

Date: July 23, 2018
Our ref: 31490

To
Adv. Daniel Solomon
Legal Advisor to
the Population and Immigration Authority
Mesilat Yesharim 6
Jerusalem

In registered mail and in fax

Dear Sir,

Regarding:

Legalizing the status of children of permanent residents who have lost their residency and whose parent and guardian's request to commence the procedure for status reinstatement has been approved

1. On behalf of HaMoked: Center for the Defence of the Individual, a human rights organization that represents, among others, many residents of East Jerusalem belonging to the city's indigenous population, acting to defend their rights in their city and homeland, I request your appropriate attention and prompt response to the following.
2. As you know, HaMoked's principled and consistent stance is that the precedent set in HCJ 282/88 'Awad v. the Prime Minister and the Minister of Interior, cannot stand and should be revoked. This, due to the fact that the status of East Jerusalem's indigenous population cannot be revoked, because those belonging to this population, an indigenous population that has deep roots in the city, have a strong, deep and entrenched connection to it. This position was granted increased validity in 2017 due to the Supreme Court's comments in its judgment in AAA 5037/08 Khalil et al. v. the Ministry of Interior, relating to the 'Awad precedent.
3. On March 14, 2017, the Supreme Court issued a judgment in AAA 3268/14 Al-Haq v. Minister of Interior. As part of the proceedings, the Ministry of Interior officially announced to the Court that it had, prior to the Judgment, begun applying an expansive and mitigating policy when handling requests submitted by permanent residents from East Jerusalem who lost their status following immigration overseas, to have their status reinstated.
4. Clause 20 of the judgment states, among other things:

During the hearing of this appeal, counsel for the State has clarified that, pursuant to the broad discretion vested in him, the Minister has recently decided, "to further mitigate the provision of permits for permanent residency permits to residents of East Jerusalem whose residency had expired". Therefore, "The Minister has instituted **an expansive policy** with respect to the grant of residency permits in such circumstances even if the applicant has received a permit for permanent residency or citizenship in a foreign country" (emphases in the original, U.V.; hereinafter: **the expansive policy**).
5. As such, and despite the principled disagreement which is still ongoing regarding the revocation of the status of people belonging to Jerusalem's indigenous



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population, there is no doubt that the Ministry's announcement to the Court in AAA 3268/14 regarding the expansive and lenient policy in reviewing requests for status reinstatement submitted by people belonging to this group, is a positive step that is to be welcomed.

6. However, in a spirit of "well begun is half done", we request that the lenient policy announced by the Ministry be expanded in one more, logical and necessary, facet, as detailed below.
7. Many permanent residents from East Jerusalem who lost their status due to immigration overseas and settling there, who request to return and resettle in their homeland and begin a procedure for status reinstatement, have built a family in the years they spent abroad, and have had children.
8. Some of these residents return to their city of birth and the city of their forefathers while they are raising minor children. However, while the parent, a permanent resident who has returned to his city, is subject to the mitigated procedure and enters a two-year procedure for status reinstatement, his minor child remains without any legal status, so long as the parent has not completed the status reinstatement procedure.
9. Our opinion is, that while this situation was not intentionally created, it is an unreasonable and illogical lacunae that should be rectified, and there is no preclusion from doing so. Let us explain.
10. Once it was determined that there is no preclusion against expanding the policy regarding East Jerusalem's indigenous residents who request to reinstate their status, it is only logical that the Authority consider the natural life circumstances of those submitting requests, some of whom have started families, and have returned to their city with children born to them over the years, so that their status may be reinstated with consideration of these circumstances, and without harming the minor children.
11. As such, as it is clear that at least some of the applicants belonging to this population do not return to Jerusalem alone, but rather with children born to them overseas, minors who are dependent on their parents, there is no reason to leave these dependent minors hanging by a thread until the conclusion of their parent's procedure. These children, like any child, are entitled to basic rights, first among them the right to health and education, and should not be denied them.
12. It is worth noting that leaving these minors, who depend on their parents, residents whose status reinstatement request has been approved, in such an impossible situation, would be unfair, to say the least.
13. Thus far, HaMoked has been forced to turn to the courts on the matter of such minor children of residents who returned to Jerusalem and whose request to commence a status reinstatement procedure has been approved. However, in every such case, the Population Authority has agreed, as part of the legal proceedings, that the children be granted temporary legal permits until such a time as their parent's procedure is concluded.
14. Further, despite the differences between the children on whose behalf we are addressing you today, and accompanying children – whose status has been regulated through AP 389/10 Safi et. Al v. the Minister of Interior – and between children born to a permanent resident outside of Israel who is waiting for their status to be regulated – whose matter has been regulated in procedure number 5.2.0020 "Minors Born Outside of Israel to Only One Parent who is a Permanent

Resident" – there is no doubt that the rationale at the basis of these arrangements is applicable to the children of permanent residents whose request to commence a status reinstatement procedure has been approved.

15. In light of the above, and because our request is both logical and necessary, and there is on the surface no reason not to approve it, without turning to the courts, we request your confirmation that henceforth, the status of minor children of permanent residents whose request to commence a status reinstatement procedure has been approved will be legalized, in a manner defending the rights of those minors to health and education. This, concurrent with notifying the Authority's employees, who are entrusted with handling request for status reinstatement.
16. We would appreciate your efficient and quick treatment of our request,

Sincerely,
Adv. Benjamin Agsteribbe

cc:
General Manager of the Population and Immigration Authority
Ms. Hagit Tzur, head of the East Jerusalem Immigration Authority Burea