



The Supreme Court

A.P.8277/17 Ziud v. The Minister of the Interior and A.P. 7932/18 Minister
of the Interior v. Mafarjeh

Date of ruling: July 21, 2022

The panel's judges: President Hayut, Deputy President (ret.) Hendel, Vice President Fogelman and Justices Amit, Sohlberg, Barak-Erez and Baron.

The Supreme Court ruled today that there is no constitutional defect in the arrangement that allows the revocation of the citizenship of a person who has committed an act that constitutes a breach of allegiance to the State of Israel, such as: an act of terrorism; an act that constitutes treason or severe espionage; or the acquisition of citizenship of the right to permanent residence in a hostile country or hostile territory. This applies even if, as a result of the revocation of his citizenship, he remains stateless in any way, provided that in such a case the interior minister's obligation to grant that person a "permit to reside in Israel" – as a guide to granting permanent residency status or other permanent designated status, is interpreted. In addition, the Supreme Court overturned two administrative court rulings that dealt with applications for revocation of citizenship, This is due to material defects that were already present at the stage of submitting applications.

The ruling deals with two first-of-its-kind applications for revocation of citizenship submitted by the Minister of the Interior pursuant to section 11(b)(2) of the Citizenship Law, 5712-1952 in its current version, which states that an administrative court may, at the request of the Minister of the Interior, revoke a person's Israeli citizenship if "that person has committed an act that

constitutes a breach of allegiance to the State of Israel." The requests relate to two terrorists who were convicted and sentenced to lengthy prison terms: Mohammed Mafarja, who in 2012 planted an explosive device on a bus in Tel Aviv, injuring 24 people; and Alaa Ziud, who in 2015 carried out a vehicular and stabbing attack at the Gan Shmuel junction, injuring four people. The request in the Mafarja case was rejected by the Central Lod Administrative Court, and the Interior Minister appealed; The request regarding ziud was accepted by the Haifa Administrative Court, and Ziud appealed the verdict in his case.

The ruling stated that there was no constitutional defect in the revocation of citizenship arrangement for breach of trust set forth in section 11(b)(2) of the Citizenship Law. The panel's judges insisted that the right to citizenship is an important constitutional right, but held that in the case at hand, the violation of it is done in order to fulfill a worthy purpose – presenting a clear and unequivocal declarative message of the state's renunciation of those who violated their most basic duty of loyalty towards it. The ruling noted that the possibility of revoking the citizenship of a person who does not hold another citizenship and leaving him stateless indeed raises difficulties – it is in tension with various provisions of international law and is inconsistent with similar arrangements around the world. However, the majority opinion held that this difficulty in itself does not lead to the conclusion that the entire arrangement is unconstitutional, Insofar as a person whose citizenship has been revoked as aforesaid will be granted a permanent residence permit and not only temporary residency. The majority opinion was of the opinion that the combination "permit to reside in Israel" should be read as referring to a permanent residence permit – whether it is a permanent residence permit or another permanent license to be determined by the legislature. Deputy President A. Fogelman held in a single opinion that in the absence of an arrangement for a designated residence permit to be granted to those who remain stateless, the existing legislative arrangement is disproportionate.

Regarding the specific case of Ziud and Mafarja, the court pointed out material defects in these proceedings already at the stage of filing applications to revoke their citizenship. Some of the panel's judges focused on the fact that the applications were submitted to the Administrative Affairs Court, even though they could have been submitted as part of the criminal proceedings conducted against the two. This is by virtue of the provision of Section 11A of the Citizenship Law, which constitutes a lesser violation of the rights of the citizen whose case is being discussed. It was also noted that the hearing focused on evidence that is irrelevant to the purpose that was found to be appropriate, and that in light of these flaws, the requests should be rejected even without having to address them on their merits. Justice Sohlberg added that while the rulings of the administrative courts should be overturned for the reasons stated, he emphasized that the Interior Minister has the authority and even the obligation to consider resubmitting the requests to revoke the citizenship of Ziud and Faraja to the appropriate court (the criminal court). Deputy President (ret.) Hendel was of the opinion, in a single opinion regarding the outcome on the individual issue, that due to the flaws in the submission of the applications, the hearing on the case of Ziud and Mafarja should be returned to the administrative courts and the Interior Minister should be allowed to submit amended requests to revoke their citizenship within 120 days.