

Guideline for Asylum Seekers: Refugee Status Determination in Israel

JULY 2013

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For more information and advice on specific cases you can contact the organizations by phone or come in during our reception hours.

ARDC 03-6391416

Sunday-Thursday

15:00-18:00

**Hotline for Migrant
Workers 03-5602530**

Sunday 09:00-12:00

13:00-17:00

Monday 14:00-18:00

Tuesday 09:00-13:00

Wednesday 14:00-18:00

Thursday 09:00-13:00

Section 1

Who Is This For?

This guideline is from the **African Refugee Development Center (ARDC)** and the **Hotline for Migrant Workers (HMW)**.

This guideline is helpful for any person currently in Israel, in prison or outside of prison, because of a fear of persecution in his/her home country who wants to understand the Israeli *asylum* system.

Asylum claims are processed in the same way for persons inside and outside of prison. For this reason, we will start by describing the general process and then provide some specific information for detainees, including conditions for release.

Our goal is to provide you with clear and accessible information about the Israeli *asylum* system that will allow you to know your rights and duties during the process and to think about your options.

We hope this information will assist you.

What is the Refugee Status Determination Process?

Refugee Status Determination (RSD) is the process of inquiring as to whether you are eligible for protection under the 1951 UN Refugee Rights Convention. The Convention determines who is considered *refugee* and defines the obligations of host countries to protect *refugees*.

The convention is available online in: English, Arabic, French, Somali, and Spanish. You can find it and other relevant updates on the [ARDC](#) website under **information for asylum seekers**.

When you start the *RSD* process, you are legally defined as an *asylum seeker*. If you manage to prove your claim, you should be defined by the state as a *refugee*.

Who is Eligible to Go Through the RSD Process?

- Any person who comes into the country (legally or illegally) is entitled to ask for *asylum* within a year of entering Israel (with some exceptions: read ‘Individual Refugee Status Determination Process’ for more details).
- Some countries (including Israel) choose to have a “temporary non-removal policy” towards *asylum seekers* from a specific country/area. If you are eligible for this policy, you can still apply for *asylum*, but, unlike other groups, you will not be deported even if you don’t apply for *asylum*. At the moment, Sudanese [not from South Sudan], Eritrean, and Congolese individuals are under temporary non-removal, meaning Israel will not deport citizens of those countries.

What Does “Non-Removal Policy” Mean for You?

If you are from Sudan, Eritrea, or DRC and you have a conditional release **visa [2A5]**, it is most likely that you are not registered as an *asylum seeker* but are under the non-removal policy.

Recent changes in the law allow you to apply for *asylum* even if you are under group protection, which is a step that can protect

you in the future. Please read more about the process and **contact the ARDC for personal advice.**

Refugee Status Determination in Israel

While the convention is universal, every country interprets it differently:

- In Israel the *asylum* system is very difficult, and very few individuals are recognized as *refugees* (less than 0.2 %). This percentage is significantly lower than in any other Western country.
- Currently, most *asylum seekers* in Israel don't even go through the RSD process since they are under a non-removal policy (Sudanese and Eritreans).

Section 2

Individual Refugee Status Determination Process

Based on the procedure in Israel, you have to file for *asylum* within a year of your arrival in Israel.

If you don't file a request within a year of your arrival in Israel, your claim will be rejected immediately unless there are special reasons for the delay or new circumstance have arisen (a change in the political situation in your home country, for example).

If you are planning to file a claim after more than a year, we recommend that you **talk to the ARDC and receive personal advice on whether you should contact a lawyer** before approaching the Ministry of the Interior.

After filing a claim ("filing", for non-detained individuals only, means that you have approached the Ministry of Interior and filled out forms), you will be summoned to a *Basic Interview*. To start the application process, you have to approach the Ministry of Interior, RSD unit, 53 Salame St. Tel-Aviv.

Basic Interview and Forms

Forms

Before the Ministry of Interior questions you, you will be asked to fill out papers with questions that will be asked again in the interview. These forms are the basis for your claims, and the information that you give in them will be used in the future. As in every interaction with the Ministry of Interior, it is important to give accurate and true answers in these forms. You will have to write dates of major events in your life. It is important to write exact dates or, if you are not sure about a date, write “I am not sure” or “I don’t remember exactly”. Changing a date at a later time or forgetting it will cause problems as your credibility will be questioned.

The ARDC is able to assist with forms if you require help.

Basic Interview

In this interview, you will be questioned about your life in your home country.

Example questions:

- *Why did you come?*
- *Why did you leave?*
- *Where is your family?*
- *How did you arrive in Israel and why didn’t you stay in Egypt?*
- *What will happen to you if you are forced to go back?*

This interview has two main goals:

- The first goal is to find out whether your claims, assuming that they are true and can be proven, give you the right for protection under the 1951 UN Refugee Right Convention.
- The second goal is to determinate your identity – that is, under which nationality your claim will be processed. Even though presentation of original documents is not mandatory, it is very helpful to do so for the identification

process. Documents that can be helpful include passports or identity cards. It is against procedure to require you to do anything that puts you or your family members in danger. This includes any requirement for you to go to your embassy. **Contact the ARDC if you were asked to do so.**

If documents have been sent to you by family members, be sure to leave the envelope SEALED until your appointment and have the officer open the envelope in front of you. Forged documents can be taken from you by the Ministry of Interior.

Even though checking your credibility is not an official goal in this interview, we remind you again that you are obligated to tell the truth. If at any point you are not sure about an answer, it is better to say “I don’t know/ I don’t remember” than to give inaccurate information. The answers you give in this interview will be reviewed in future assessments of your case and compared to any other statements you made.

At the end of every interview, you will have to sign a statement showing that you understood the content of the interview. If you recognized a problem in the translation during the interview, you should say something and have your statement added to the transcript of the interview.

Results of Basic Interview

The goal of the Basic Interview is to determine whether the reasons that led you to flee your country are recognized as reasons for receiving *asylum* under the Refugee Rights Convention.

Assuming everything you said was true, if the Ministry of Interior believes that you would still not qualify for protection under the Convention, then you will be rejected immediately. In that case, you can appeal the decision in court within 7 days from receiving the rejection. If you choose not to appeal, you will be defined as

an “illegal” at the end of 7 days.

Another reason for rejection can be that the Ministry does not accept your identity. For example, if you said you are from *Eritrea*, but you lived in *Ethiopia* for a long time, the ministry might claim you are *Ethiopian*. In that case, you can either appeal the rejection in court or try to start the process as an *Ethiopian* with *Eritrean* ethnicity. In this kind of situation, we encourage you to **contact the ARDC for advice**.

You should receive a copy of the decision and opinion as well as the transcript of your interview. If you haven't received these documents, you can **contact the ARDC for further assistance**. As mentioned before, a rejection decision can be appealed in court. If you are interested in approaching a lawyer, you can **contact the ARDC for recommendations**.

If you are not rejected, you will receive a **2A5 visa** (known as “**conditional**”) that can be renewed at least until your next interview. Often the next interview will only be after a few months.

During Interviews

Rights

- At any interview, you are entitled to be represented by a lawyer who can observe the interview and add comments in the end. (The **ARDC** and **HMW** can provide lawyer recommendations).
- At any interview, you are entitled to a translator in the official language of your country. In rare cases, we see a situation where a person speaks fluently only a tribal language and not his country's official language. A recent court decision determined that the Ministry of Interior is obligated to provide a translator even in these situations. In case you (or someone you know who can't read this guideline) didn't

receive a translator to his native language, please **contact the ARDC\HMW for additional advice.**

- You are entitled to ask for the interview to be conducted by a person of your same gender (by requesting either a man or a woman), and the Ministry of Interior has to do its best to provide this.
- You are entitled to receive transcripts of your interviews after your claim was rejected.

Duties

- It is your responsibility to cooperate with the Ministry of Interior. For example, it is your duty to update your contact information with their office when this information changes (if they send you a letter or try to contact you on the phone during your process, and they are unable to reach you, they can close your file).
- It is your responsibility to attend every interview/ meeting/ visa renewal. Any action on your side that can show that you are not cooperating with the process can lead to closing of your file.
- During every interaction with the Ministry, your credibility is tested. You **HAVE TO TELL THE TRUTH** and provide consistent answers in every interview. It is also necessary to provide all relevant information. If the Ministry of Interior believes or finds out that you are hiding relevant information, they will see this as lying.

Tips

We recommend you always do the interview in a language that you speak fluently to avoid misunderstanding.

If you received a transcript of your interview, we recommend you read it with a Hebrew speaker to make sure there were no mistakes in translation.

Note that in every interview the interviewer will ask you the questions that will allow you to tell your story in full. In the end of most interviews, you will be asked if there is anything you would like to add. That is the time for you to add any details that you didn't get the opportunity to mention before. It is very important to give a clear and accurate picture of your story and the circumstances which led you to flee your country.

We also strongly recommend that you write down everything that happened during the interview the moment you get out of the RSD unit. It is important that you have your own "protocol" of what happened at the interview.

Long Interviews

In this interview, both your credibility and eligibility are in question.

When you attend the interview, you are likely to be investigated for a long time. The officer won't always be nice. They can aggressively ask you questions, and they can tell you that you're a liar and generally have an aggressive attitude.

If you feel that your dignity or rights were violated during this process, please **contact the ARDC for further consultation**. We understand you are here for very serious reasons and have suffered trauma, so **if you need psychological assistance** before or after an interview, please also **contact the ARDC**.

Results

There are few possible results for the interview:

- **Rejection** - you might receive a rejection letter right after the interview. You will be given 7 or 14 days to leave the country and the option to appeal the rejection to the Ministry of Interior (only in case you have new information) or the court (in any case). In both cases, **you can come to the ARDC office** with the rejection letter **for personal advice**. In some cases

we would be able to help you with the appeal.

- **No decision** - if, at the end of the interview, you were given a visa and not a rejection letter, it means that at the moment you were not rejected. You will keep taking visas from the Ministry until you have been contacted again. It is possible that you will be called for another interview. It can take months or a year in some cases, but it can also happen very quickly over a few weeks.
- **Approval** - in rare cases, the Ministry of Interior approves a *refugee* claim. This decision will be made by a committee, and so you would not get the answer right after the interview. It can take months before the Ministry will make the decision. Until a final response, you will hold a **2A5** (“**conditional**”) **visa**.

Prison

The Prevention of Infiltration Law – General Information

As of June 2012, *asylum seekers* in prison are held under the Prevention of Infiltration Law. The law’s object is to discourage individuals from arriving in Israel. To that end, the law allows for long periods of detention (as much as 3 years) until it becomes possible to deport the “*infiltrator*”. Having said that, the law states that, if an individual is eligible for status in Israel, the deportation order will be revoked, and s/he will be released from detention. Once an individual has applied for status in Israel (namely – *refugee* status), the law allows the state limited periods to process the application and to give the applicant a decision.

- In the case that **three months** have passed since submitting the application, and the Ministry of Interior has not begun processing it (i.e. – conducted an interview), the law grants the tribunal judge in prison the mandate to release the

applicant.

- In the case that **nine months** have passed since submitting the application, and no decision has been given by the Ministry of Interior, the law grants the tribunal judge in prison the mandate to release the applicant.
- In the case that **three years** have passed since the applicant has been detained, the law grants the tribunal judge the mandate to release the applicant.

In addition to the grounds mentioned above, the law also allows *four* other exceptions to the general rule of detention:

- In the case that, due to an individual's age or medical condition, keeping him/her in detention is likely to cause damage that is preventable only by means of release.
- In the case that special humanitarian grounds exist, other than those stated above.
- In the case of an unaccompanied minor.
- In the case that release from detention will assist in the individual's deportation proceedings.

PLEASE NOTE! These grounds **DO NOT** constitute mandatory release from detention. Release from detention under these circumstances is submitted to judiciary discretion. The **ARDC** can provide lawyer recommendations to assist imprisoned individuals.

Applying for Asylum Within Detention

As of today, in order to apply for *asylum* while in detention, you have to fill out the RSD forms, which are supposed to be distributed by Ministry of Interior employees in the detention centers (**for instruction regarding the content of the forms, see above**). If you are unable to fill the forms in English, it is

advisable to ask for the assistance of other detainees, or Ministry of Interior representatives.

Make sure to state that you filled the forms with the assistance of an interpreter, and that the information you provided is subject to obvious limitations. Once you have filled out the form, you need to submit it into the hands of a person who works for the Ministry of Interior. Make sure you get a receipt that shows that you submitted the forms and includes the date and the name of the representative you handed the forms to.

In addition to the forms, it is crucial that you continue to state, on every given opportunity, that you are an *asylum seeker*, that you fear going back to your country of origin, and that you seek the protection of the state of Israel.

What to do if You are Arrested for a Crime

According to the Prevention of Infiltration Law of 2012, the Population and Immigration Authority can detain an individual in the following cases:

- In the case that an individual was a suspect in committing an offense, and the police intend to close the file, due to lack of sufficient evidence, or lack of interest to the public.
- In the case that an individual stood trial and was found guilty, and has now finished serving his sentence.

In both these cases, enforcing this regulation is possible when the criminal offenses, allegedly committed by the individual, pose a threat to national security or public safety. In addition, in each case, there must be a legal opinion stating that putting the individual in custody meets the criteria set by the regulation. When enforcing the regulation in the case of an individual whose criminal case was closed, the evidence to the commission of the offense held by the police must be clear and unequivocal.

If the state decides to implement the procedure in your case, you will have a hearing in front of a Population and Immigration Authority representative, who will decide whether or not to revoke the **temporary stay permit (2A5)** and issue a deportation warrant according to the Anti-Infiltration Law. In this case, you will be transferred to one of the detention centers, where, if you wish, you will be able to apply for *asylum*.

As you can see, the asylum process in Israel is very complex. One of the biggest challenges we face while trying to provide you with accurate and reliable information is the fact that the laws and policies are constantly changing. Once we print the information, we can't keep updating it, and so we recommend checking with us for any specific questions.

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**These notes are meant to give you general idea
they are in no way a replacement for legal advice.**

How Does the Process Work?

Basic Interview

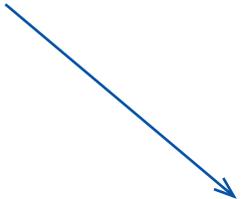


Rejected Out of Hand



Appeal to Court
(with a Lawyer)

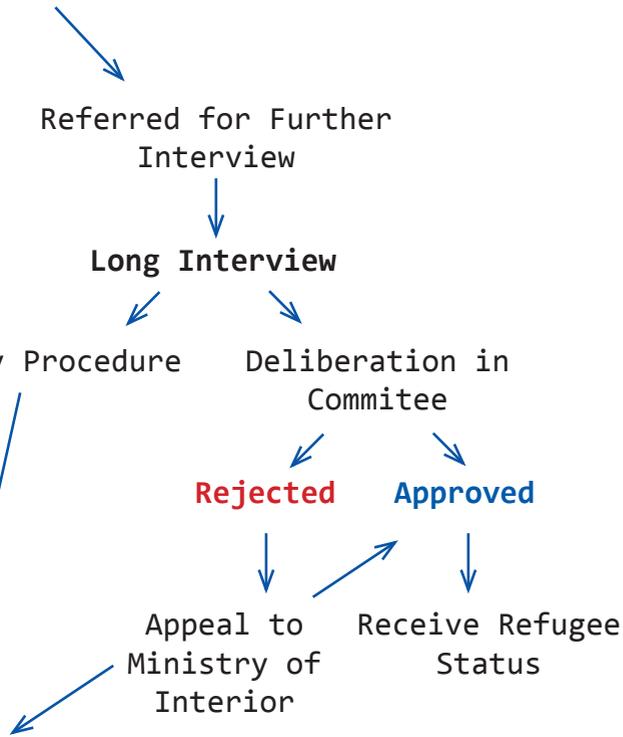
Summary



Return to Your Home Country ← **Rejected**

Process Look Like?

Interview



d



Kingdom of the Netherlands



מוקד סיוע לעובדים זרים
Hotline for Migrant Workers

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