and Petitioner 1 is a teacher, who for some ten years has taught at a school in Umm Tuba [a neighborhood in East Jerusalem].

Correspondence with Respondent 2

14. The request for family unification was submitted in 1996 and approved in 2001.

    Approval of the request for family unification, a reference to the District Civil Liaison office of the Civil Administration (DCL) for obtaining a permit, and the permit to stay in Israel from the Civil Administration are attached hereto, marked P/1 A-C.

15. From March to June 2002, the Population Administration's office in East Jerusalem was closed because of union sanctions, the Passover holiday, and then the absolute freezing of the handling of requests for family unification and registration of residents' children. Thus, on 23 May 2002, Petitioner 6 sent a request for an extension of Petitioner 2's permit to stay in Israel for an additional year. Attached to the request were comprehensive documents showing that Israel was the center of the Petitioners' life.

    The request sent by Petitioner 6 is attached hereto, marked P/2.

16. On 29 May 2002, the Respondent sent back Petitioner 6's request, notifying on it that the Petitioners should submit the request personally at the office. However, the Respondent's changing policy on appointments at the office did not enable, at the time, access to the office under his direction. To enter the office, the individual had to request an appointment by telephone, and the telephone line set aside for making the appointments was not working. Only on 28 July 2002, following repeated attempts, was Ms. Filmus, complaints coordinator at the office of Petitioner 6, able to make an appointment for the Petitioners. The appointment was set for 3 September 2003. This chronology explains why the request was not filed before that time.

    The Respondent's directive that a request for family unification must be submitted in person at his office, the second request of Petitioner 6 to extend the permit to stay in Israel, and the pre-High Court of Justice petition that Petitioner 6 submitted against the lack of access to the Population Administration's office in East Jerusalem are attached hereto, marked P/3 A-C.

Exhaustion of proceedings

17. On 1 December 2002, Petitioner 6 sent a reminder letter to the Respondent.

    A copy of Petitioner 6's letter is attached hereto, marked P/4.

18. On 29 December 2002, Petitioner 6 sent a reminder letter to the Respondent.

    A copy of Petitioner 6's letter is attached hereto, marked P/5.

19. On 11 February 2003, Petitioner 6 sent a reminder letter to the Respondent.

    A copy of Petitioner 6's letter is attached hereto, marked P/6.

20. On 16 March 2003, Petitioner 6 sent a reminder letter to the Respondent.

    A copy of Petitioner 6's letter is attached hereto, marked P/7.

21. On 21 May 2003, Petitioner 6 sent a reminder letter to the Respondent.

    A copy of Petitioner 6's letter is attached hereto, marked P/8.

22. On 3 August 2003, Petitioner 6 sent a reminder letter to the Respondent, in which it mentioned that the failure to respond to the Petitioners request for more than ten months violates the obligation of the Ministry of the Interior, as a public body, to respond within a reasonable period of time.

    A copy of Petitioner 6's letter is attached hereto, marked P/9.

23. On 3 August 2003, ***the first*** response of any kind to Petitioner 6's letters was received. In a letter on behalf of the Respondent, the Petitioners were advised that the request was being handled and that "a decision has not yet been reached. When a decision is made, we shall notify you."

A copy of the Respondent's letter is attached hereto, marked P/10.

24. From the time that the Respondent sent its aforementioned letter, the Respondents have not sent a statement of any kind to the Petitioners.

25. On 30 September 2003, Petitioner 6 sent the Respondent a further reminder.

A copy of Petitioner 6's letter is attached hereto, marked P/11.

26. On 18 December 2003, Petitioner 6 sent a reminder letter to the Respondent. In the letter, which was send following the passage of one whole year since the Petitioners had submitted their request, Petitioner 6 wondered whether the only way to receive a response was by filing a court action.

A copy of Petitioner 6's letter is attached hereto, marked P/12.

27. From the time of submission of the request for extension of the permit allowing Petitioner 2 to stay in Israel, ***one year and eight months*** have passed. Although all the requested proofs necessary for approval of the request were attached, and despite repeated correspondence and requests by Petitioner 6, other than the Respondent's notice of August 2003 that the Petitioners would receive a response when decision was reached, the Respondent has not provided any answer or response. This failure has gravely affected the Petitioners' family.

The legal argument

28. The Respondents' failure to comply with the procedure that they formulated is illegal. The Respondents are aware that hundreds of persons invited in the framework of the family unification procedure are turned into lawbreakers for being in Israel without permission. This situation follows the Respondent's excessive delay in handling requests. So, too, are Respondents aware of the resultant severe harm both to the families and to the state. The Respondents' conduct is unconstitutional and extremely unreasonable.

The right to family life

29. The Respondent's conduct, described above, infringes the Petitioners' right to live together and maintain a family unit according to their choice. The right of all persons to marry and establish a family is a fundamental right under our laws, which shall not be infringed, and which is derived from every individual's right to dignity.

30. Israeli law recognizes the value of family life as a central and fundamental right that deserves society's protection:

> **… Preservation of the family unit is part of Israeli public policy. The family unit is the "fundamental institution of human society" (Justice Cheshin in CA 238/53, *Cohen et al. v. Attorney General*); it is the "institution recognized by society as one of the foundations of social existence" (President Olshan in CA 337/62, *Riezenfeld v. Jacobson et al.*). Preservation of the family institution is part of Israeli public policy. Furthermore: as part of the family unit, preservation of the institution of marriage is a primary social value, which is part of Israeli public policy.**

The Honorable Justice Barak, as his title was at the time, in HCJ 693/91, *Efrat v. Head of the Population Administration in the Ministry of the Interior, Piskei Din* 47 (1) 749, 783.

On this point, see also:

RCA 238/53, *Cohen and Bousslik v. Attorney General, Piskei Din* 8 4, 35; HCJ 488/77, *John Doe et al. v. Attorney General, Piskei Din* 32 (3) 421, 434; CA 451/88, *John Does v. The State of Israel, Piskei Din* 49 (1) 330, 337; CFH 2401/95, *Nahmani v. Nahmani et al., Piskei Din* 50 (4) 661, 683; HCJ 979/99, *Pavalaviya Karlo v. Minister of the Interior, Takdin Elyon* 99 (3) 108.

31. The right to family life is considered a natural constitutional right:

> **The right of parents to custody of their children and to raise them, with all that these entail, is a natural and primary constitutional right, as an expression of the natural connection between parents and their children… This right is expressed in the privacy and autonomy of the family: the**

> **parents are autonomous in making decisions regarding their children – education, lifestyle, place of residence, and so on – and interference by society and the state in these decisions is an exception that requires justification… This approach *is grounded* in the recognition that the family is "the basic and most ancient social unit in human history, which was, is, and will be the foundation that serves and ensures the existence of human society" (Justice (as his title was at the time) Elon in CA 488/77, *John Doe et al. v. Attorney General, Piskei Din* 32 (3) 421, 434).**

President Shamgar in CA 2266/93, *John Doe, a Minor et al. v. John Roe, Piskei Din* 49 (1) 221, 235-236.

32. In *Stemkeh*, the Honorable Justice Cheshin discussed the importance of the family unit, an importance that reaches the status of a basic right, and the commitment of Israel to this right, in part pursuant to its participation in international conventions that recognize the importance of the right to family life:

> **Our case, it should be recalled, revolves around the basic right that entitles the individual – every individual – to marriage and to establish a family. It goes without saying that this right is universally recognized in international conventions …**

HCJ 3648/97, *Bijelbohen Petel et al. v. Ministry of the Interior, Piskei Din* 53 (2) 728, 784-785.

33. International law states that every person is free to marriage and to establish a family. For example, Article 10.1 of the International Covenant on Economic, Social and Cultural Rights, *Ktav Amana* 1037, which Israel ratified on 3 October 1991, states:

> **The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children…**

See, also, the Universal Declaration on Human Rights, which was adopted by the UN General Assembly on 10 December 1948, Article 8(1); Article 17.1 and Article 16.3 of the International Covenant on Civil and Political Rights, *Ktav Amana* 1040, which took effect as regards Israel on 3 January 1992.

34. Impairing the integrity of a person's family unit violates the person's dignity. The Petitioners will argue that their right to family life is enshrined in the Basic Law: Human Dignity and Liberty, in the provisions that protect liberty, dignity, and privacy.

Rights of children – harm to the Petitioners' children

35. The Respondent's failure to arrange, for a period of one year and eight months, the status of Petitioner 2 gravely harms the best interest of the Petitioners' children. The refusal to allow the mother of Petitioners 3-5, residents of the State of Israel, to live with them lawfully in their home in Israel, causes great tension, instability, and uncertainty in the family. The family is in severe psychological distress. Petitioners' young children perceive their mother as a prisoner in her home, unable to leave the house. The emotional and psychological harm to the children resulting from their being an integral part of this humiliation is clear and does not require extensive discussion.

In causing this harm, the Respondents are breaching the principle of best interest of the child, which the Supreme Court deems a fundamental principle of law.

See, on this point, the comments of President Shamgar in CA 2266/93, John *Doe v. Ron Doe, Piskei Din* 49 (1) 221, who held that the state must intervene and protect the child against violation of his rights.

36. The Supreme Court recognizes the elementary and constitutional right of children to live with their parents. See the comments of Justice Goldberg in HCJ 1689/94, *Harari et al. v. Ministry of the Interior, Piskei Din* 51 (1) 15, 20.

37. These comments find support in the ratification by Israel, on 4 August 1991, of the Convention on the Rights of the Child. This convention contains a number of provisions that protect the child's family unit.

For example, the Convention's preamble states:

> **[The States Parties,]** ***convinced*** **that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and**

> **particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,**
>
> ***Recognizing* that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding**

Article 3.1 of the Convention states:

> **In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.**

Article 9.1 states:

> **States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.**

38. The Convention on the Rights of the Child has become an increasingly important supplemental source for children's rights and guide for interpreting the "best interest of the child" as a paramount consideration in our law. See CA 3077/90, *Jane Doe et al. v. John Doe, Piskei Din* 49 (2) 578, 593 (Honorable Justice Cheshin); CA 2266/93, *John Doe, a Minor et al. v. Ron Doe, Piskei Din* 49 (1) 221, 232-233, 249, 251-252 (Honorable (former) President Shamgar); CFH 7015/94, *Attorney General v. Jane Doe, Piskei Din* 50 (1) 48, 66 (Honorable Justice Dorner).

39. The Petitioners' children suffer great harm as a result of the Respondent's failure to arrange their mother's stay in Israel. The psychological and economic tension at home following the lack of a permit to stay in Israel and the uncertainty regarding the prospects for the family to live together in their home in Jerusalem – all these factors comprise a daily threat accompanied by profound fear and apprehension that is sufficient to cause irreversible harm to the children's proper development.

40. In failing to handle the Petitioners' request for family unification for such a long time, the Respondent breaches the Convention on the Rights of the Child, and fails to consider the best interest of the Petitioners' children, residents of the State of Israel, which must serve as a paramount guide in determining the Respondent's actions.

Obligation of an authority to act with due dispatch

41. The Respondent has the obligation to hand the Petitioners' matters fairly, reasonably, and with due dispatch. Article 9(b) of the Administrative Arrangements Amendment (Decisions and Reasons) Law, 5719–1958, indeed exempts the Respondent from the provisions of the said law, but this exemption does not exempt the Respondent from the obligations applying to every public authority – to treat the individual in a fair and reasonable manner.

Thus, the Honorable Justice D. Levin held in HCJ 6300/93, *Religious Court Pleaders Training Institute v. Minister for Religious Affairs et al., Piskei Din* 48 (4) 441, 451 that:

> **The competent authority must act with reasonableness. Reasonableness also entails meeting a reasonable time schedule.**

On this point, see, also, HCJ 758/88, *Kandel et al. v. Minister of the Interior, Piskei Din* 46 (4) 505; HCJ 4174/93, *Wialeb v. Minister of the Interior* (unpublished), in Article 4 of the judgment; HCJ 1689/94, *Harari et al. v. Ministry of the Interior, Piskei Din* 51 (1) 15.

42. The Respondent's obligation to handle the Petitioners' matter with due dispatch is also incorporated in Article 11 of the Interpretation Law, 5741–1981, which states as follows:

> **Authorization or obligation to do an act, where no time is set for its performance – means that there is authority or obligation to do it with due speed and to do it from time to time as required under the circumstances.**

43. The duty to act within a reasonable time, and not to treat requests pending before governmental authorities with disregard and extensive delay, is a foundation of proper administration.

See, on this matter, CA 4809/91, *Jerusalem Local Planning and Building Committee v. Kahati et al., Piskei Din* 48 (2) 190, 218.

44. The Supreme Court made this point in its judgment in HCJ 3680/95, *Tiberias v. Ministry of the Interior, Takdin Elyon* 96 (1) 673. In the same matter, the Court found reasonable the Respondent's policy to examine in certain cases the genuineness of marriages before registering, in the population registry as "married," persons who presented a marriage certificate. The Court found the check to be reasonable, but it added that

> **It would be hoped that it (the check, A.L.) is done efficiently and with due dispatch, and it is assumed that in the cases before us, too, the check will not be prolonged.**

Comments of President Barak, at page 673.

The Respondent, who has failed to approve it for a period of ***one year and eight months,*** is dragging his feet in the handling of the Petitioners' request. This failure even flagrantly violates the procedures he set, whereby a request for extension of a residency permit in the framework of the graduated arrangement is to be submitted within two months, and recently three months, before expiration of the then-valid permit, so that during the said period, the request would be processed and decision reached on whether to approve it. Submission of the request prior to expiration of the permit is not a meaningless act; rather, it is intended to prevent a situation in which persons stay in Israel for an extended period of time without a permit, after they have been placed in the graduated arrangement. From Petitioner 6's experience, in few cases has the Respondent complied with his procedure and completed consideration of a request within the two months that he allotted himself. However, it is clear that, in the present case, the Respondent outdid himself, and, instead of ***two months, one year and eight months*** have passed without his approving the request. And the Respondent has not yet made his decision.

45. The Respondent's handling in this case has been neither swift nor efficient. Furthermore, it flagrantly deviates from the expectations placed on a reasonable administrative authority that is charged with significant aspects of the lives of persons requiring its services.

<u>Lack of reasonableness and lack of fairness</u>

46. The Petitioners will argue that the Respondent's failure to handle and reach decision on the request for family unification, and the negligent manner in which he handled the

request, violate the rules of proper administration and deviate from every criterion of reasonableness according to which an administrative authority must act.

47. As a result of Respondent's conduct, despite the approval of Petitioner 2's request to live together in Israel with her family, and although she met all the conditions that the Respondent set for renewing the request in the framework of the "graduated arrangement," the Petitioners have been waiting such a long period, and may have to wait long into the future, without an arrangement being made for Petitioner 2 to stay in Israel, or without telling her what she must do to enable the making of such an arrangement.

48. The Petitioners have submitted much evidence that proves beyond doubt that Jerusalem is the center of their life. There is no substantive or other reason to justify rejection of the Petitioners' request.

The state's obligation to act reasonably and fairly can also be found in the Court's judgments. See, for example, the comments of the Honorable Justice (as his title was at the time) Barak in HCJ 840/79, *Contractors Center v. Government of Israel and Builders in Israel, Piskei Din* 34 (3) 729, particularly 745-746.

The Respondents' handling of requests for family unification - a trap

49. The Respondents are comfortable with the practice they have instituted in recent years whereby their hands are not tied as far as time is concerned. Their constant claim is that, insofar as they are handling complex matters of some 240,000 residents, consideration should be given to their [the Respondents] difficulties without subjecting them to review or limitation. This practice is humiliating in the manner in which it violates human dignity and breaches the rules of proper administration. Such behavior cannot be allowed to continue.

50. As appears from the above, the Respondents demands are completely inconsistent with each other:

On the one hand, as noted, they are dragging their feet in extravagant fashion and have not made any time commitment for approving requests to arrange the invitee's stay in Israel.

On the other hand, the long delays of more than a year make the documents proving "center of life," submitted by the couple, outdated. As a condition for approval of the

request, the Respondents demand that the couple provide new evidence regarding the time that has passed.

The Respondents are aware that, throughout the entire period in which the request is not approved, the invitee remains in Israel illegally. However, if she is unable to provide the requisite evidence to prove the "center of her life" is with her family in Israel, the request will be rejected for "lack of center of life." If, following the delay, the invitee acts as required by law and leaves her family until her status in Israel is arranged (an unreasonable decree in itself, which automatically moots the family unification procedure), the Respondents will argue that not only did she not prove center of life in Israel, but that her action also raises doubts that the couple's marriage is genuine.

To date, the only thing that the Respondents are willing to do to cope with the above-described situation is to sign a paper for the invitee indicating that the request has been submitted, and to scribble that the request is being processed. This gesture made by the Respondents does not solve the administrative problems in the Population Administration's office in East Jerusalem.

51. The Respondents expect the family of the applicant for family unification to bear the consequences of the failure to process their request, and to cope with this situation, and the inhumane repercussions that follow. The only way to prevent the invitee's illegal stay, or, alternatively, the separation of her family, and cancellation of the request for family unification, is to pay great sums of money to an attorney to file a petition and obtain a temporary injunction. Initiation of court action hastens handling of the family's request (an option not available to poor applicants, who do not have the resources to retain an attorney) and enable the invitee to stay in Israel legally during the interim period until decision is reached on her request. When the request of the invitee is approved, following the petition, the family is not reimbursed the full amount of the fee and court fees that they paid to receive a service from the Ministry of the Interior.

52. We should note that, in accordance with the directive of the Honorable Court, the Respondents are willing within a week to agree to the issuance of a temporary injunction that approves the stay of the invited spouse in Israel. Thus, we see that the Respondents have the authority to approve temporarily the stay of the invitee in Israel, and not only in cases in which the family files a court action and bears the financial burden entailed in filing suit. They should exercise this authority

until such time that a system-wide solution is found to solve the administrative problems in the East Jerusalem office.

Summary

53. The petitioners have been waiting since **September 2002** for the Respondents to make their decision. Prior to that time, the Petitioners sought to submit a request for permanent residency. However, lack of access to the Population Administration's office in East Jerusalem, along with the frequently changing queue policy, they were prevented from filing their request before that date. To date, **April 2004**, the Respondents have failed to reach a decision.

54. The consequences of the failure of the office of Respondent 2 to handle the request are extremely grave:

Every time Petitioner 2 leaves her home to do family errands and care for her children entail the risk of delays, arrest, and deportation. The Petitioners' family life is laden with constant fear that the mother of the family will not be able to continue to live with them. The Respondent's conduct infringes the Petitioners' rights to family life, stability, and fair and equal treatment. The Respondent's conduct especially harms Petitioners 3-5, the children in the family. Thus, the members of Petitioners' family are denied their right to dignity, as incorporated in the Basic Law: Human Dignity and Liberty.

55. In treating the Petitioners as described above, the Respondent is acting improperly and in a patently unreasonable manner in performing an administrative function, and is violating the common law in Israel and abroad, in breach of international conventions ratified by Israel, and in violation of the Basic Law: Human Dignity and Liberty.

The requested relief

56. Respondent 2 is not meeting his obligation to handle requests for family unification for persons in the graduated arrangement within the time set forth in the procedure: two months initially and now three months. In files handled by Petitioner 6, it took an average of about one year to reach a decision on the annual requests.

57. As a result, families of residents in the Petitioners' situation have been critically harmed. They have been taking part in a procedure in which applicants have to wait years to obtain approval, a procedure that is supposed to enable the family to live together. However, for almost two years, the continuity of the family's life has been almost totally severed.

58. Therefore, the Honorable Court is requested to order the Respondents to formulate a procedure whereby if, after the passage of three months from the day that a request is submitted for extension of permit to stay or reside in Israel in the framework of the family unification procedure, the request is not approved, the existing visa will be extended for a shorter period, of three months, until completion of the requisite checks and a decision is made. This visa would be extended accordingly until final decision on the request is made. This is necessary to prevent incrimination of the spouses of residents whose requests for family unification have already been approved. The Petitioners further request that, in the event and according to the decision of the Respondents, the foreign spouse has met the requisite tests set forth in the family unification procedure, the period in which he stayed in Israel pursuant to the short visa extensions would be counted as part of the five and a quarter years of the graduated arrangement.

59. The Honorable Court is requested to order the Respondents to approve the request of the Petitioners for family unification, and to count the period during which the Respondent failed to reach his decision as part of the five and a quarter years of the family unification procedure. The Petitioners waited for approval of the request for family unification for five years – until it was approved – and Petitioner 2 has been in the graduated arrangement to check her entitlement to family unification for some three years, of which only one year was spent legally in Israel.

60. As appears from the above, the family cannot be compensated for the suffering they have undergone over the past one year and eight months. However, it would be proper for the Honorable Court to impose court costs on the Respondents that will reflect, *inter alia*, the Court's repugnance for their failures.

Therefore, the Honorable Court is requested to issue the Order Nisi as requested at the beginning of this petition, and after receiving the Respondents' response to the Order Nisi,

to make it absolute, and to order the Respondents to pay the Petitioners' expenses and attorney's fees.

Jerusalem, 4 April 2004

__*[signed]*_
Adi Landau, Attorney
Counsel for Petitioners