

Israel

PROGRESS UNDER THE GLOBAL STRATEGY BEYOND DETENTION 2014-2019, MID-2016

IN ISRAEL, administrative detention went through important legislative changes during the initial roll-out period of the Global Strategy. Amendment No.4 to the *Anti-Infiltration Law*, which called for a minimum of one year detention for newly arriving persons through an unauthorized border,¹ followed by indefinite residency in Holot, a semi-open facility in the Negev desert, was struck down by the High Court of Justice on 22 September 2014. The Amendment No. 5² which replaced it on 17 December 2014 was found to be constitutional by the High Court, save for the 20-month maximum period of mandatory residency in Holot. The High Court recommended the Parliament to reduce the maximum period to 12 months, which was finally done with the adoption of Amendment No. 6 in February 2016. Currently, newly arriving individuals, including asylum-seekers, are detained in an immigration detention facility for a three-month period upon arrival (unless one of the release grounds applies, such as health grounds, special humanitarian reasons, or if the detainee is an unaccompanied or separated child). Single Eritrean and Sudanese men under the age of 60 are then automatically transferred to the semi-open Holot facility, for a period of up to 12 months mandatory residence. In 2015, 4,600 persons reported for mandatory residence in Holot. 1,700 Holot residents were released at the end of August 2015 pursuant to the High Court decision limiting stay in Holot to 12 months.



KEY DEVELOPMENTS

- Compliance by the Ministry of Interior not to detain asylum-seeker children since April 2013, following an Administrative Court decision that held that children in detention³ shall be released according to the humanitarian release ground in Amendment No. 3 to the *Anti-Infiltration Law*. As of 2014, all unaccompanied children and children with families were released, apart from migrants awaiting deportation.
- Exemptions from detention introduced in Amendments No. 4 and 5 for humanitarian cases, including for individuals for whom damage would be caused – due to their age or medical situation – to their health, including their mental health.
- Exemptions from Holot residency introduced in Amendment No. 5 of the *Anti-Infiltration Law* in December 2014 for women, children, men over the age of 60, parents of dependent children and victims of trafficking and slavery, and exemptions from both detention and Holot residency for UASC.
- Reduction of the *detention* period of newly arriving asylum-seekers from 1 year to 3 months (and a further reduction for detainees who submit an asylum application and do not receive a decision within 60 days) and of the *mandatory residence* period in Holot from 20 months to a maximum of 12 months.

¹ The Government of Israel refers to such persons as illegal migrants, whereas UNHCR uses the term asylum-seekers.

² *Law for the Prevention of Infiltration (Offenses and Jurisdictions) (Amendment No. 5 and Temporary Order)*, 2014, available at: <https://goo.gl/UVJ9hg>.

³ Administrative Appeal 44920-03-13 *Tedesa and others v. Minister of Interior*, Beer Sheva District Court of Administrative Affairs, decision rendered on 30 April 2013.

- Improvement of conditions in Holot with the installation of heaters and air-conditioners in every room, after judicial intervention.
- Asylum-seekers better assisted and represented in various legal proceedings including release from detention by pro bono lawyers.
- Introduction of a 'pre-Holot' screening hearing, after judicial intervention, to decide both whether the individual will be placed in Holot and the duration of mandatory residence.

A National Action Plan (NAP) was drafted following consultations with representatives of various Government ministries and civil society actors. On 20 October 2014, UNHCR held a stakeholder consultation bringing together representatives from NGOs, municipal authorities, academics, activists, and leaders of asylum-seeker communities present in Israel, who were asked to make concrete suggestions for further actions to be incorporated into the NAP.

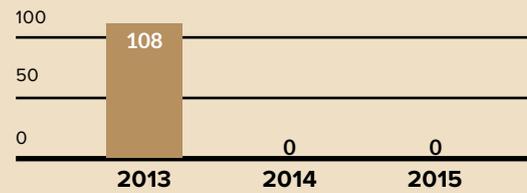
Activities undertaken by UNHCR and partners during the roll-out period of the Global Strategy

In November 2014 and December 2015, UNHCR Israel provided comments on draft Amendment No. 5 and No. 6 respectively to the Government and to the Knesset (Parliament) recommending an exemption from detention for all children and other vulnerable groups, including victims of torture. Amendment No. 5, which entered into force on 17 December 2014, exempts children, parents of dependent children, women, men over the age of 60 and victims of trafficking and slavery from being summoned to Holot. UASC are also exempted from detention. Although in practice no accompanied children have arrived in Israel since June 2012,⁴ they are not exempt in law from the three-month period of automatic detention upon arrival. Despite UNHCR's recommendations, victims of torture are neither categorically exempted from detention nor from Holot (although the law

⁴ The Egyptian border with Israel has been closed since June 2012.

GOAL 1 End the detention of children

NUMBER OF CHILDREN DETAINED

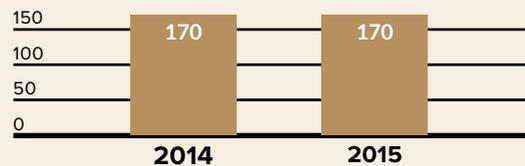


No asylum-seeking or refugee children were detained in 2014 and 2015. Figures relating to the number of detained migrant children are unavailable.

- Legal framework partially ensures that children are not detained. Amendments 4 and 5 to the *Anti-infiltration Law* introduced exemptions from detention and mandatory residence in Holot for UASC, from mandatory residence in Holot for all children, and from detention for accompanied children (humanitarian clause).

GOAL 2 Ensure that alternatives to detention (ATDs) are available

NUMBER OF PLACES AVAILABLE IN CARE ARRANGEMENTS FOR UASC



NUMBER OF PLACES AVAILABLE IN ATDs FOR FAMILIES



PERCENTAGE OF PERSONS IN ATDs (out of total number of persons detained)



TYPES OF ATDs:	2013	2014	2015
Deposit or surrender of documentation	☑	☑	☑
Reporting conditions	☑	☑	☑
Directed residence ¹	☑	☑	☑
Residence at open/semi-open reception/asylum centres			
Release on bail/bond	☑	☑	☑
Provision of a guarantor/surety	☑	☑	☑
Community supervision arrangements	☑	☑	☑ ²

☑ available in legislation ☑ used in practice

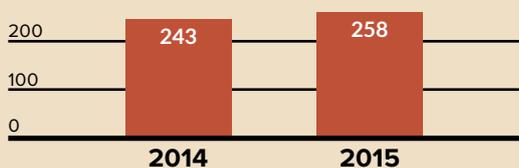
¹ Release to a government shelter for recognized victims of trafficking.

² Not used in 2015 because no new UASC arrived in Israel and recognized victims of trafficking are released to government shelters.

- ☑ Mechanism allowing asylum-seekers to stay legally in the community.
- ⊖ When residing in the community, asylum-seekers have limited access to basic rights (access to primary education, emergency medical care and mental health clinic only).
- ⊖ No case management* provided in ATDs.

GOAL 3 Ensure that conditions of detention meet international standards

NUMBER OF MONITORING VISITS ORGANIZED BY UNHCR AND/OR PARTNER(S)



- ⊖ Israel is not a party to the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*.

LEGEND: ☑ Yes ⊖ No ⊖ Partially
N/A Not available U Unknown

SOURCE: All indicators were compiled based on UNHCR and/or UNHCR's partner(s) monitoring visits and observations, except if otherwise stated.

* See UNHCR *Detention Guidelines*, p.44.

does allow for appropriate cases of victims of torture to be exempt from detention/Holot residency if they demonstrate that their health, including their mental health, would be damaged from detention/residency). UNHCR has therefore been advocating for the Ministry of Interior to develop a screening tool to identify victims of torture and to then exempt them from Holot mandatory residency.

Legal petitions regarding detention conditions in Holot resulted in the installation of heaters and air-conditioners in every room, while a petition regarding the right of residents to bring in and cook their own food is still pending. Further judicial engagement also resulted in a decision from the Ministry of Interior to implement a pre-Holot screening hearing to decide both whether the individual will be placed in Holot and for how long, rather than summoning all individuals for the maximum period permitted by law. This gives the individual an opportunity to raise any objection (e.g. health problems, humanitarian basis) to the mandatory residence in Holot. UNHCR further recommends for such screening to be expanded and improved in other detention facilities, in line with best practices from other countries.

To ensure the well-being of persons of concern in the **detention facilities and in Holot**, there were weekly monitoring missions to Saharonim and Holot, as well as monthly visits to the Givon detention facility in Ramle. In addition, two reports on Holot and one on all detention facilities were published.

UNHCR Israel launched a national **campaign 'Takiru'** (Hebrew meaning 'Get to know' or 'Learn about') on World Refugee Day 2015, consisting of large posters, video testimonies and a Facebook site depicting the reality of asylum-seekers to sensitise the Israeli public opinion to the challenges they face. The launch event was attended by 80 guests and the exhibition was shown for two weeks, during which thousands of visitors saw the posters and videos. Other NGO campaigns included 'The money is buried in Holot' and 'Voices from Holot', as well as an online newspaper and a blog on refugee issues.

There was increased engagement in the identification and **training of pro bono lawyers**. As a result, 94 pro bono lawyers have been trained on asylum issues, including detention, and 35 of them have already assisted asylum-seekers in various proceedings, including release from detention.



TRAININGS ORGANIZED IN ISRAEL DURING THE REPORTING PERIOD

5 on Asylum Law, including
UNHCR *Detention Guidelines*

5 on Attention to
vulnerable groups

NUMBER OF PERSONS TRAINED IN ISRAEL DURING THE REPORTING PERIOD

160 on Asylum Law, including
UNHCR *Detention Guidelines*

133 on Attention to
vulnerable groups

Gaps and challenges

As a result of the dissolution of the Government in December 2014 and the establishment of the new Government in May 2015, there were delays in the implementation of the NAP.

With regard to the detention context, some gaps remain. Although the authorities state that information sheets regarding the asylum procedure are posted in all detention facilities, in practice detainees claim that they are not sufficiently informed of their right to seek asylum; they must specifically request the RSD form from the Ministry of Interior's officials and do not receive the necessary assistance to fill out these forms. While there is increased monitoring of Saharonim and Holot, access to the airport detention facility for the purpose of monitoring in light of its mandate is still denied to UNHCR.

Next steps

In 2016, UNHCR will advocate for the development and use of screening and referral mechanisms (based on existing models as appropriate) to ensure that asylum-seekers, especially vulnerable individuals, are referred to ATDs. If funding can be secured, research will be conducted towards development of a screening tool applicable in the Israeli context. Moreover, several outstanding issues will be addressed, including exempting vulnerable individuals (including victims of torture) from Holot residence and improving Holot conditions (such as provision of mental health services, additional educational and vocational training, a computer lab, criteria for the granting of exit permits, to allow visitors inside of the facility, etc.). UNHCR will further try to expand the pool of pro bono and private lawyers that assist asylum-seekers in detention proceedings.

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UNHCR Tel Aviv, August 2016.