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Proposed Amendment to the Entry into Israel Law (Amendment No....), 2025 - Comments by The Israeli Association for International Couples (AIC)

The Israeli Association for International Couples (AIC) respectfully submits comments on the proposed amendment to the Entry into Israel Law. The association's position is that if the law is accepted in its current form, it may lead to significant and unreasonable harm to the rights of Israeli-international couples and families, as explained below:

Background

The Israeli Association for International Couples is an organization aimed at assisting, supporting, and promoting the rights of the international couples community in Israel – namely, couples composed of an Israeli and a non-Israeli partner who is not eligible for Aliyah. International couples are entitled to regulate the status of their foreign partner in Israel through a gradual process lasting several years, culminating in the naturalization of the foreign partner or obtaining a permanent residency permit. This is subject to proving the genuineness of the relationship over time and compliance with the regulations of the Population Authority.

According to the Population Authority's data since 2022, approximately 39,000 international couples live in Israel actively pursuing status regularization. This means that there are about 39,000 Israelis working to meet the bureaucratic requirements of the Population Authority to realize their right to family life in Israel. Additionally, according to Population Authority activity summaries, over 5,000 new requests for status regularization are submitted annually by Israelis (average for the years 2021-2024).

The association's stance to be presented below will focus on the proposed amendment's impact on those Israeli families where one spouse is a foreign national. However, it should be noted that the proposed law will also have a significant impact on the rights of some individuals eligible under the Law of Return, foreign parents of Israeli citizens and soldiers, asylum seekers, and others.

Prohibition of regularization of illegal residence – infringement of Israelis' right to family

Section 6A of the proposed amendment stipulates that the Minister of the Interior shall not grant a visa or residency permit to anyone who has entered or stayed in Israel illegally for more than 30 days, except in accordance with the "gradual periods of residence" arrangement of one to five years outside Israel.

Firstly, it should be clarified that currently, the possibility of regulating status despite unlawful presence in Israel is extremely limited and reserved for exceptional circumstances only. These include those eligible under the Law of Return, partners of Israeli citizens, foreign parents of Israeli citizens in special cases, asylum requests, and humanitarian cases. These regularization processes are bureaucratic and demanding by nature, and in the case of unlawful residents, they are rigorously scrutinized by the Population Authority. Outside of these exceptional circumstances, regularization of illegal residence in Israel is already prohibited under current authority regulations, even without explicit legislation. The explanatory notes to the proposal ignore – and even obscure – these limitations, creating a false impression that illegal residents can easily regulate their status in Israel.

According to the Population Authority's 2024 activity summary, there are approximately 73,000 illegal immigrants in Israel, most of whom are foreign workers and tourists whose visas have expired, with some "infiltrators," as defined by the Population Authority. It can be assumed that only a small fraction of them are spouses of Israeli citizens seeking to regulate their status through marriage. However, the proposed law does not include any data on the extent of such requests for status regularization, nor does it present data on the rate of cases where the relationship is determined to be a fictitious setup for unlawful residence. The absence of such essential data raises serious questions about the need for such harmful legislation. In the case of international couples, it is understood that imposing such severe sanctions – such as prohibiting status regularization and requiring leaving Israel for years – not only affects the foreign applicant but also the Israeli spouse and their Israeli children. The proposed law ignores the real harm to these connected populations. Furthermore, the explanatory notes completely ignore the fact that the proposed clause contradicts clear precedents of the Supreme Court, as will be detailed below.

The possibility of regulating the status of spouses and partners of Israelis is not an administrative kindness – it is a mandatory expression of the recognition of the right to family life, a fundamental legal right recognized both in international law and in Israeli constitutional law. This right is based on a person's right to dignity, enshrined in fundamental law: the dignity of man and his freedom, stemming from the recognition of the central importance of the family unit to the existence of a healthy and functioning human society. The Supreme Court has emphasized over the years the critical role of the right to family life, stating that this right also derives from the rights of Israelis to regulate the status of their spouses in Israel, while maintaining equality principles vis-à-vis other Israeli couples (see, among others, HCJ 7155/96 **Ploni** v**. Legal Advisor to the Government**, HCJ 7052/03 **Adalah - The Legal Center for Arab Minority Rights in Israel** v. **Minister of the Interior**, HCJ 466/07 **Gal-On** v. **The Legal Advisor to the Government**). These principles also apply to couples where the foreign party has resided illegally in Israel until obtaining status through their relationship with an Israeli. In this context, the Supreme Court has repeatedly recognized the supremacy of the right to family life over the need to prevent illegal

immigration, ruling that Israel must consider requests to regulate the status of spouses from outside Israel even if the foreigner resides in Israel without permission and without requiring them to leave the country beforehand (see, for example, HCJ 2355/98 **Stamka** v. **Minister of the Interior**, Judgment 728(2), p. 4614/05 **State of Israel** v. **Oren**, Judgment 211). In those cases, the Court has examined practices more lenient than those proposed in the bill, ruling that a requirement for the foreigner to leave Israel pending the decision on their request, even if only for a short time, constitutes an undue infringement on the rights of Israelis to family life.

The clear position of the Supreme Court or advanced legal analyses are not required at all in order to understand the severity of the proposed injustice. In Israel today, and in the future, there are and will continue to be family units where one of the spouses is an illegal resident, and the other an Israeli citizen. Common sense and a basic human conscience are enough to understand that legislation that authorizes the destruction of families, the separation of spouses from their loved ones, and the separation of parents from their children as conditions for status regularization, is contrary to any basic moral standard. This holds true for every human being, and even more so for citizens in a democratic regime that upholds civil rights. Instead of treating the values of family sanctity and a person's liberty to choose their partner as a goal, the government seeks to use these values as a cynical tool to prevent immigration. A "deterrent," as described in the explanatory notes. **Is there no end to this cynicism?**

Revoking the Right to Appeal from within Israel for Foreigners Denied Entry – Disproportionate

The proposed Section 10 stipulates that a foreign citizen who has been denied entry to Israel will be barred from appealing the decision while in Israel. The proposed section effectively prevents any judicial review of decisions made by the Border Control Officer and pre-determines that any denial-of-entry or deportation order will be carried out, including in cases involving individuals eligible under the Law of Return, visitors invited by Israeli citizens, or visitors with familial ties to Israeli citizens.

Even subsection (f), which ostensibly allows an appeal to be submitted and handled while the individual is abroad, does not withstand practical reality. First, conducting a legal procedure from outside Israel entails significant bureaucratic obstacles, which by themselves impair the right to access the courts and the accessibility of legal recourse. Second, one must highlight the gap between the proposed law and the actual position of the state in legal proceedings related to entry refusals: on the one hand, the state seeks to block the filing of appeals while the denied person is in Israel. On the other hand, past experience shows that when appellants do exit Israel and attempt to conduct their legal case from abroad, the state systematically argues that the appeal has become "theoretical" and must be dismissed outright (see, for example, AdmA (Tel Aviv Admin Court) 58470-09-19 **Yousri** v. **Population and**

Immigration Authority (Nevo, 19.2.2020)). The result is a dead end – in which the right to access the courts is effectively denied.

Additionally, the state's claim in the explanatory notes that "the implementation of the amendment will allow a denied individual who has exited Israel to submit an organized request to examine their reentry into Israel" is misleading and baseless, as the proposed amendment does not at all refer to the possibility of a denied entrant submitting a request from abroad. The explanatory notes also completely ignore the existing legal framework, according to which "a foreigner whose entry was denied at an international border crossing may reenter Israel only after five years from the date of denial. If they wish to enter earlier, they must be invited by a sponsoring entity in Israel" (Section G.2 of Procedure No. 5.4.0001 of the Population and Immigration Authority). According to the explanatory notes, the denied entrant will be required to apply to the Israeli consulate abroad, and their request will be reviewed from a starting point of refusal, not as a neutral application. Without an Israeli inviter, the request will be dismissed outright – contrary to what is presented in the explanatory notes. Clearly, the state seeks to limit the ability of a denied foreigner to challenge the refusal decision itself, leaving them with the status of "denied" and all that implies, without providing any proper mechanism for submitting a reentry request from abroad.

It must be emphasized that the right to access the courts is a cornerstone of the democratic system. It enables judicial oversight of the actions of the administrative authority and examination of whether its decisions were made lawfully – including in cases of unreasonableness, error, or lack of authority. In the context of entry denial to Israel, this right is vital not only for the foreign nationals themselves but also for Israeli citizens and residents who are harmed by the decisions, especially when these involve spouses, family members, or close relatives of Israelis whose entry was denied. Conditioning court access on the foreigner's exit from Israel, without leaving room for discretion or exceptions, will inevitably harm Israelis. The legislator must ensure an effective, not merely theoretical, appeal route and preserve the ability to urgently appeal from within Israel in appropriate cases.

Specific Comments on the Proposed Sections

- **Proposed Section 6A(a)(1):** The terms "entered Israel unlawfully" and "resided unlawfully" must be clarified – for example, it should be clarified whether staying in Israel with an expired visa while awaiting a decision from the Population Authority on a status application would be considered unlawful residence.
- **Proposed Section 6A(c):** The final part of this subsection should be immediately revoked, and a genuine relationship with an Israeli citizen (within marriage or common-law partnership) should constitute a primary and explicit exception to the proposed policy.

- **Proposed Section 6A(d):** The maximum cooling-off period required in case of denial of a visa or residency application should be established by law.
- **Proposed Sections 10(d)-(f):** The right to access courts while the denied person is in Israel should be preserved, at least until an effective mechanism is in place that allows the submission of requests for entry review from abroad, even after prior denial, and an effective appeal mechanism for such requests. In addition, at the very least, family members of Israeli citizens whose entry was denied should be exempt from the amendment.
- **Proposed Applicability Limitation Clause:** If the law is passed in its current form, reliance interests should be protected not only for applicants who submitted applications under Section 7 of the Citizenship Law (which applies only to married heterosexual couples), but also for spouses of Israeli citizens who submitted status applications under the Entry into Israel Law – including common-law couples and same-sex couples.

Final Note

Representatives of the association would be happy to meet with any stakeholder involved in the legislative process to discuss solutions to the issues raised and provide a comprehensive overview of international couples in Israel, their characteristics, and the immigration processes they face.

Respectfully,

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