



# Removal Review Authority

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Attn: Mr Paulo W Kündig

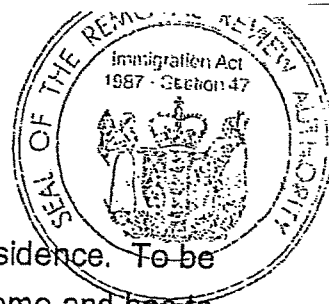
Dear Sirs

I am writing to acknowledge receipt of your letter of 17 May 2010 concerning Ms [redacted] and to advise that your client's appeal has now been considered by the Authority. A copy of the Authority's decision is enclosed

**NB:** Ms [redacted] should wait 14 days from the date of this letter before approaching **Immigration New Zealand, Christchurch**. This will allow sufficient time for her immigration file to reach the appropriate Immigration Officer, who will action the Authority's decision.

Yours faithfully

M.A. Northmore  
on behalf of the  
Removal Review Authority



also the only family member who can sponsor her application for residence. To be an eligible sponsor, the daughter must have a minimum earned income and has to stay 184 days per annum in New Zealand. Having to travel to Russia on one or more occasions, or having to stay there for any length of time, jeopardises the daughter's ability to meet those policy requirements.

### **Conclusion on Exceptional Humanitarian Circumstances**

[32] The Authority finds that the absence of any immediate family and the difficulties the appellant would face living alone in Russia, difficulties exacerbated by her age and medical conditions particularly her hearing loss, are exceptional circumstances of a humanitarian nature that would make it unjust or unduly harsh for her to be removed from New Zealand.

### **Type of Permit**

[33] By virtue of section 52(2) of the Act, the Authority may direct Immigration New Zealand to grant a temporary or a residence permit.

[34] The RRB did not recommend to the Minister of Immigration that the appellant be granted residence. There is no provision in the RRB's jurisdiction for a temporary permit to be recommended; if special circumstances are made out, the recommendation to the Minister can only be that the appellant be granted residence. A person granted residence becomes immediately eligible for all state benefits, including state-paid healthcare.

[35] Thus, considerations arise for the RRB which do not necessarily prevail in this Authority's assessment. As the RRB pointed out, the minimum three years in New Zealand and the minimum income requirements for sponsors are to ensure that sponsors settle and contribute before they begin carrying the burden of a non-earning parent, and to ensure they can maintain that burden. The appellant's sponsor has not yet taken up employment in New Zealand and therefore cannot demonstrate she has such capacity.

[36] In those circumstances, it is inappropriate for the Authority to allow the appellant to bypass such crucial policy requirements and to direct that a residence permit be granted. A temporary permit will allow her to remain in New Zealand to

lodge an application when her daughter is eligible to sponsor her and to further test her eligibility for residence in the normal way.

[37] A temporary permit also allows the appellant's daughter time to make such alternative arrangements for her mother as are required.

### Public Interest

[38] The appellant must also establish that it would not in all the circumstances be contrary to the public interest to allow her to remain in New Zealand.

[39] The appellant's health will be reviewed during the assessment of her residence application. In the meantime, her family will have to pay for her medical requirements. The appellant declares a clear police record. Remaining in New Zealand on a temporary basis pending the lodging of her residence application would not in all the circumstances be contrary to the public interest.

### STATUTORY DETERMINATION

[40] The statutory requirements of section 47(3) have been met.

[41] The Authority directs pursuant to section 52(2)(b) of the Act that the appellant be granted a visitor's permit for a period of 18 months.

[42] The appeal is allowed in the above terms.

