

[emblem of the State of Israel]

State of Israel
Appeals Tribunal under the Entry into Israel Law 5712-1952

Judgment

The appeal before me is directed against the decision of the Director of the Humanitarian Committee Department dated August 13, 2023, summarily rejecting a humanitarian application to regularize the status of Appellant 4 (a minor born in 2019) (hereinafter: the minor), on the grounds that the minor's mother is a resident of the Area who chose not to register her daughter in the Area, that they constitute a single family unit and that it is not possible to separate the two and consider the minor's matter alone within the framework of the Inter-Ministerial Humanitarian Committee under Procedure 5.2.00022 (hereinafter: the decision).

The facts of the case were detailed at length in the pleadings, and I need not set them out. I will note only briefly that Appellant 1, a resident of the Area (hereinafter: the mother), was married to a permanent resident, and they had three children, two of whom were registered as permanent residents and the third is the minor. The father (hereinafter: the deceased) passed away before the couple registered the minor in Israel. It should be noted and emphasized that through all those years, the mother remained in Israel unlawfully and without a visa. Family unification applications submitted by the deceased to regularize her status in 2008 and 2017 were denied for criminal reasons, yet she remained here unlawfully and without a visa. Meanwhile, the mother's application to regularize her status on humanitarian grounds was submitted to the Professional Committee pursuant to the Citizenship and Entry into Israel Law (Temporary Order), 2022 (hereinafter: the Professional Committee). On September 28, 2023, the Minister of Interior adopted the Professional Committee's recommendations and decided to reject the mother's application for status on humanitarian grounds (hereinafter: the Minister of Interior's decision). It should be noted that the minor's matter was included in this decision. The mother and daughter were entitled to file an administrative petition against this decision, and such a petition was filed (AP 39550-11-23). However, the minor's matter was removed from the administrative petition by order of the court there, due to failure to exhaust remedies and the fact that a proceeding was pending (the proceeding at hand).

Deliberation and decision

The dispute in this appeal is which administrative instance is competent to hear the matter of regularizing the minor's status on humanitarian grounds. While counsel for the appellants believes that the only competent instance to hear this matter is the Inter-Ministerial Committee for Humanitarian Matters pursuant to Procedure 5.2.0022, the respondent is of the view that the competent instance is the Professional Committee established under the Temporary Order.

The Temporary Order defines a resident of the Area as someone who is registered in the Area's Population Registry, as well as someone who resides in the Area even if not registered in the Area's Population Registry, excluding a resident of an Israeli locality in the Area.

In the present case, the minor was born in 2019 and has lived in the territory of the State of Israel her entire life. The mother chose not to register the minor in the Area's Population Registry, for reasons of her own, even though applications to register the minor in Israel (under Regulation 12) were rejected. It is undisputed that the mother is a resident of the Area who has been residing in Israel for many years unlawfully and without a visa. I am of the view that where a person has the potential to be registered as a resident of the Area but fails to actualize it, for whatever utilitarian considerations, this serves as an indication that the individual is a resident of the Area. This applies to the minor, in whose case, the only

thing standing in the way of her registration in the Area's Population Registry is the mother's decision to refrain from doing so. The implication of this may be that there is room to extend the definition of "resident of the Area" in the Temporary Order to cover cases in which the potential for registration in the Area exists but is not actualized.

The argument presented by counsel for the appellants, namely that the status the Professional Committee under the Temporary Order may grant is of lesser value compared to the status that can be obtained under the residual humanitarian procedure, cannot be accepted. Even if this were correct, and I need not decide this, it is not a valid consideration for determining which procedure fits the application.

It follows that the competent instance to hear the minor's humanitarian application is the Professional Committee under the Temporary Order, which, as noted, has already decided on the application and rejected it.

Another reason to reject the appeal and decline to compel the Inter-Ministerial Humanitarian Committee to consider the appellant's case lies in the impracticality and the blatant waste of resources involved. The administrative official making the decisions in humanitarian proceedings before the Professional Committee under the Temporary Order is the Minister of Interior himself, while the competent official deciding applications filed under the residual procedure (Procedure 5.2.0022) is the Director-General of the Population Authority. It is therefore clear that the administrative official relevant to this case is higher-ranking and certainly no less competent than the Director-General of the Population Authority. The Professional Committee under the Temporary Order, like the Inter-Ministerial Committee under the residual procedure, is composed of professionals who draft advisory opinions for the Minister of Interior for the purpose of deciding humanitarian applications. On these grounds too, I have found no reason to prefer the Inter-Ministerial Committee under the residual procedure over the Professional Committee under the Temporary Order.

In addition to the foregoing, I too am of the view that separating the minor's matter from that of the mother, even though the minor is dependent on her, would be artificial and entirely undesirable. In the circumstances of the case, I am of the opinion that the Professional Committee and the Minister of Interior did well to consider both matters together and render a decision according to their professional discretion. Any other outcome that separates the two would be inappropriate in these circumstances. I emphasize that the aforesaid does not express a position on the substance of the decision's outcome, but only on the question of competence.

In the final analysis, the appeal is dismissed.

Ex gratia, I make no order for costs.

Appeals may be filed with the Jerusalem District Court, sitting as a Court for Administrative Affairs, within 45 days.

Delivered and notified today, 8 Elul 5784, September 11, 2024, in the presence of the parties.

**[signed]
Shlomi Vizan, Adjudicator
Appeals Tribunal**