

[emblem of the State of Israel]

At the Jerusalem District Court sitting as the Court for Administrative Affairs

AP 23983-09-25 Ghanem et al. v. Ministry of Interior

External file:

Before: Eli Abarbanel

Appellants:

1. [REDACTED] Ghanem
 2. A
 3. A
 4. A
 5. A
 6. A
 7. HaMoked – Center for the Defence of the Individual founded by Dr. Lotte Salzberger
- Represented by Counsel, Adv. Adi Lustigman**

v.

Respondent:

Ministry of Interior
Represented by Counsel, Adv. Linoy Tzarfi Azzu

Judgment

1. The administrative petition before me concerns the respondent's decision of July 3, 2025, rejecting an application on behalf of Petitioner 1 (hereinafter: the petitioner) for status in Israel on special humanitarian grounds, pursuant to Section 7(a) of the Citizenship and Entry into Israel Law (Temporary Order), 2022 (hereinafter: Temporary Order), was denied.
2. The petitioner, a resident of the Area born on [REDACTED] 1989, was married on [REDACTED] 2004, at about age 15, to Mr. Wadi' Ghanem, a permanent resident of Israel, about five years her elder, and the couple had five children, all permanent residents of Israel.

On March 31, 2015, Mr. Ghanem submitted an application for status in Israel for the petitioner by virtue of marriage. Accordingly, the petitioner was granted a renewable stay permit from January 9, 2018, until January 17, 2022. Due to Mr. Ghanem's bigamous marriage to another woman in 2017, that procedure was discontinued in 2022.

On February 27, 2023, the petitioner's son submitted on her behalf the humanitarian application that is the subject of the petition herein. After the application was rejected, administrative petitions were filed in her matter (AP 39637-02-24; AP 57467-01-25), in the course of which the application was referred for reconsideration, given that the respondent's decision failed to substantively address the petitioners' main arguments.

After the application was rejected once again on July 3, 2025 (hereinafter: the Decision), this petition was filed.

3. The Decision refers to an earlier decision, dated November 28, 2024, and adds remarks regarding the health of the petitioner's daughter.

The said decision of November 28, 2024, on which, as stated, the decision that is the subject of this petition relies, notes that, "the issue of bigamy and the husband's marriage to another woman is between the sponsored applicant and her husband. This is an internal family matter, and as her husband is breaking the provisions of Israeli law, the sponsored applicant must contact the relevant authorities." The decision also notes that the fact that the petitioner and her husband have children who reside in Israel does not, on its own, establish humanitarian grounds justifying granting her application.

Regarding the petitioner's child marriage to her husband, the said decision stated that "such cases are very common in the committee's files, wherein minor women marry, and in time, their case comes before this committee. The committee cannot regard this matter as patently humanitarian, and it is not its function to judge ways of life or cultures as they relate to building family units." The decision also noted that, since years have elapsed and the petitioner was now an adult of about 35, "this matter has now become less relevant to the application."

As for the bigamous marriage, it was clarified that the respondent afforded no weight to the matter in its decision.

Parties' arguments

4. Counsel for the petitioners argues that the petitioner is a third-generation resident of Jerusalem and has lived in Jerusalem her entire life. The petitioner grew up in Israel as the daughter of a Jerusalemite father; she married an Israeli resident, and they have Israeli children. The petitioner's mother is a resident of the Area, has settled in Jerusalem with her children and holds renewable stay permits in Israel. All six of the petitioner's siblings gained permanent residency status in Israel. The petitioner attended school in Jerusalem and completed nine years of schooling before she was married as a minor.

Counsel for the petitioners argues that "the petitioner fell victim to the offense of child marriage, which cut short her schooling and precluded her from taking part in the child registration procedure like her siblings, thus leaving her without status in the place where she grew up, and forcing her into a life of dependency on her spouse from childhood. She is a woman who was passed, as if she were an object, from her father to her husband, and is now forced to be the victim of the offense of polygamy." The petitioner did not consent to that marriage, and she was required "to have sexual relations with an adult man while she was a minor and even to give birth as a minor." She, in fact, was subjected to ongoing offenses of rape and statutory rape, without being afforded the protection of the authorities to which girls of her age are entitled.

After her husband married another woman in a bigamous marriage, the petitioner "did not divorce for fear of losing her children as a result, given that under Shari'a law, divorce would result in the children being transferred to the custody of their father and his family, for fear of compromising their future and because of the position of her family, which refused to accept her in that state." She thus became fully dependent on her husband and was forced to choose between the severe harm caused to her within the bigamous family unit "and the disgrace, shame and severe harm she would suffer if she dared divorce, and in particular the high risk of being torn away from her children and the harm that would come to them."

It is further argued that the petitioner cares for her five children, four of whom are minors, including a daughter of about nine who is receiving neurological care after suffering episodes of seizures.

5. Counsel for the petitioners further argues that the petitioner has not been summoned for an interview and no further inquiries were made with her since the first decision in her matter on January 18, 2024. “The respondent repeated his previous unreasonable decision, as part of which no real weight was given to any aspect detailed in the judgment.”

It is further argued that, although the respondent stated in his decision that the bigamous marriage was not taken into account, the written arguments clearly indicate that this consideration did influence the decision. Thus, in the statement of response, sections 32 to 34 mention that the application is based on “the bigamous family unit.” The petitioners argue that the petitioner bears no responsibility whatsoever for her husband’s marriage to another woman and that she is its principal victim, and, therefore, this factor must not be held against her.

6. Counsel for the respondent relies on the decision and argues that there are no grounds for intervention. According to counsel, the application does not raise humanitarian grounds justifying the grant of status in Israel, “and the application is based on the bigamous family unit as such and on the existence of shared children,” which the law does not recognize as special humanitarian grounds. It is further argued that no weight should be given to the petitioner’s prolonged stay in Israel and that “there is no obligation to grant the petitioner a permit for the purpose of maintaining a family unit, let alone a bigamous family unit. The petitioner may live in the Area and request to visit her children, who will live with their father, or she may live in the Area with her children. We further note that the petitioner’s desire to live specifically with her family in Israel is not sufficient to establish a right to receive status in Israel.”

Counsel for the respondent further argues that the condition of the daughter who is ill with epilepsy does not justify granting the application, since she requires only neurological follow-up. Counsel also clarifies that the decision is not based on the daughter’s matter.

Counsel for the respondent further argues that “where approving the application gives de facto approval to a situation of polygamy within the territory of the State of Israel,” the respondent has the discretion not to allow it.

Deliberation and decision

7. Section 7(a) of the Temporary Order introduces an exception to the prohibition on granting status in Israel to a resident of the Area “for special humanitarian reasons, upon the recommendation of a professional committee appointed for this purpose,” provided that, as stated in subsection (d), “the fact that a family member of the person requesting the permit or license lawfully resides in Israel, is the applicant’s spouse, or that the spouses have shared children, shall not in itself constitute a special humanitarian ground.”

As held in the case law of the Supreme Court, bigamous marriages usually indicate that the family unit does not, in itself, justify granting an application for status in Israel for a foreign spouse. Moreover, it has been held that granting such applications is tantamount to legitimizing bigamy. Nevertheless, “in cases in which the application is submitted under the humanitarian grounds clause, this Court has held that bigamous marriages will not categorically preclude granting the application, but that the applicant must demonstrate that his or her application is based on other humanitarian grounds that are not founded on the marriage per se, or on the existence of shared children per se” (AAA 4821/21 **A. v. Minister of Interior** (November 29, 2022); see also AAA 5645/21 **A. et al. v. Minister of Interior et al.** (April 11, 2022)).

In the petitioner’s case, the respondent has clarified that the bigamous marriage carried no weight in his decision. Therefore, and since this marriage comes after the petitioner’s marriage to her husband, this factor should not be held against her.

It is further noted that the respondent has broad discretion in implementing these statutory provisions, and therefore the court will not readily intervene in its decisions in this matter.

8. As clarified below, the petitioner's case is exceptional and justifies intervention by granting renewable stay permits, in order to allow her continued stay in Israel.

The petitioner was 15 years and three weeks old when she was forced to leave her parents' home and marry a man about five years her elder. While still a minor, the petitioner gave birth to her eldest daughter. Over the 21 years that have since passed, she has continuously remained in Israel with her family. This period is added to the petitioner's childhood, during which she also stayed in Israel in her Israeli father's home, together with her siblings, all of whom obtained Israeli permanent residency many years ago.

As stated in the petitioners' arguments, the petitioner is a third-generation resident of Israel, has never lived in the Area, and all her family members lawfully remain in Israel. Her mother, registered as a resident of the Area, holds renewable stay permits and therefore she too resides in Israel.

All of the above indicates that the petitioner's connection to Israel is absolute.

9. The petitioner's tragic life circumstances, having been forced into marrying an adult as a child and enduring her husband taking a second wife in 2017, have led her to her present predicament. Without legal status in Israel, she must be separated from her family and enter a life of isolation in the Area. Because she is fully dependent on her family, the petitioner will find it exceptionally difficult to live independently in an unfamiliar place where she has absolutely nothing.

The petitioner's prolonged stay in Israel does not in itself constitute independent grounds justifying her continued stay in Israel. The petitioner has been in Israel since infancy, not by choice. She was born into this reality as the daughter of an Israeli family, and over the past 21 years, she has remained in Israel, again, not by choice, alongside her Israeli husband. These grounds are compounded by her harsh life circumstances, the complete absence of any connection to the Area, as well as the best interest of her children, who need their mother at their side – albeit this consideration by itself is not sufficient to justify granting status in Israel, as set out in case law. In light of all the above, the rejection of the application is afflicted by extreme unreasonableness and disregards weighty considerations. These defects, as stated above, justify intervention in the decision.

Additionally, the respondent's approach to the petitioner's case is puzzling. To arrive at the determination that she shows no exceptional humanitarian grounds, the respondent notes that the child marriage forced upon the petitioner is "common" in the society from which she hails, and, therefore, "[the] committee cannot regard this matter as patently humanitarian, and it is not its function to judge ways of life or cultures as they relate to building family units." Instead of granting protection to which a 15-year-old minor is entitled, the respondent absolves itself from addressing this severe harm simply due to its prevalence, and goes so far as to state that this is an ostensibly internal family matter, which, by definition, does not amount to humanitarian grounds.

As stated above, in the petitioner's case, in light of her family circumstances and her stay in Israel since infancy, and in view of the particularly young age at which she was married off, the said child marriage must be regarded as humanitarian grounds that should be taken into account for purposes of a decision on the application. Nor may it be held that these grounds have ceased to be valid with the petitioner's having reached adulthood, as stated in the decision, since the course of her life, as described above, was shaped by this event.

10. In view of all the above, the petition is accepted, such that Petitioner 1 will be granted periodic, renewable stay permits so that she may continue her stay in Israel.

The respondent shall bear the petitioners' expenses in the amount of 5,000 NIS [~ 1,719 USD].

The secretariat shall deliver the judgment to counsel for the parties.

Issued today, 23 Tevet 5786, January 12, 2026, in the absence of the parties.

[signed]

Eli Abarbanel, Justice