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**At the Jerusalem District Court Sitting as a Court for Administrative Affairs
Before the Honorable Judge Dr. Yigal Marzel**

AP 57730-02-13 Hamidat et al. v. Ministry of Interior et al.

The Petitioners:

1. _____ **Hamidat**
2. _____ **Hamidat**
3. _____ **Hamidat**
4. _____ **Hamidat**
5. _____ **Hamidat**
6. _____ **Hamidat**
7. _____ **Hamidat**
8. _____ **Hamidat**
9. **HaMoked: Center for the Defence of the Individual, founded by Dr. Lotte Salzberger - RA**

Represented by counsel Adv. Noa Diamond et al.,
Of HaMoked: Center for the Defence of the Individual,
founded by Dr. Lotte Salzberger

v.

The Respondent:

1. **Chair of the Appellate Committee for Foreigners (Jerusalem District)**
2. **Legal Advisor to the Population, Immigration and Border Authority**
3. **Head of the Population, Immigration and Border Authority**
4. **Minister of Interior**

All represented by counsel Adv. Moran Braun of the
Jerusalem District Attorney's Office (Civil)

Decision

1. On September 18, 2014, judgment was given in the above captioned proceeding (by this panel). The judgment revoked respondents' decisions in petitioners' application to give petitioner 2 a DCO permit, and stipulated that the matter would be remanded to the administrative authority for the purpose of making a new decision within 60 days. The matter concerned a denial of an application for the grant of a DCO permit mainly on the grounds that a "conflict of interests" existed between the requested permit and petitioner's position with the Palestinian Authority.

2. The application before me is an application pursuant to the Contempt of Court Ordinance – an application which was submitted on January 25, 2015, and argued that a new decision has not been made despite the fact that the date prescribed for that purpose in the judgment has elapsed, and that a significant period of time passed, during which requests that had been submitted in this matter were not responded to. After respondents' request to respond, the respondents notified on February 9, 2015 that a new decision in petitioner 2's matter was given on that very same day. The new decision stipulated (again) that the application should be denied due to "conflict of interests" and in view of the nature of petitioner 2's position with the Palestinian Authority. The decision noted that it could be appealed to appellate tribunal of appeals in Jerusalem. Respondents' legal counsel argued that under said circumstances the application became redundant and should be deleted.
3. The petitioners submitted a detailed response following the above notice and the decision which was attached thereto. In the response it was argued that the respondents continued to hold the court's judgment in contempt. According to the argument, a new (late) decision was indeed given. It was however argued that the new decision did not comply with the judgment, which detailed the reasons and the various flaws of the original decision, the subject matter of the judgment. According to petitioners' argument, the new decision constituted, in fact, an appeal against the grounds of the judgment (without having filed an appeal to the Supreme Court), and did not actually refer to said grounds. It was also argued that the new decision was based on a different normative framework which constituted a "widening of the scope of the legal argument." It was further argued that the description of petitioner's position with the Palestinian Authority was partial, selective and tendentious, and that eventually, the decision was disproportionate and did not reconcile with the instructions of the judgment. It was further noted that even if the petitioners appeal the decision of the appellate tribunal, their access to this court – should their appeal be denied - could be only in the framework of an administrative appeal and that they would not have the opportunity to file an appeal as of right to the Supreme Court should the administrative appeal be denied. Consequently, their procedural rights were also prejudiced. Against the above backdrop, the petitioners notified that their application remained in force and requested that a hearing would be held before the court in view of the complexity of the issue. The petitioners also requested that in any event costs would be awarded in their favor.
4. Having reviewed the entire material presented to me, I came to the conclusion that the application pursuant to the Contempt of Court Ordinance - should be denied (and that there is no need to hold a hearing on this issue in the presence of the parties). *Ab initio*, the application was submitted to this court due to the fact that the date scheduled in the judgment for the grant of a new decision *in lieu* of the decision which was revoked – passed, and no decision was made. This matter was solved when a new decision was given (even if at a later date). Petitioners' arguments in response to the decision which was given pertain to the decision, on its merits. These arguments challenge the reasons which underlie the decision, on their merits. And it should be pointed out, without the need to express an opinion on the crux of the matter in the proceeding before me, that this is a detailed decision which is based on several reasons and which allegedly refers to the difficulties and deficiencies of the original decision – which were pointed at and detailed in the previous judgment – and which have eventually lead to the revocation of the decision (see for instance paragraph 17 of the judgment, which mentions the concise reasoning of the last decision which was made over the course of the hearing of the petition). It should be further noted that even according to the petitioners themselves, the new decision includes new reasons. The place to examine all of the above, in view of the operative instruction which abolished the previous decision and obligated the authority to make a new decision attributing proper weight to all relevant considerations – is not in the framework of an application pursuant to the Contempt of Court Ordinance. With respect to the establishment of the appellate tribunal, it is indeed true that

the procedures and appeal options arising there-from changed as compared with the law which previously existed. However, this fact alone cannot justify an examination, in the context of contempt of court proceedings, of a challenge of a new decision of the administrative authority, on its merits. It should be further added that the this court was presented with the previous decision only after a hearing which was held before the appellate committee for foreigners – *mutatis mutandis*.

5. For the above reasons, and, as aforesaid, without expressing an opinion on the merits of the new decision, the application pursuant to the Contempt of Court Ordinance is denied. Under these circumstances no order for costs is issued.

The secretariat will send this decision to the legal counsels of the parties.

Given today, Shvat 29, 5775, February 18, 2015, in the absence of the parties.

(signed)

Yigal Marzel, Judge