

On this background the importance of a blue identification card increased as it permitted uninterrupted, legal and safe residency in Jerusalem, in addition to the right to work without the need for an additional permit.

Development of the Ministry of the Interior's Policy 1994-1996: Change of Policies in 1994

During the first half of 1994, the Ministry of the Interior altered its policy concerning family reunification. If before, as previously noted, requests by female residents of East Jerusalem for family reunification with their non-resident husbands were automatically rejected, it was now decided to examine these requests. It was noted that the requests would be approved, unless the woman ceased to be a resident and as long as no security or criminal charges applied to the husband (so wrote Tova Alinson, Speaker of the Ministry of the Interior, to Michel Warschawsky of the Alternative Information Center on 16.6.94). The criteria, as noted to advocate Eliahu Abram of the Association for Civil Rights in Israel (ACRI), were: lack of a security or criminal background, the couple is married, they live in Israel and their registered place of residence is Israel (letter from advocate Yochi Gansin, Deputy to the State Attorney, from 23.6.94 as a result of High Court petition 2797/93 Balinda Garbit v Minister of the Interior). It is known to HaMoked from informal conversations that there was also a decision to reexamine requests submitted since 1.1.92 (from the transcript of a phone conversations between HaMoked and the director of the Ministry of the Interior in East Jerusalem in 1994).

Implementation of the New Policy up to the end of 1995:

In the wake of the announcement of this new policy, thousands of requests for family reunification were submitted to the Ministry of the Interior. In the beginning of 1996, the Ministry of the Interior reported 5,000 requests which were submitted in the previous two years. The file numbers of the requests also testify to their quantity: the numbers are consecutive, according to the date of application, and the numbers to the end of 1994 exceed 3,000.

The response to the requests comes at an uneven and slow pace, although many requests have received a positive reply. As to the requests which were not answered, HaMoked was notified through a form letter that the subject is being dealt with and the source of the delay is the great backlog at the Ministry of the Interior. During this same period, HaMoked was also notified in writing that requests submitted up to June 1994 were now being examined.

Winter 1995-1996: Prior to a New Policy

A number of events mark the end of 1995 and it is possible to assume that most, if not all of them, had an influence on the additional change in the policy of the Ministry of the Interior. At the end of September the Interim Agreement was signed between Israel and the Palestinians, and in it were several references to the residents of East Jerusalem and their participation in the elections of the Palestinian Authority. The subject of Jerusalem itself was one of the subjects left for the discussions on a final agreement.

After a lengthy period of turnovers, a minister-Haim Ramon, who was to serve until the establishment of a new government in the summer of 1996-entered the Ministry of the Interior. In November 1995, in a series of investigative reports in the newspaper "Yidiot Ahronot," corruption was disclosed in the office of the Ministry of the Interior in East Jerusalem. These articles reported that Jerusalem identity cards were given on the basis of connections and through middle men, who charged a fee from the residents and gave kickbacks to the workers of the office. In light of this revelation a police investigation was begun, the office was closed for a time and its high level officials were suspended. Many of them were later returned to their positions with the exception of the director of the office, Mr. Haim Ben Atar. The pressure exerted by human rights organizations to end the improper practices of the office must also be noted.

As of December 1995, when the office of the Ministry of the Interior was reopened, clerks of the office began replying to inquiries of HaMoked and others concerning FARE requests that the handling of these cases has been frozen pending a reevaluation at higher levels.

January 1996: New Rules

In the beginning of 1996, in the wake of a group petition to the High Court (Petition 7930/95 Nariman Machfuz and 39 others v Minister of the Interior), which was submitted by Advocate Dakvar in the matter of his clients waiting for responses to their submitted FARE petitions, the Ministry of the Interior announced its new policy. The policy was detailed in a letter from Advocate Malcha San of the Legal Department of the Ministry of the Interior to Advocate Yochi Hansin of the High Court Petition Department of the State Attorney's Office, dated 17.1.96.

The primary sections of the letter are:

In the wake of a long list of High Court and pre-High Court petitions, the subject of FARE in East Jerusalem was placed on the minister's desk. An examination revealed that approximately 5,000 requests of this type were submitted in 1994-95. The requests require, in the opinion of the minister, "an in-depth factual examination" concerning the center of life of the applicant, the center of life of his/her children and the question of whether this is a marriage for its own sake and not solely to obtain favors. Apart from this, the handling of these requests requires consultations with security and Israeli police forces and the use of common sense. The length of time for these examinations will be, therefore, extended.

In light of the this, a number of regulations have been decided upon:

From now on, an application will not be registered "if it is not supported by proper documentation from which it is possible to deduct that the center of life of the applicant is in Israel (a list of the required documents will appear on the application form)."

"When an application has been submitted, its handling will be as follows:

1. When the applicant proves that the center of his life was in Israel for a period of one to three years prior to the submission of the request, the spouse will be given the opportunity to reside and work in Israel. If 6 months pass and no final decision on the application has been reached, the spouse will be given at this time a residency permit of the 5/A type until a final decision on the request has been taken.
2. When the applicant proves that the center of his life was in Israel for only the year previous to the submission of the request, the spouse will be given the opportunity to reside and work in Israel until the time at which the applicant will have his center of life in Israel for three years, and at this time the request to award the spouse permanent residency will be examined.

In examining the question of the center of life of the applicant, and in addition to it, recently married couples will be requested to come to the office of the Ministry of the Interior in order to have their marital connections examined." (?!)

The document also concludes that personnel will be permanently allocated to handle the requests.

Implementation of the New Regulations: Freezing and Reexamination of the Request

The implementation of the new regulations was felt at the grassroots level only gradually, and even today it is only partial. In essence, the sections causing difficulties for the Palestinians have been implemented, while the arrangements intended to solve their problems in the interim period until a decision has been taken in their applications have not. The slow implementation possibly stems from, among other things, a lack of clarity concerning the management of the Ministry of the Interior. For several months the office did not have a permanent director.

In April 1996, a clerk who deals with FARE requests from the office of the Ministry of the Interior in East Jerusalem notified HaMoked that the new regulations were not actually new, apart from a more thorough examination of the center of life. It was also noted that the clerks of the office were once again going over all of the FARE requests. According to her, no additional personnel was added.

Similar answers were received by HaMoked during conversations with other clerks of the Ministry of the Interior, and these were also received by others: No specific answers are given to the applications, and the clerks are busy reexamining the requests according to the order of their submission and examining whether they require additional documents. In June the same clerk added that here is still no final answer as to the deciding factor in the requests and in what way.

In a conversation on 1.7.96 between a staff member of HaMoked and Mr. Ahron Lozon, Director of the Office of the Ministry of the Interior, Mr. Lozon noted that he hopes that within two months they will begin "loosening the cork" existing today on the subject of requests for family reunification. He mentioned that the clerks of the office are beginning with requests from 1993 and advancing according to the date of their submission.

Demand to Add Documents

The need for a meticulous examination of the center of life, and the intention to condition the submission of FARE requests on the submission of various documents, are mentioned in the letter of Advocate Malcha San from 17.1.96.

During the spring, HaMoked became aware of the implications of these expressions.

In the middle of April, two requests from the Ministry of the Interior arrived at HaMoked's office, both of them signed by a clerk named Orly Albaldas, and both of the **concerning FARE requests already approved.** In these requests, HaMoked was asked to direct the families to submit new FARE requests in accordance with the new regulations, with no need to repay the processing fee. The request needs to be submitted with the documents outlined on a separate page:

Marriage certificate

Household bills in the name of the applicant from the day of marriage (municipal taxes, electricity, telephone etc.)

Birth announcements/certificates of the children

Certification of studies of the children in various educational frameworks from at least the age of 6, including yearly report cards

Certificates as to the receipt of medical services by the applicant and his/her children (mother and child center, vaccination certificates, etc.)

Certificates as to the receipt of national insurance payments

Certificates as to the place of employment of the applicant and the non-resident spouse

Other documents demonstrating that the applicant's center of life is Israel

Letters such as this, for requests already approved, were never again received by HaMoked. However, for applications still being weighed, HaMoked is receiving more and more standard letters demanding additional documents. This standard letter repeats the above list (occasionally with a slightly different wording) and also adds "details of the residency of the applicant and the non-resident spouse in Israel and outside of Israel." Before every item there is a box and if the document is required, the clerk marks it with an X. Therefore, HaMoked has dubbed this document the "X-document."

The X-document opens with an announcement that "Your request for family reunification has been examined, and it was found that your center of life has not been proven to be in Israel." In closing it adds that "until the submission of all the required documents and details, we can not continue to treat your request. If the documents are not produced within a period of three months, we will view your request as cancelled."

The demands of the X-document are most extraordinary, and there is almost no family that will be able to meet these high requirements. Couples married since the 1970's or 1980's will generally not be able to supply electricity bills from their entire years of marriage. It is doubtful whether newlyweds will be able to supply certificates from National Insurance as the receipt of stipends for children involves processes almost as difficult as those of the Ministry of the Interior, and are only given if the Institute for National Insurance is convinced that the woman has lived in Jerusalem for more than two years. The requirement that the bills be in the name of the applicant is also unrealistic: in the majority of cases, the bills are in the name of the landlord or extended family members with which the couple lives. Families who moved between the West Bank and Jerusalem will not be able, of course, to supply documents attesting that their center of life was Jerusalem for the entire period. There is also a fear that the exaggerated demands for documents and certificates will create a new industry of forged documents in East Jerusalem, and numerous families will be victims of extortion by the makers of various documents and by those from whom they rented houses (in the past or present) and from whom they must now collect old bills or copies of rental contracts or sign written documents when up until now the contract was oral. There are landlords who are not willing to sign a written contract, and most certainly not one that will be submitted to the authorities, if they fear the tax authorities or if they receive national security payments on the basis of the lack of any additional income).

It should be noted that over time, possibly due to HaMoked's protests of repeated requests for documents already submitted to the office of the Ministry of the Interior, the clerks became more selective in their notation of what documents are required. HaMoked submits, of course, bills not in the name of the applicant (HaMoked notes the connection between the applicant and the person whose name appears on the bills), and as policy HaMoked does not submit bills and rental contracts from prior to 1990, as the organization does not believe it is reasonable to expect that these documents be kept, especially as they have no relevance to the present center of life.

The X-documents demonstrate that there is a certain rise in the staff of the Ministry of the Interior. It is possible to find on them the signatures of the clerks Shmuel Oren, Ora Cohen and another illegible signature with no notation of the name of the clerk.

An examination of the X-documents gives rise to two fears:

1. It appears that the examination of center of life is done not on the basis of regular testimonial rules but on the basis of a strict technocratic system which sets a certain level of documents that is impossible to achieve. Every person who does not meet this level, even if he or she submitted enough documents to prove without a reasonable doubt that the center of life is in Jerusalem, will be rejected.
2. The fear, which was grounded in a conversation between Advocate Lakar and one of the clerks of the office, is that the requirement for documents, especially that of documents from the day of marriage, is intended to allow the Ministry of the Interior to check whether during one period or another the resident moved his or her center of life from Jerusalem. In this instance, the Ministry of the Interior is liable to revoke the residency of this resident.

Interim Arrangements until the Decision on the FARE Request

When the spouse is a foreign subject (usually a Jordanian), who is located in Israel on the basis of a visitor's permit, the interim arrangements noted in the letter of Advocate Malcha San from 17.1.96 are honored. As of the spring of 1996, these visitors began receiving B/1 type residency permits which are renewed every six months and include the right to work in Israel.

However, these interim arrangements are not implemented when the spouse is a resident of the territories. Concerning the stay of residents of the territories in Israel are both the Entry into Israel Law, which is the responsibility of the Ministry of the Interior, and the regulation in the territories concerning exit from the territories, which is the responsibility of the Israeli army. Directives were established in the Entry into Israel Law whose goal was to coordinate between these two laws*, but even after this coordination the legal situation is not clear. In reality, in any event, the Ministry of the Interior does not give temporary residency permits to residents of the territories, who are directed to the Civil Administration to receive entry permits into Israel. In the past these permits did not include the right to work in Israel, and since February 1996 no entry permits into Israel are awarded on the basis of divided families.

*Article 13A of the Law and Command for Entry into Israel (exemption to residents of Judea, Samaria, the Gaza Strip and North Sinai, Central Sinai, Shlomo region and the Golan Heights) 1968.