



# National Programme to Meet the Problem of Infiltrators and Asylum Seekers Entering Israel across the Egyptian Border

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## Introduction

This document was written at the request of MK Yaakov Katz, Chair of the Special Committee on Foreign Workers, in preparation for the Committee debate with the participation of representatives of the European Friends of Israel. The document reviews the national programmes to meet the problem of illegal border crossings into Israel by infiltrators and asylum seekers from Africa.

## 1. Background

Since 2007 there has been a significant rise in the number of illegal border crossings into Israel across the Israel-Egypt border. This has resulted in the creation of a permanent group in Israel of infiltrators and asylum seekers who have received a temporary residency status since they are people who, in conformity with the UN Refugee Convention, may not be expelled. Some of those have been declared asylum seekers who, as a recognized group, have the right to temporary humanitarian protection.<sup>1</sup>

**Table 1: Numbers of infiltrators and asylum seekers in recent years.<sup>2</sup>**

Year of Entry	To end 2006	2007	2008	2009	2010	2011	Total
Number of infiltrators	1,070	5,005	8,698	4,827	13,686	153	33,439

\* From 1-11 January 2011. \*\*To 11 January 2011

**Table 2: Distribution of infiltrators by country<sup>3</sup>**

	Eritrea	Sudan	Other countries	Total
Number	18,262	7,992	5,586	31,840
Percentage	57.4%	25.1%	17.5%	100%

Up to 31 December 2010, of the 33,439 infiltrators who entered Israel, 26,164 received a 2(a)(5) permit.<sup>4</sup>

**Table 3: Distribution of permit holders 2(a)(5), December 2010<sup>5</sup>**

	Eritrea	Sudan	Other countries	Total
Number	16,142	7,029	2,993	26,164
Percentage	61.8%	26.7%	11.5%	100%

A serious side effect of the phenomenon of infiltration is the organized industry of people smuggling, where people who seek to infiltrate into Israel pay significant sums of money

<sup>1</sup> When there are serious crises in a particular country, inhabitants of that country who flee and are afraid to return may apply for protection in other countries, in the spirit of the UN Refugee Convention. The UN High Commission for Refugees in Geneva periodically appeals to the signatory countries to give protection to such refugees. Many countries respond to the request by providing temporary protection to such refugees for humanitarian reasons.

<sup>2</sup> Zeev Sluv, Head of Research and Statistical Data at the Population and Immigration Authority, email, 20 May 2010. Avital Sternberg, Ministry of Justice, email, 4 November 2010. Chief Inspector Anat Altman, Population Section, Israel Police Research Department, letter, 7 September 2010.

<sup>3</sup> Website of Population, Immigration and Border Authority, <http://www.piba.gov.il/PublicationAndTender/ForeignWorkersStat/Documents/2010Dec.pdf>, accessed 23 January 2011.

<sup>4</sup> 2(a)(5) permit: a permit awarded according to section 2(a)(5) of the Law on Entry to Israel, 1952 – "A temporary licence to reside [in Israel] as a visitor for a person who is in Israel without a residency permit and has been given an expulsion order – up until his departure from Israel or his expulsion".

<sup>5</sup> Zeev Sluv, Head of Research and Statistical Data at the Population and Immigration Authority, email, 23 January 2011

to smugglers. Infiltrators and asylum seekers from Africa pay ever increasing sums of money (about 2,000 to 2,500 US dollars per person) in exchange for being smuggled over the Israel-Egyptian border. In addition to this payment, some of the infiltrators and asylum seekers are held until they pay a ransom and are forced to pay significant additional sums in order to cross the border. Questioning of infiltrators has revealed a serious picture of abuse, exploitation, violence and rape during the time they are being smuggled and until they cross the border into Israel.<sup>6</sup>

For the most part, the first contacts by infiltrators in Israel is with army units. Every infiltrator caught by the army is supposed to be taken to the Saharonim facility. Infiltrators may be held by the army for up to ten days, according to the Law to Prevent Infiltration, 1954. At this stage a preliminary questioning of the infiltrators is carried out by the Refugee Status Determination Unit of the Population and Immigration Authority. Recently, due to the increase in the number of infiltrators, it has not been possible to transfer all the infiltrators from the responsibility of the army to the Saharonim facility due to its limited capacity. There is therefore concern that the army will release the infiltrators at the end of the ten-day period without transferring them to Saharonim for questioning and medical examination.

## **2. National Programmes for Dealing with Infiltration**

The Government is working to complete its preparations for the definition and implementation of a comprehensive policy on the issue of the infiltrators. The Director General of the Prime Minister's Office is coordinating Government action on this issue in preparation for the presentation of a proposal for Government approval. The program is to determine policy for dealing with the following issues:

1. Procedures for processing asylum seekers – changing the procedures in order to regulate and shorten the process of giving formal status.
2. Decision on issues related to how and where the infiltrators and asylum seekers will live while in Israel.

A smaller team headed by the Director General of the Prime Minister's Office set up by Government Resolution no. 2104 of 19 July 2010 on "Decisions on the Issue of Entry and Immigration into Israel" is examining proposals for dealing with and preventing this phenomenon.<sup>7</sup> On 12 December 2010, Mr. Hillel Frieman, Adviser to the Director General of the Prime Minister's Office, sent a letter to the Knesset State Control Committee detailing the steps taken by the Government to deal with infiltration across the Egyptian border. Below is a review of the existing situation and the steps proposed to deal with it.

### **2.1. The Saharonim Facility and the Establishment of a Holding Facility for Infiltrators**

At Saharonim, the infiltrators are held for a specific period of time, are registered and are given a hearing. The facility was opened in 2007 and was initially intended for 100 asylum seekers at most.<sup>8</sup> Today there are 2,000 places in the facility and it is full. The Israel Prison Service is responsible for the intake of infiltrators at the facility. The

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<sup>6</sup> For more information on the issue of sex crimes against female infiltrators and asylum seekers, see: The Knesset Research and Information Center, Victims of sexual exploitation and slavery among infiltrators and asylum seekers in Israel, Maria Rabinovitz, 8 June 2010. (In Hebrew) <http://www.knesset.gov.il/mmm/data/pdf/m02534.pdf>, visited 14 June 2010.

<sup>7</sup> <http://www.pmo.gov.il/PMO/Secretarial/Decisions/2010/07/des2104.htm>

<sup>8</sup> Prison Service website: <http://www.ips.gov.il/NR/exeres/B39647B9-41FF-464B-AD47-FED65CA926CD.frameless.htm?NRMODE=Published>, accessed 14 June 2010.

Infiltrators Unit of the Population Authority is responsible for registration of the infiltrators, issuing of official orders, instituting legal procedures against the infiltrators and representing the Ministry of Justice in court. The Government is currently implementing a plan to add an extra 1,000 places to the Saharonim facility and to establish an additional facility with 8-10,000 places for infiltrators and asylum seekers.<sup>9</sup> According to Government Resolution no. 2507 of 28 November 2010<sup>10</sup> the facility will begin operation no later than six months from the date of the Resolution, but there are already assessments that the setting up of the facility will take at least three months longer than the time allocated in the Government Resolution.<sup>11</sup> At the new facility, the infiltrators will receive nutritional, health, education and welfare services. The facility is to be under the responsibility of the Israel Prison Service.

According to Mr. Betsalel Traiber, Deputy Director General of the Defence Ministry, in the new facility there will be six small facilities, each of them for between one and two thousand people. Each facility will be divided into a residential section and a section with special buildings for education, health, teaching and instruction and cultural activities, as well as a section where meetings will be held between the residents of the facility and representatives of the Ministry of the Interior, international organizations, foreign embassy representatives, lawyers and other individuals. In addition, areas will be prepared for cultural and leisure activities and sport. The facility will not be built like a prison or detention centre but it will be surrounded by a fence. There will be separate accommodation for men, women and minors, and the establishment of a separate facility for families is being considered.<sup>12</sup>

The facility will be built in conformity with the planning and construction laws, and so far the plan has received the initial permits. On the assumption that everything goes according to plan, the infrastructure work will begin in March-April 2011, and the facility will begin operating in September-November. It is hoped that final agreement on the goals will be reached in the coming weeks.<sup>13</sup>

## 2.2 Amendment to the Law to Prevent Infiltration

The procedure for dealing with infiltrators is supposed to be regulated by provisions of the Law to Prevent Infiltration, 1954, but this law does not deal with the phenomenon of infiltrators who are asylum seekers with the right to temporary or permanent protection.<sup>14</sup>

Adv. Avital Sternberg from the Ministry of Justice notes that this Law is currently implemented in certain situations, such as bringing smugglers of infiltrators to justice or for the detention of infiltrators during the initial intake process in Israel.<sup>15</sup> Following reservations regarding the Government bill raised during discussions in the Knesset Internal Affairs and Environment Committee, the Ministries of Defence and the Interior

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<sup>9</sup> Yossi Edelstein, Head of Foreigners Department at the Population and Immigration Authority, at a meeting of the Committee on Foreign Workers, 17 January 2011.

<sup>10</sup> Prime Minister's Office website,

<http://www.pmo.gov.il/PMO/Secretarial/Decisions/2010/11/des2507.htm>, accessed 23 January 2011.

<sup>11</sup> See, for example, the words of Adv. Yochi Genissin, in the State's response to Supreme Court Appeal no. 6312/10

<sup>12</sup> Betsalel Traiber, Deputy Director General, Ministry of Defence, telephone conversation, 25 January 2011.

<sup>13</sup> Ibid.

<sup>14</sup> On the existing law see: Knesset Research and Information Centre, The Status of Asylum Seekers from Sudan, Dr. Gilad Natan, 20 December 2006. (in Hebrew)

<http://www.knesset.gov.il/committees/heb/material/data/pnim2007-01-30.doc> (in Hebrew).

<sup>15</sup> Adv. Avital Sternberg, Ministry of Justice, telephone conversation, 26 May 2010.

reexamined the Government bill. Recently a Government bill, approved by the Ministerial Committee on Legislation, was tabled and is to be debated in the Knesset prior to a First Reading.<sup>16</sup> The new bill also provides a response to the following issues:

1. Treatment of people who help the infiltrators and asylum seekers.
2. The commitment of the State to international treaties, and particularly to the UN Refugee Convention
3. The relationship between the Law on Entry to Israel and the Law on Infiltration.

The Government seeks to amend the Law in order to allow an extension of the period that infiltrators may be detained as a means of dealing with the problem of their entry into Israel. The assumption being that the smugglers of infiltrators direct them towards countries that have a short period of detention.<sup>17</sup>

### **2.3. Setting up a Barrier**

As an immediate solution to the infiltration, and in an attempt to stop the flow into Israel, the Government passed Resolution no. 1506 on 14 March 2010 on "Constructing a barrier on Israel's western border."<sup>18</sup> An inter-ministerial group, headed by the Director General of the Prime Minister's Office, was set up by the Government, which is monitoring the implementation of the Resolution.<sup>19</sup>

In mid November 2010, the construction of the barrier began. At a meeting of the Committee on Foreign Workers on 22 November 2010, the Director General of the Ministry of Defence, Udi Shani, announced that the fence is to be erected, at this stage, along 140 of the 250 km. length of the border; part of the route of the border will be closed with a physical barrier and part through electronic means.<sup>20</sup>

### **2.4 Prohibition against Employing Infiltrators**

The State is taking action to prohibit the employment of infiltrators, insisting that such employment is not legal. Nevertheless, in conformity with a Supreme Court ruling and in conformity with the prior Government response to the Court, until completion of the planning for dealing with the infiltrators as part of a comprehensive policy there will be no law enforcement in relation to employment of infiltrators.

### **2.5 Expulsion**

The State of Israel is examining the possibility of expelling infiltrators and asylum seekers to their country of origin or to other countries. The State does expel those infiltrators who may be expelled and encourages those entitled to protection as a group to leave of their own free will. It should be noted that in 2010, 300 people entitled to such protection were returned to South Sudan of their own free will.

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<sup>16</sup> Adv. Avital Sternberg, telephone conversation, 25 January 2011.

<sup>17</sup> Hillel Frieman, Adviser to the Director General of the Prime Minister's Office, letter, 12 December 2010.

<sup>18</sup> Prime Minister's Office website,

<http://www.pmo.gov.il/PMO/Secretarial/Decisions/2010/03/des1506.htm>, accessed 24 January 2011

<sup>19</sup> Hillel Frieman, Adviser to the Director General of the Prime Minister's Office, email, 21 November 2010.

<sup>20</sup> Knesset website, <http://www.knesset.gov.il/protocols/data/rf/zarim/2010-11-22.rtf>, accessed 24 January 2011.