

The State Comptroller's Report published this afternoon 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 to the Supreme Court to complete the processing of asylum applications by Eritrean and Sudanese citizens, only 28% of the cases were processed, 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:** 1,600 asylum requests of people from the Darfur region are still pending and PIBA has not formulated a position regarding their matter 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 "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 to temporarily prevent 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

¹ State Comptroller's report, p. 1449.

² State Comptroller's report, p. 1423.

³ State Comptroller's report, p. 1451.

Israeli citizens can use a scheduling system for efficient use of their time, there is only one office in the entire country where 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 for 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 to protect 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, who's strict policy towards asylum seekers Israeli authorities wish to imitate, the recognition rate of Eritreans as refugees was 50.6% in 2007. The percentage of Eritreans granted provisional admission as foreigners (a status that grants protection from deportation and social rights including the right to work and run a business) was 78%.⁷ **In Israel, only ten Eritrea nationals were recognized as**

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

refugees, a fact that the High Court of Justice commented on by stating “The end testifies for its beginning”.⁸

Rejection of asylum claims based on draft dodging – Since May 2013 up until recently, the Immigration Authority rejected asylum claims of Eritrean, one after the other, based on a controversial legal opinion, according to which desertion alone does not justify an asylum by the convention. Israeli Appeals Tribunal has rejected this position twice, recently in February 15, 2018.⁹ In contradiction to the decency expected from a state authority, all along the legal proceedings and 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 in a scale that constitutes crimes against humanity.** The UN reports recommend its members to grant Eritrean nationals with refugee status, according to the convention.¹⁰ The US state department 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 favour of the deportation continue spreading misleading information stating it is safe now to deport Eritreans back to their country. Yet, there is a 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 rule of law and to the public resources. **People who deserved recognition as refugees have spent years struggling for decisions regarding their asylum claims and were jailed for long months and even years for no reason.**

In 2008 Israel granted a temporary resident status on humanitarian grounds to 500 asylum seekers from 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 a humanitarian status to additional 500 asylum seekers from Darfur, chosen

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.

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>

according to random criteria of age and entry period into the country, regardless of their eligibility to 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 failed to apply for asylum so far.**
- 2. Grant asylum seekers from Sudan and Eritrea who cannot be deported, complementary protection including employment possibilities, 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 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.**
- 5. Re-examine all asylum claims filed by Eritrean nationals who were summarily rejected since they were not submitted during the first year in Israel, or based on the controversial legal opinion, rejected twice by appeals tribunal.**
- 6. Avoid jailing or deporting asylum seekers who cannot be deported from Sudan and Eritrea.**
- 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 fair pay, as well as establishing proper instructions and.**

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 Israeli society, in a manner that will relieve the pressure in the neighborhoods of south Tel Aviv.

Data provided by the Ministry of the Interior:¹²

There are 26,081 Eritreans and 7481 Sudanese residing in Israel (total of 33,562 and additional 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

Physicians for Human Rights-Israel | ASSAF – Aid Organization for Refugees and Asylum Seekers | Hotline for Refugees and Migrants | Association for Civil Rights in Israel | Kav LaOved | ARDC – the African Refugees Development Center