

May 8, 2018

State Comptroller Harshly Criticized Israel's Handling of Asylum Requests

The State Comptroller's Report published on May 8, 2018 notes a series of failings in the State's treatment of asylum seekers in Israel :

1. **Duration of processing asylum applications:** Eight and a half months on average. Many requests have been awaiting decision for over eight years.
2. **Delaying processing asylum applications for non-deportable migrants:** Until 2013 the Population and Immigration Authority (PIBA) didn't process these asylum applications. In 2016, a year after the State promised the Supreme Court to complete the processing of asylum applications by Eritrean and Sudanese citizens, only 28% of the cases were processed, while 6,880 remained open, including applications submitted more than five years ago. "In February 2017, the Deputy Attorney General announced that there was a real legal difficulty in maintaining the pace of processing asylum applications, including a lack of decisions regarding the requests of nationals of Eritrea and Sudanese from Darfur filed long ago."¹
3. **Breach of the obligation to conduct a fair procedure while rejecting asylum claims due to delay in filing them:** In September 2015, the Immigration Authority decided, without prior notice, to summarily reject all requests that were not submitted by asylum seekers during the first year upon entry to Israel. 1,620 asylum requests were rejected for this reason. Only in November 2016 (following a petition by the NGO HIAS), the Court of Appeals in Tel Aviv ruled that the Authority's conduct is unreasonable and disproportional.
4. **Lack of determinations regarding asylum requests of Darfuris:** Some 1,600 asylum requests of people from the Darfur region are still pending and PIBA has not formulated a position regarding them for more than a decade. The Comptroller's office does not regard the State's decision to provide a temporary humanitarian status to a few hundred Darfuris as "a proper response to the serious difficulties noted by the court and the Attorney General."²
5. **Preventing representatives of the UN High Commissioner for Refugees (UNHCR) from participating in the hearing of the Advisory Committee to the Minister of the Interior:** In March 2013 the Ministry of Foreign Affairs recommended temporarily preventing the access of UNHCR representatives to the hearings of the Advisory Committee to the Minister of the Interior "because it submitted a request to present its position as an amicus curia in a petition against the Anti-Infiltration Law."³ Since then, despite the UNHCR's requests, they were not allowed to participate in the hearings.
6. **Continuous queues and harsh waiting conditions in the RSD (Refugee Status Determination) unit:** The report criticizes the authority for the fact that although there are 32 Population Registry bureaus where Israeli citizens can use a scheduling system for efficient use of their time, there is only one office in the entire country where

¹ State Comptroller's report, p. 1449.

² State Comptroller's report, p. 1423.

³ State Comptroller's report, p. 1451.

asylum seekers can submit their applications. Asylum seekers are not entitled to use the system for scheduling appointments in this office. "Sometimes someone who waited many hours in line and failed to enter in order to submit his request was forced to arrive on another day and wait again, without receiving any priority. In the offices the waiting room is full, has no free space, and people are forced to wait in the hallways, sometimes with no place to sit."⁴

The Comptroller concludes: "The Comptroller's office found numerous and significant flaws in the treatment of asylum requests by the Immigration Authority, including significant delays in processing applications, faulty management of requests, and severe flaws in the treatment of requests made by asylum seekers from the Darfur region of Sudan.

"Delay in handling applications is a serious violation of the right to asylum and a breach of the duty of fair process. The reports' findings oblige the Minister of Interior and the Immigration Authority to take firm action, as detailed in the report, to establish the professional infrastructure required for efficient and purposeful handling of applications for political asylum, in a manner that ensures the protection of the rights of the applicants."⁵

The State Comptroller's Report dwells on the "serious difficulties noted by the court and the attorney general" regarding the mistreatment of asylum applications submitted by asylum seekers from the Darfur region. The report quotes the Deputy Attorney General's opinion that "there is a legal difficulty in protecting the pace at which asylum applications are processed, including the lack of decisions in applications of Eritreans and Darfur region nationals that were submitted long before."⁶

Israeli Immigration Authority attitude towards Eritrean asylum seekers

Even in Switzerland, whose strict policy towards asylum seekers is that which Israeli authorities wish to imitate, the recognition rate of Eritreans as refugees was 50.6% in 2017. The percentage of Eritreans granted provisional admission as foreigners (a status that grants protection from deportation and the provision of social rights, including the right to work and run a business) was 78%.⁷ **In Israel, only ten Eritrea nationals were recognized as refugees, a fact that the High Court of Justice commented on by stating, "The end testifies to its beginning."**⁸

Rejection of asylum claims based on draft dodging – Since May 2013 up until recently, the Immigration Authority rejected asylum claims of Eritreans, one after the other, based on a controversial legal opinion by which desertion alone does not justify asylum by the convention. The Israeli Appeals Tribunal has rejected this position twice, most recently on February 15, 2018.⁹ In

⁴ State Comptroller's report, p. 1458.

⁵ State Comptroller's report, p. 1465.

⁶ State Comptroller's report, p. 1449.

⁷ Data (French) by swiss authorities:

<https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/2017/stat-jahr-2017-kommentar-f.pdf>

see also EIDA state report: http://www.asylumineurope.org/sites/default/files/report-download/aida_ch_2017update.pdf

⁸ HCJ 14/8665 Deste vs. the Knesset and others, August 11, 2015.

⁹ The state has appealed once more in April 9th, 2018 and a discussion is scheduled to July 8th, 2018.

contradiction to the decency expected from a state authority, from the start of the legal proceedings up until now, the Immigration Authority kept on rejecting asylum claims based on this opinion.

International reports state that it is forbidden to forcibly deport to Eritrea – Various international reports, including the United Nations human rights committee, clarify that **in recent years as well, the Eritrean regime keeps on violating human rights on a scale that constitutes crimes against humanity.** The UN reports recommend that its members grant Eritrean nationals refugee status, according to the convention.¹⁰ The US State Department's latest Human Rights Report¹¹ illustrates why no asylum seekers should be deported back to Eritrea, clarifying the danger the deportee might be exposed to. **Those in favor of deportation continue spreading misleading information, stating it is safe now to deport Eritreans back to their country. Yet, there is wide agreement that such an act would violate the non-refoulement principle. There is not a single democratic state that forcibly returns asylum seekers to Eritrea.**

The Immigration Authority's attitude towards Sudanese asylum seekers

The authority's failure to establish a coherent and just policy regarding the ethnic cleansing survivors from Darfur, the Nuba Mountains and the Blue Nile causes severe damage to these people, as well as to the principle of the rule of law and to the public's resources. **People who deserved recognition as refugees have spent years struggling for decisions regarding their asylum claims and were jailed for many months and even years for no reason.**

In 2008 Israel granted temporary resident status on humanitarian grounds to 500 asylum seekers from the Darfur region without checking their asylum claims. During the past year, as a result of pressure caused by legal proceedings, Israel has decided to grant humanitarian status to an additional 500 asylum seekers from Darfur, chosen according to random criteria of age and date of entry into the country, regardless of their eligibility for refugee status.

The state should fulfill its legal and moral obligations and therefore should:

- 1. Enable access to the asylum system to the 10,000 Eritrean and Sudanese asylum seekers who did not apply for asylum so far.**
- 2. Grant asylum seekers from Sudan and Eritrea -- who cannot be deported -- complementary protection including the possibility of employment, social rights and assistance in integration across the country.**
- 3. Establish a reasonable standard for serious assessment of asylum claims, including publication of legal opinions in cooperation with the United Nations High Commissioner for Refugees.**
- 4. The status of all asylum seekers from Darfur, Nuba Mountains and the Blue Nile should be examined according to the convention.**

¹⁰ The latest report of the Commission of Inquiry on Human Rights in Eritrea, from July 7th 2017:

<https://reliefweb.int/report/eritrea/report-special-rapporteur-situation-human-rights-eritrea-advance-unedited-version>

¹¹ US State Department human rights annual report, April 20th, 2018, in: "Country reports on human rights practices: Eritrea" :<https://www.state.gov/j/drl/rls/hrrpt/2017/af/276997.htm>

5. **Re-examine all asylum claims filed by Eritrean nationals that were summarily rejected since they were not submitted during the asylum-seeker's first year in Israel, or based on the controversial legal opinion that was rejected twice by the appeals tribunal.**
6. **Avoid jailing or deporting asylum seekers from Sudan and Eritrea, who cannot be deported.**
7. **Provide proper services to all asylum seekers in all the Ministry of Interior offices across the country.**
8. **Improve the employment conditions of the working staff in the RSD unit, including the regulations, funding and salaries, as well as implementing proper instructions for employees dealing with asylum-seekers.**

We hope the State Comptroller's Report will not be ignored, that the authorities will follow its recommendations and strive to regulate the status of asylum seekers in Israel while integrating them into the society, in a manner that will relieve the pressure on the neighborhoods of south Tel Aviv.

Data provided by the Ministry of the Interior:¹²

There are 26,081 Eritreans and 7,481 Sudanese residing in Israel (a total of 33,562, plus another 6,000 children). Since the end of 2016 not even one asylum seeker entered Israel through the Egyptian border.

By the end of 2017: 15,205 nationals of Eritrea and Sudan have managed to apply for asylum. 6,514 requests were closed or rejected. 8,588 requests are still pending. Only 10 Eritrean nationals and one national of Sudan were granted refugee status according to the UN's convention relating to the status of refugees.

¹² Data on Foreigners in Israel, PIBA, April 18. Some of the data was provided by the State in a response on December 12, 2017 to HCJ 2293/17.

https://www.gov.il/BlobFolder/generalpage/foreign_workers_stats/he/%D7%A8%D7%91%D7%A2%D7%95%D7%9F%201.pdf