

NATIONAL ACTION PLAN

Israel

What is the UNHCR Global Strategy - Beyond Detention?

In June 2014, UNHCR launched its Global Strategy - Beyond Detention 2014-2019, which aims to support governments to end the detention of asylum-seekers and refugees. The Strategy lays out three main goals: (1) to end the detention of children; (2) to ensure that alternatives to detention (ATDs) are available in law and implemented in practice; and (3) to improve conditions of detention, where detention is necessary and unavoidable, to meet international standards. To support the implementation of the Global Strategy, focus countries have developed National Action Plans ('NAP'). This document is a summary and public version of the NAP.

All documents relating to the Global Strategy - Beyond Detention 2014-2019 are available at: <http://www.unhcr.org/detention>.

The process of developing the National Action Plan

The NAP was drafted following numerous discussions with representatives of various Government ministries and civil society actors. In October 2014, UNHCR held a Stakeholder Consultation session bringing together representatives from NGOs, municipal authorities, academics, activists, and leaders of asylum-seeker communities present in Israel. Participants were divided into three working groups (one for each of the three goals of the Global Strategy) and asked to make concrete suggestions for further action to be incorporated into a draft National Action Plan. This Stakeholder Consultation was followed by bilateral meetings with our key partners and other international organizations to finalize the activities and actions to be incorporated into the draft National Action Plan. The draft National Action Plan was further informed by consultations in the context of the Expert Meeting for Government counterparts on alternatives to detention ('ATDs') for asylum-seekers and migrants which took place in Jerusalem in November 2014.

The actions foreseen

Goal 1. End the detention of children

In UNHCR's comments on the then-draft Amendment 5 to the Anti-Infiltration Law, in November 2014, the Office advocated for an exemption for accompanied as well as unaccompanied children from detention. In more pragmatic terms and in light of the Belgian model of case management presented at the Expert Meeting, UNHCR recommends that the pilot project developed by UNHCR's partners - whereby children and their families are released from detention and referred to appropriate social and other services - be considered by the Government. As part of the suggested pilot, one case worker from the Ministry of Welfare (MOW) would work - in coordination with the Ministry of Interior (MOI) and together with the family - to canvass all options available to obtain status in Israel. Should there be no protection risks to the child and his/her family and no other legal means to remain in Israel, the caseworker would help the family to leave the country voluntarily.

Goal 2. Ensure that alternatives to detention (ATDs) are available in law and implemented in practice

Key actions to support Goal 2 of the Strategy include the facilitation of consultations and sharing of good practices on ATDs with the view to introducing additional ATDs into Israeli law and practice. In November 2014, after close consultation with the Ministries of Interior, Foreign Affairs and Justice, UNHCR organized an Expert Meeting for Government counterparts on ATDs for asylum-seekers and migrants. Presentations on different ATD models were given by experts from the Governments Belgium, Sweden and the United States of America, as well as UNHCR Geneva and the International Detention Coalition. Following these presentations, participants were divided into working groups to discuss which ATDs could realistically be applied in the Israeli context.

In April 2015, two Israeli representatives (from MOI and Ministry of Welfare) attended the Second Global Roundtable on Reception and Alternatives to Detention held in Toronto, Canada, and familiarized themselves with various additional ATD models including for children and families. In addition, a former Ministry of Education representative gave a presentation at the Global Roundtable on the successful Israeli 'residential school' model for unaccompanied minors under the supervision of the Ministry of Education. Upon their return to Israel, all three participants attended a follow-up meeting with UNHCR where it was agreed to further explore the establishment of an Inter-Ministerial Working Group by the end of 2015 to further discuss the implementation of specific ATDs in Israel, beginning with ATDs for migrants (including families) awaiting deportation.

In addition, in 2015 and 2016 UNHCR will continue to 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. UNHCR will engage with new legal actors to expand the pool of pro bono and private asylum lawyers that could assist asylum-seekers in detention proceedings.

Goal 3. Ensure that conditions of detention, where detention is necessary and unavoidable, meet international standards

To ensure implementation of Goal 3, UNHCR will increase its systemic monitoring of detention and residence facilities. Following the improvements introduced by Amendment 5 to the Law and subsequent actions by the Government (such as the installation of heaters in rooms), UNHCR plans to release a second monitoring report on Holot by October 2015 to be shared first with the Government as part of the on-going dialogue. To address some of the identified needs (e.g. lack of identification of victims of torture), the Office will offer training for MOI and the Israeli Prisons Service (IPS) officials (particularly IPS social workers) in detention/Holot, including in identifying and interviewing victims of torture. Another area to be addressed in the NAP will be the lack of cooperation of many Holot residents in the offered educational and vocational training programmes. In 2016, UNHCR will advocate to ensure that mental health services are available in Holot.

Detention overview

While Israeli law does not prohibit the detention of children, in practice, the government has avoided detaining children of asylum-seekers since April 2013, following an Administrative Court decision that held that children in detention shall be released according to the humanitarian release ground in Amendment 3 to the Anti-Infiltration Law. By the end of 2013, all unaccompanied minors and all children with families were released, except for non-asylum-seeker migrant children who remained in detention with their mothers while awaiting deportation. The newly enacted Amendment 5 (December 2014) specifically exempts women and children from Holot and states that the fact of being an unaccompanied minor is a ground for release from detention.

Newly arriving individuals, defined as 'infiltrators' in Israeli law, including asylum-seekers, are detained for a three-month period (unless one of the release grounds applies, such as health grounds, special humanitarian reasons, or if the detainee is an unaccompanied minor, see above). These individuals (currently made up of Eritreans and Sudanese) are automatically transferred after three months to Holot for up to 20-month mandatory residence. Long-staying single Eritrean and Sudanese males from within Israel are also summoned to Holot for 20 months. According to a new policy of forced relocation of asylum-seekers to third countries, those who refuse to comply with removal orders are subject to detention of unspecified duration for failing to cooperate with their removal.

Issues of concern that need to be addressed include the lack of a legal requirement for an assessment of the individual circumstances that render detention of new "infiltrators" necessary, reasonable and proportionate in the individual case, in contradistinction to requirements of international refugee and human rights law; the absence of screening/assessment mechanisms for vulnerable individuals falling under the legal exemptions; and the failure to provide a right to legal counsel in Law to "infiltrators" in detention proceedings.

Good practices and alternatives to detention

Amendment 5 allows release from detention with conditions of bail, bank guarantee or 'any other guarantee' in limited situations (humanitarian grounds, unaccompanied children, damage to health etc.). Specific vulnerable groups are also exempted from mandatory residence in Holot (women, children, those over 60, men with children in their care, victims of trafficking/slavery, and those to whom harm to their physical or mental health might be caused by residence in Holot). Notable procedures adopted by Israel concerning specific ATD policies for certain vulnerable groups include:

- Under the Procedure for the Status of Victims of Trafficking, victims are screened by the police and referred to a shelter financed by the MOW for a one-year stay. Ideally, this procedure should be applied automatically by the State and not only triggered by individual applications.
- Unaccompanied Children (UASCs) are automatically screened and assessed by MOI for referral to the Ministries of Welfare and Education either for placement in educational frameworks or transfer to a community guardian. To further improve the arrangement, it is suggested that these community guardians, who are not legal guardians, receive a proper validation of their ability to care for the child and that referrals are done in coordination with organizations, Government agencies or UNHCR and that there is a proper follow-up on the situation of these children.
- Unaccompanied children aged 14-17 are integrated into residential schools called 'youth villages', supervised and financed by the Ministry of Education, together with Israeli youth. They enjoy freedom of movement and are provided with access to local school and all other comprehensive services in accordance with their developmental needs (health care, dental care, clothing, full board accommodation, sports and other social activities, pocket money, etc.). The youth living in the villages are provided a 'conditional release' visa like all asylum-seekers in Israel. From 2008 to 2014, more than 400 unaccompanied children from African countries were placed in this ATD.

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