Hotline for Refugees and Migrants

DETENTION OF MIGRANTS AND ASYLUM SEEKERS IN ISRAEL



2022

Annual Monitoring Report

Detention of Migrants and Asylum Seekers in Israel

2022 Annual Monitoring Report

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About HRM

The Hotline for Refugees and Migrants is a non-partisan, non-profit organization that aims to protect and advance the human rights of refugees and migrant workers and prevent human trafficking in Israel. The NGO provides information, counseling, and legal representation, monitors migrant detention centers, and runs public engagement campaigns.

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Table of Contents

Intro Pg. 3

2022 in Numbers Pg. 7

A. Asylum Applications Pg. 7

B. Permitted Residents Pg. 8

C. Residents Without a Permit Pg. 9

D. Deportees Pg. 11

E. Individuals Denied Entry Pg. 12

The Russia-Ukraine war and its consequences to migration to Israel Pg. 13

A. Ukrainian citizens at Ben Gurion Airport border control Pg. 15

B. Ukrainian citizens in detention Pg. 18

Detention Review Tribunal Pg. 25

A. Suspicion of human trafficking or modern slavery Pg. 25

B. Mishaps in the arrest Pg. 30

C. Migrants deported despite having first-degree Israeli Relatives Pg. 42

D. Flaws in the tribunal hearings and decisions Pg. 50

E. Mentally ill detainees Pg. 53

F. Migrants in detention due to technical issues Pg. 67

G. Individuals detained for extended periods of time Pg. 77

Yahalom Detention Facility at Ben Gurion Airport Pg. 85

Conclusion and Recommendations Pg. 87

Introduction

At the beginning of 2022, international migration statistics pointed to a potential return to pre-COVID-19 migration patterns following two years of deviation and a significant decline.[1] This tendency abruptly changed on February 24, 2022, with the start of the Russia-Ukraine war, which resulted in a massive internal displacement of Ukrainian civilians as well as their flee to other countries. The Russian army's indiscriminate attacks on civilians, including women, children, and the elderly, led to a massive exodus from Ukraine on a scale not seen in Europe since World War II. Within a month, four million Ukrainians became refugees out of their country, a figure that would double by the end of 2022.[2]

This mass cross-border flee affected countries worldwide, including those far from the conflict zone, such as Israel. However, unlike most countries, which quickly implemented a comprehensive policy and provided strategic assistance to newcomers, Israel adopted a series of ad-hoc, restrictive decisions[3] based on "trial and error" (Paz, 2011),[4] reflecting its approach to African asylum seekers. Even though the Population and Immigration Authority (Henceforth Immigration Authority or PIA) announced in the early days of the war that it would not deport Ukrainian citizens from Israel,[5] none of the so desperately needed support by those who experienced war atrocities and were uprooted from their daily lives were added to the temporary protection.

1 See details about Israel at the Hotline reports. page
2 [1] See https://data2.unhcr.org/en/situations/ukraine

3 Ukraine updates, Immigration Authority Website
4 Paz, Y. (2011). Ordered disorder: African asylum seekers in Israel and discursive challenges to an emerging refugee regime. (Research Paper No. 205). Geneva: UNHCR, Policy Development and Evaluation Service
5 This message was published due to an appeal by human rights NGOs, HRM amongst them. See more in the achievements section of this chapter.

In other words, similar to its African asylum seekers policy, Israel did not uphold its commitments under the UN Refugee Convention, which include, besides temporary protection, access to education (Clause 22), healthcare (Clause 23), and employment (Clause 17).[6] Even though some of these rights were eventually granted, albeit in a limited manner and at a later stage, the refugees' precarious legal status and vulnerable situation limited their ability to utilize the few rights they did have. Furthermore, applying a policy of pre-conditions for entry into Israel, which was unusually applied at their departure ports, acted as a de facto deportation. It contributed to partial or inaccurate statistics of those denied entry.

The Israeli policy toward Ukrainian refugees and its implications for those detained or refused entry is the main focus of this report. As the eighth annual report on migrant detention published by the Hotline for Refugees and Migrants (HRM), it aims to highlight the state's role during an international refugee crisis. In doing so the report seeks to underscore Israel's diverse responsibilities toward asylum seekers, in line with its commitments to their protection.

Moreover, as in previous years, we investigated the detention conditions of undocumented migrants and the state's implementation of detention, arrest, and deportation laws and policies. We did this to ensure that the detainees' rights are protected and their dignity is not jeopardized, even in vulnerable situations. By analyzing a variety of secondary sources- Protocols of tribunal hearings (2059), responses to Freedom of Information requests (3), public announcements by government offices, and petitions made by HRM during the year to the head of the Entry to Israel Law Tribunals - we found that two major forces, sometimes

[6] The Convention and Protocol Regarding the Status of Refugees, UNHCR

opposing each other, influenced the character and number of those refused entry, detained and deported this year. These forces were (1) the end of the COVID-19 crisis and the gradual return to normalcy, and (2) the Russia-Ukraine war and the group protection from deportation granted to Ukrainian citizens. Since Ukrainians have been the most significant group amongst detainees and deportees in previous years, the protection they have been granted since February 24, 2022, allowing them to stay in Israel without a valid visa, reduces the number of migrants who are detainable and deportable and changes the nature of these groups.[7]

This year, as in previous years, we proactively worked to protect the rights of detainees and those denied entry. These are some of our major activities and accomplishments in 2022:

- In response to our petition opposing the removal of group protection for Congolese citizens, the state committed to the district court that the group protection will not be removed from children under 18 years old or their family members with Congolese citizenship.
- After many years of public action and judicial work, the state announced to the Supreme Court that the Ministry of Justice's Legal Aid office will provide lawyers to represent "those held in detention under the Entry to Israel law in complicated circumstances in which they cannot represent themselves"[8].
- In response to our appeal to the then Minister of Interior Defense, Omer Bar-Lev, the Israeli Prison Service issued an order clarifying that those detained and brought to court for detention review will not be handcuffed.

7 Information on foreign workers, 2022 yearly summary, PIBA
8 Taken from the attorney general's response in Israel Supreme Court ruling 5012/22 on November 16, 2022

- HRM activity in the Knesset committees and the media, in collaboration with the Refugee Rights Forum, positively affected the policy adopted by the Ministry of the Interior towards Ukrainian asylum seekers, who sought protection from Israel with the outbreak of war in their country.

This report is organized as follows: We begin by presenting the statistical data for 2022, highlighting trends and changes compared to previous years. We then describe how the Russia-Ukraine war and the group protection Israel granted Ukrainian citizens affected the migrants who were in detention and how it affected the activity of border control at Ben Gurion International Airport. The fourth chapter discuss ongoing monitoring of the Detention Review Tribunal's conduct. As in previous reports, we will highlight the most vulnerable populations: victims of human trafficking, slavery, and the mentally ill. The fifth chapter is dedicated to the few data we have on Yahalom Detention Center, which continues to act as an ex-territorial body. We conclude with conclusions and recommendations.

2022 in Numbers

A. Asylum Applications

In 2022, 3,932 new asylum applications were filed, with an additional 3,000 applications awaiting to be received at the end of the year.[9]

This backlog of thousands of applications awaiting acceptance resulted from the Population and Immigration Authority's shift to an online asylum request system during COVID-19, which remained in place after the pandemic restrictions were lifted. Consequently, asylum seekers experienced, months of waiting before receiving a border control registration (Henceforth BCR) appointment at the Immigration Authority. During this period, without a valid visa, they were prohibited from working and were exposed to the potential of detention and deportation - as detailed further below.[10]

In response to our Freedom of Information (FOI) request, it was found that in 2022, 16 men, and 3 women detained at Givon Prison filled asylum applications. Despite the Immigration Authority stating, that multilingual instructions explaining how to fill out an asylum application are displayed[11],our check-in in May 2023 with Arab-speaking detainees showed–the Arabic instructions, were either unclear or incomprehensible. Furthermore, the detainees testified that they repeatedly asked the wardens to file asylum applications but were ignored until HRM representatives visited the facility and made sure they were given the proper forms.

9 Foreign workers data, 2022 Yearly Summary, pg.13
10 See pg. 11-12
11 From a Freedom of Information request regarding access to asylum processes in Givon and Yahalom facilities, May 2022

B. Permitted Residents

As of the end of 2022, the Immigration Authority, reported that 24,595 "infiltrators" resided in Israel. This figure excludes the 2,800 Sudanese given a temporary residency visa (A5) for humanitarian reasons following the supreme court "Tagal Ruling".[12]

In addition, at the end of 2022, 110,0890 permitted migrant workers lived in Israel with 54% employed in caregiving,[13] and the rest in agriculture (20%), construction (20%) and various trades (6%).[14] Only half of the migrant workers residing in Israel in 2022 were recruited through agreements (bilateral or contracting companies).[15]

In responding to an HRM FOI request, the Immigration Authority stated that during 2022, no detainees were held in Givon under the “procedure handling infiltrators involved in criminal activity".[16]

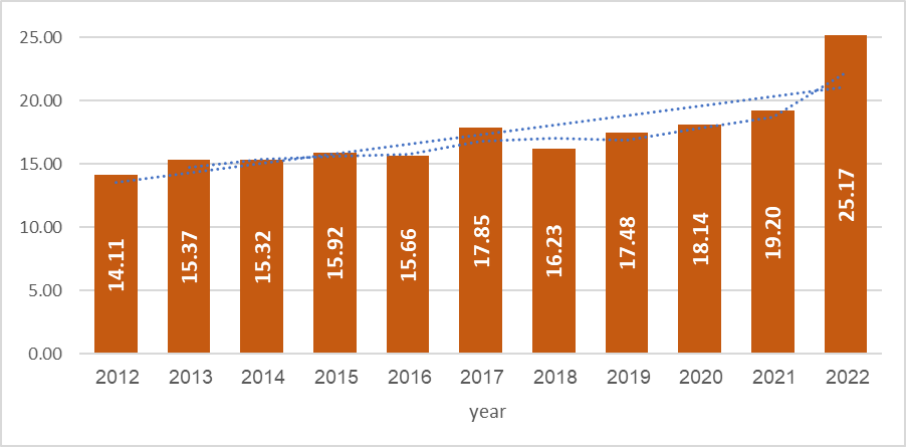
12 Supreme Court Case Tegal 4639/17- and 23 others. vs. the Minister of the Interior, from 25.4.2021
13 In January 2022 the employment of migrant workers in nursing homes began, according to a government decision from July 2020
14 During 2022, government decisions from previous years were put into action, and the employment of migrants in industry and hospitality was expanded.
15 Statistics on foreign workers, 2022 Summary
16 In answering our FOI request regarding the detaining of migrants and infiltrators in Givon detention facility, May 2023

C. Residents Without a Permit

end-of 2022 figures show 50,000 migrants in Israel without a valid visa, half being overstaying tourists and the rest were migrant workers who violated their working visas.[17] Ukrainian citizens (5,600), who were granted group protection from deportation, were the largest group who stayed in Israel without valid visas, followed by Russian citizens (4,200).[18]

Graph 1 presents the increasing trend over the years of migrant workers without a valid visa. In 2022, there was a rise of 31% from the previous year[19] potentially influenced by the extreme difficulties in finding an appointment with the Immigration Authority. Nevertheless, many of them continued to work in their legal workplaces, without renewing their visa.

Graph 1: Migrant workers without a permit, trends highlighted (in thousands)



Although this year witnessed an increase in the number of migrant workers entering Israel legally, according to data from the Immigration Authority, the proportion of migrant workers staying in Israel without a permit remains low, with only a moderate change compared to previous

17 Foreign workers, 2022 summary, Tourists without a valid visa, pg.27. Illegal migrant workers, pg.26
18 Foreign workers data, 2022 Summary, pg. 26
19 The major rise was registered in the agriculture field, partially due to a change in the definitions which were implemented in 2022

years.[20] In other words, the data clearly indicates that the population of migrant workers who reside in Israel "under the radar", and work illegally, is negligible. Predominantly, the migrant community mostly consists of long-term individuals many of whom have been in Israel for over 9 years, establishing roots in the country.[21]

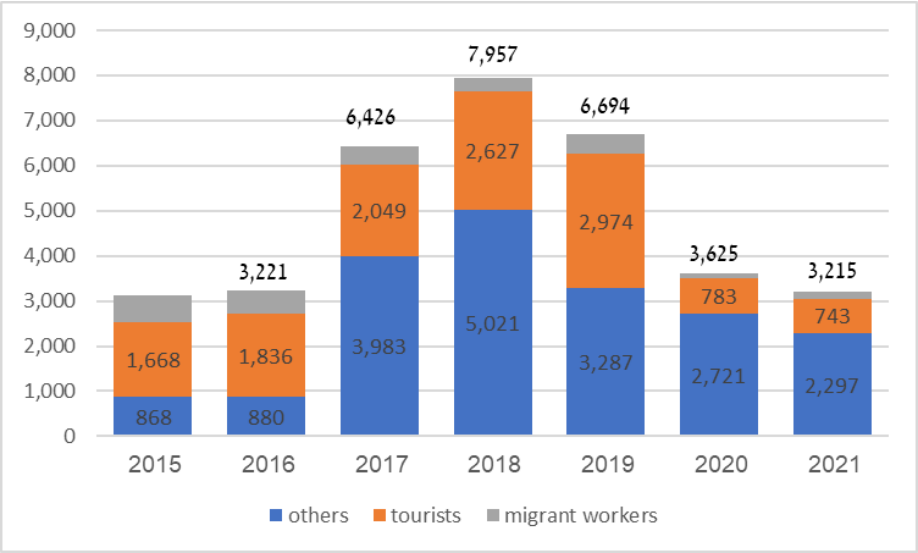
20 Foreign workers Data, 2022 Summary Report, pg. 17
21 Foreign workers, Summary Report fo 2022, pg. 18

D. Deportees

In 2022, 2,657 individuals were deported from Israel.[22] Graph 2 shows, that 7% of the deportees were permitted migrant workers, 28% were migrants who entered Israel as tourists, and the majority (65%) were those defined by the Immigration Authority as "Other Foreigners", including bail-released migrants and asylum seekers with denied applications. As in previous years, in 2022 the largest group of deportees from Israel were Ukrainians, despite the non-removal policy adopted towards Ukraine in late February, due to the war. Alongside Ukrainians, citizens from Russia, Georgia, Moldova, and Thailand made up the majority of deportations.[23]

The decline in the number of deportees that started with the outbreak of the COVID-19 pandemic continued in 2022. This trend is mainly due to the temporary protection granted to Ukrainian citizens, and is expected to be provisional.

Graph 2: Deportations by Year and Population Type

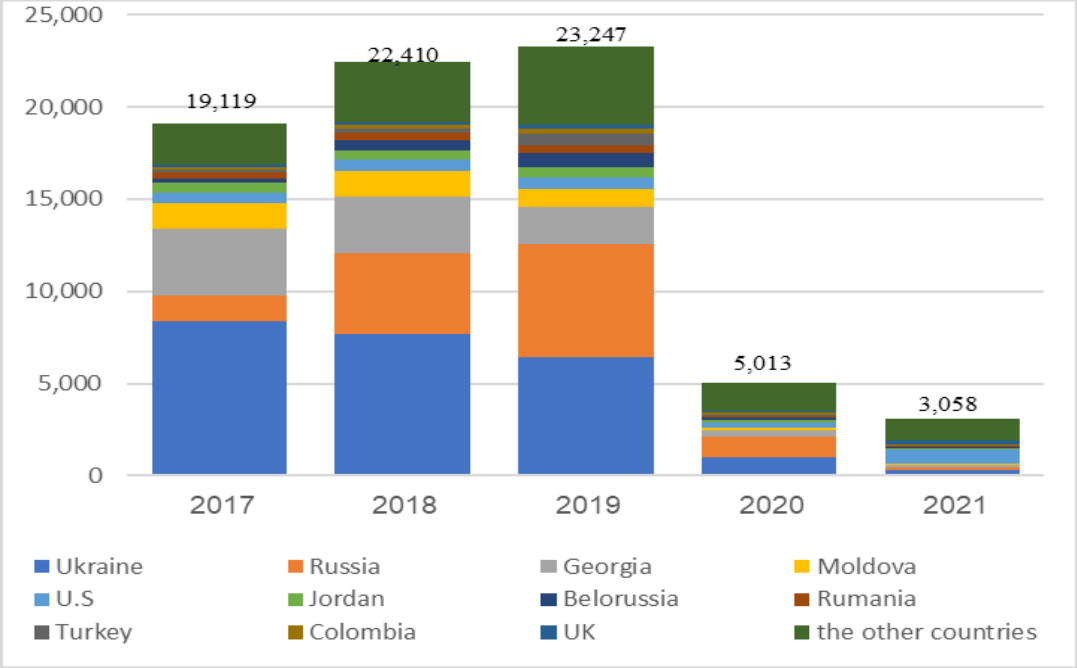


22 Ibid,pg. 7
23 IBID, pg. 27-28

E. Individuals Denied Entry

Alongside "returning to normalcy" and the rise in the number of tourists who visited Israel compared to the height of the COVID-19 pandemic (2020-2021),[24] we also witnessed a significant increase in entry denials to Israel. As presented in graph 3, which portrays the number of individuals denied entry to Israel, during 2022 19,056 migrants from various countries denied entry, with Russian, Ukrainian, and Georgians nationals continuing to 'top the tables' and comprised almost half of these cases. Notably, 2,788 Ukrainian citizens were denied entry despite fleeing a bloody war, underscoring Israel's obligation to treat them as asylum seekers.[25]

Graph 3: Entry Denials to Israel, by Year and Country of Origin



24 In the year 2022 2.7 million tourists came into Israel as opposed to .4 million in 2921, and .8 million in 2020 (Central Bureau of Statistics, Entrance of tourists to Israel)

25 These statistics do not include Ukrainian refugees whom the Immigration Authority prohibited their boarding in their ports of origin in European countries and also don't include those whose visa request to Israel was denied, as is stated in the chapter discussing the Russia-Ukraine war and its consequences to migration to Israel.

The Authority explained that 91% of denials in 2022 were attributed to concerns over "illegal immigration", with over 95% of Ukrainian citizens were based on this pretext.[26]

The Russia-Ukraine war and its impact on Immigration to Israel.[27]

As stated, the most significant event affecting migration to Israel in 2022 was the Russian invasion of Ukraine. According to Knesset Research and Information Center data, **from the outbreak of the war on the 24th of February to the end of 2022, approximately 138,000 immigrants ineligible for the Right of Return from the conflict-affected states entered Israel, less of a 1/3 were Ukrainian entitled to protection.**[28] **The migration exhibited a gender biased, predominantly involving women.**[29] In 2022 the highest number of asylum applications were of Russians citizens (1,012 applications), followed by Belarus (319 applications).[30]

Four days after war began, HRM, HIAS Israel and the Human Rights Clinic at Tel Aviv University appealed to the then Interior Minister Ayelet Shaked, the then CEO of the Immigration Authority Tomer Moskowitz, and Israel Attorney General Gali Baharav-Miara and requested a non-removal policy to Ukrainian citizens.[31] That same day, the Immigration Authority announced Ukrainian citizens in Israel that due to safety concerns no

26 Foreign workers data, 2022 summary report, pg. 31-33
27 This chapter refers only to migrants who aren't eligible for the Right of Return
28 From Russia arrived 90,221 immigrants, from Ukraine 41,425, and from Belarus 6,585.
29 About 70% of Ukrainian citizens who arrive in Israel from Ukraine since the outbreak of the war were women, and about 60% of citizens from Belarus and Russia. Ayala Eliiyahu, Data regarding those entering Israel (Olim and citizens who are not Olim) during the war between Russia and Ukraine, Knesset Information Centre, January 2023, pg.2
30 Foreign workers Statistics, 2022 yearly summary, pg. 12
31The HRM Petition (Heb): https://hotline.org.il/legal-action/ukraine/

enforcement or deportation actions would be taken against Ukrainian citizens staying illegally, pending stabilization in Ukraine.[32]

The visas of Ukrainian citizens who entered Israel on the 24th of February 2022 are not extended on an individual basis; rather their status depends on an all-encompassing announcement published monthly by the Immigration Authority. In the first 3 months of their stay in Israel, Ukrainian citizens are not permitted to work, potentially leading to reliance on social services and socioeconomic challenges. After this period, they can work, de facto, without permits under a nonenforcement policy, similar to that for Eritrean and Sudanese asylum seekers. According to Yasmin Ben Amram, the head of the Tzav Ha-Sha'ah humanitarian aid administration, **most Ukrainians who escaped to Israel are women, often young, with or without children, vulnerable to exploitation and human trafficking risks.**[33]

During 2022, from the outbreak of the war until the end of the year, about 5% of Russian, Ukrainian, and Belarussian citizens who tried to enter Israel were denied by border control officers. with the highest denial rate among Belarusians (13%). The Immigration Authority explained the denials of entry by citing the fear of permanent settling in Israel and of overstaying illegally in Israel in the past.[34] These figures exclude thousands of Ukrainian refugees who were denied travel to Israel before flight boarding, for which no statistical data it is available. Following a legal action by HIAS Israel, it was ruled that Ukrainian citizens denied entry

32 The announcement by the PIA, published in Hebrew on the 27th of February, 2022 https://www.gov.il/he/departments/news/ukr_2702

33 Ibid 14-15
Ibid, pg.1134

cannot be deported for 48 hours, to allow them time for legal representation and proceedings.[35]

As of January 4th, 2023, about 32,000 citizens from the conflict states who entered Israel after the outbreak of war remained. over half were Russian (16,327), less than half Ukrainian (14,628) and a minority Belarussian (1,185).[36] Most left Israel voluntarily challenged by a lack of proper support networks, limited financial resources, and a short-term stay visa. Employment limitations significantly influenced these departures.

A. Ukrainian citizens at Ben Gurion Airport Border Control

In the first few days following the outbreak of Russia-Ukraine war, news emerged of numerous Ukrainian citizens, many ineligible for the right of return, seeking to arrive in Israel.[37] In March 2022, an HRM Russian-speaking volunteer accompanied MK Ibtisam Maraáne on her visits to the Yahalom Detention Facility and the Dan Hotel in Tel Aviv, where additional refugee families were sent when no space was available for them at the small and crowded Yahalom Facility. These visits, documented on social media, highlighted significant concerns described below.

Observations made and information gathered on these visits, as well as phone calls to The Hotline following the visits, reveal that the Immigration Authority is still neglecting one of its key responsibility: processing asylum requests and protecting those fleeing danger. The Immigration Authority's representatives denied the entry of refugees from Ukraine simply because

35 Case(Tel Aviv) 36957-03-22, Anastasia v. PIA
36 Ibid
37, Tens of thousands of Ukrainian Refugees escaped here from the start of the war. Israel shooed most of them away, by Bar Peleg, Haaretz, 26 Feb. 2023

they dared to escape the fighting in Donetsk in 2014 and later left Israel or were deported after their asylum application was denied. Furthermore, we found that the Immigration Authority is continuing to evade its responsibility to notify those arriving of their right to apply for asylum and to appeal if their application is denied.

One of the refugees, who was imprisoned for multiple days in the Yahalom Facility before she was deported and returned to Europe, testified to severe violence she had witnessed on the 17th of March, 2022, during the morning hours. According to her testimony, following the complaints of one of the Ukrainian refugees about the crowdedness of the place, an Immigration inspector pulled the hair of the refugee complaining and rammed her head into the wall. She reported that several women were witnesses to the event, but she did not know the woman who was injured, and HRM could not locate additional witnesses to the event. Therefore, no official complaint was lodged.

The day after the event, on March 18th, 2022, MK Vladimir Beliak visited the detention facility, and the following day wrote the head of the Immigration Authority a letter entitled “sub-human conditions in which women and children are kept". In the letter. Beliak wrote: “I was petrified by the sub-human conditions in which woman and their small children are held as if they were the worst of criminals. We are talking about crowded prison cells, dirty and outdated. The children were not eating the food provided, and only after I got involved, they served them warm beverages. In addition, the women complained to me about the curses hurled at them". That same evening, the 19th of March 2022, MK Ibtisam Mara'ana arrived at Yahalom Detention Facility, but the head of the authority denied her entry, under the claim that the protocol allows entry only when the head of the facility or the head of a specific branch is present, and neither

were there at the time. This occurred even though as an MK she has the right to enter the facility, and that same afternoon she contacted PIA and notified them of her to visit the facility.[38]

Dr Ayelet Oz, then CEO of HRM, published an op-ed titled "Disturbing Ex-territory At Ben Gurion Airport". The article harshly criticized the Immigration Authority's mistreatment of refugees from Ukraine who were imprisoned in extremely severe conditions at Yahalom Detention Facility, the only facility managed by the Immigration Authority.[39]

The Immigration Authority's stance on Ukrainian refugees' entry was not isolated. In the following months, the Detention Review Tribunal approved the deportation of a sizeable number of Ukrainian citizens back to the European countries they arrived from. However, some successfully appealed to the district court, gaining entry to Israel.[40]

The honorable Judge Michal Agmon Gonen mentioned in one of these rulings: "It seems from the affidavit by the Immigration Authority officer that the Authority violated the court decision in at least 24 cases in which it deported Ukrainian citizens from Israel who were denied entry, without having the denial decision include a judicial overview. The Authority violated court decisions openly and succeeded in preventing Ukrainian

38 Exchange of communications with then MK Ibtisam Mara'ana, 19th of March 2023
39 A Disturbing Ex-territory at Ben Gurion, by Ayelet Oz, Published in Ynet, 27 March 2023.
40 See AA(Administrative Appeal)(Tel Aviv) 29930-03-22 Revenko vs. Ministry of the Interior, Immigration and Population Authority, 14 March 2022
AA (TA) 30843-03-22 Dvoriahyn vs. Immigration and Population Authority, Ministry of the Interior, 15 March 2022.
AA(TA) 36957-03-22 Nasschuk - vs. The Immigration and Population Authority, Ministry of the Interior, 21 March 2022.
AA(TA) 42645-03-22- Futurikova vs. Immigration and Population Authority, Ministry of the Interior. 21 March 2022
AA(TA) 36957-03-22 Anastasia vs. Immigration and Population Authority, 28 March 2022

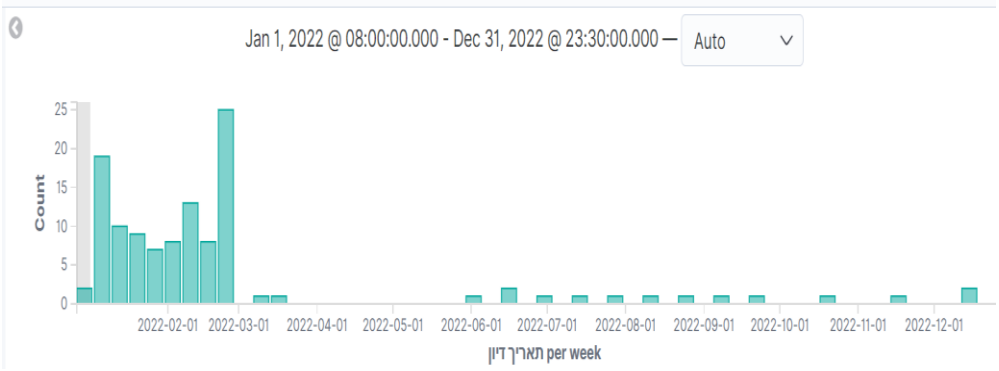
citizens, who came to Israel while war was raging in their homeland, the chance to invoke their legal right to appeal in court".[41]

B. Ukrainian Citizens in Detention

The war, and subsequent non-removal policy, resulted in Ukrainian detentions. **In 2022, only 75 Ukrainians were held in administrative detention, with** 105 related legal hearings. Most occurring pre-war, as illustrated in Graph 4. Notably, on February 24, 2022, the day the war broke out and Ukrainian airspace was shut down, a large number of Ukrainian detainees were brought before a tribunal adjudicator. In an answer to a FOI request, the Immigration Authority stated that between February 24th and May 2023, 8 Ukrainian citizens were arrested and detained at Givon Prison including two women.[42]

41 AA 389-04-22 BK and others vs. Immigration Authority, 6 April 2022
42 From the response to an FOI request regarding the detention of immigration and infiltrators at Givon, May 2023

Graph 4: Detention Review Tribunal Hearings for Ukrainian Citizens in 2022



Date of hearing -weekly

As stated, the Russian invasion of Ukraine began officially on the 24th of February 2022, but warmongering started even before, and rumors of war about to start spread worldwide, also amongst Russians and Ukrainians in Israel.

A.D., a Ukrainian citizen, was detained by Immigration Authority inspectors on the 30th of January 2022 for unlawful residence in Israel. In his first court hearing held at the Detention Review Tribunal, he told Tribunal Adjudicator Raja Marzouk:

“I am from Ukraine. I don't have a lawyer. I took a Covid test, and they told me I had Covid 3 days ago. I came to Israel on 21.12.2016 on a tourist Visa. I applied for political asylum. They detained me at immigration on Sunday. They questioned me. There was a Russian translator. It's true, they denied my request on 20.12.2020. I remained without a visa. I know that is prohibited. **I didn't want to return. They said they would take me to the army where there was war with Russia.** I knew that I couldn't stay. I agree to return to the Ukraine. I told immigration. Health is okay.

My things are here in jail. I want to take numbers out of my phone to call my family. I have nothing more to say".[43]

This is hearing is the sole one of A.D., suggesting he probably was deported to Ukraine before the war broke out.

Similarly, **S.M.,** another Ukrainian citizen, whose tribunal hearing occurred that morning, expressed her fear about the war:

I don't know why they arrested me. On Monday they questioned me at Immigration. I entered on 18.11.2016. I applied for political asylum. My request was denied. I know that I can't stay without a Visa, but my husband continued working on our documents from Ukraine. He has Jewish roots. We didn't hand in the application, my husband waited for the Ukraine documents. He was killed on 09.01.2022. The police closed the home. I don't know what he did. I want to stay in Israel. I have things and documents in Israel. I don't have any answers regarding why he died. **There's a war in the Ukraine..."**[44]

This was the only hearing conducted in S.M's case, so one can assume she was deported back to Ukraine two weeks before the outbreak of the war.

Another Ukrainian immigrant who feared the outbreak of war was **N.L.**, arrested by PIA Inspectors on the 14th of February 2022. In a hearing regarding her case, she stated: "... I was arrested by immigration, 3 days ago they questioned me. There was a translation to Russian. I applied for political asylum. I wanted to apply. I waited for a message; I didn't receive one. On 02.09.2020 my lawyer told me everything was all right, he brought documents for the state approval. **I agree to return to Ukraine, I am**

43 From the February 3rd, 2022, protocol in the case of detainee 9172890
44 From the February 3rd, 2022 protocol in the case of detainee 9171642

scared war will start. I gave up my passport to the Immigration. Health is okay, no problems. My things aren't here, I didn't manage to take them, and no one can bring them to me. I have nothing else to say.[45]

Like the others, no additional hearings were held, and she likely was deported back to Ukraine a week before the Russian Invasion.

NK, A Russian citizen who was arrested by immigration on Feb. 1st, 2022, also expressed her fears about returning to her homeland before the tribunal:

“I have no lawyer. I am from Russia. **There's a war between Russia and Ukraine. I don't want to return.** I signed the documents to immigration; they didn't bring me a passport. **I am scared to return to Russia. I spoke with a friend who says we have casualties.** I asked immigration to keep me in Israel. I spoke with the embassy. They said they would bring me a passport quickly. I am still waiting. If I had a passport, I would apply for asylum here in Israel. I want to be released. I have nothing else to say".[46]

In the next hearing regarding her case, N.K. repeated her fears:

“**According to her, what is happening in Russia is scary and I wish I could stay in Israel.** Furthermore, she has an Israeli partner in Israel, and she wants to determine her status based on that. She wants to call her partner to check that with him. In any case, she is currently cooperating with her return to Russia and will get on the flight once it is arranged."[47]

This was the last hearing in her case, so we can assume that afterward she was deported to Russia. On the 13th of June, 2022, there was a hearing in the Detention Review Tribunal in the case of **A.L.,** a Ukrainian

45 From Protocol on 17th of February 2022 regarding detainee number 9173868
46 From the protocol on March 3rd regarding detainee number 9173006
47 From the protocol on March 31st 2022, regarding detainee 9173006

national. AL was sent to administrative immigration detention after he finished serving his criminal prison sentence for drug offenses. He told the tribunal adjudicator, Yoav Bar-Lev, the following:

“I feel good. Everything is alright I entered Israel in 2015. I submitted my asylum application in 2016 and I had a visa until 2020, until COVID-19. I know that they denied my asylum application already in 2020 **But I couldn't return due to COVID-19 and the war.** The police arrested me because I used drugs, and they said I also sold drugs. Now I am clean for 6 months, and I was rehabilitated in Haifa. I was imprisoned for 4 months almost. **I want to re-apply for asylum. I can't return to the Ukraine.”**

Tribunal Adjudicator Bar-Lev decided to lengthen his detention and wrote: “A judicial review hearing will be held on 11.7.22 at 9 AM, as long as he stays in detention. **Until the time of the hearing, the border control officer must notify us if it is possible to deport the detainee to his country of origin given the respondent's policy toward Ukrainian citizens at the moment.** In addition, he will update whether a new asylum application was submitted by the detainee and when a decision will be made regarding it.”[48]

Even at the end of the next hearing regarding A.L.'s case. Tribunal Adjudicator Bar-Lev decided to extend his detention order:

"..After I heard from the detainee and reviewed his case I did not find cause to intervene in the detention order due to its illegality or overstepping of authority. **First of all, although he is a Ukrainian national, and at the moment the Population and Immigration Authority isn't deporting Ukrainian nationals to their homeland, we will wait for the respondent's answer on 31.07.22 and the policy will**

48 From the protocol conducted on the 13th of June 2022, in the case of detainee 9153086

be re-assessed. A new decision will be made based on the updated conditions.

Therefore, at this point, and not taking his detention lightly, 60 days have not yet passed since the detainee has been transferred to detention. meaning he does not yet have cause to be released. In addition, I did not find it right to call for the release of the detainee given the circumstances by which he was convicted, according to his admission, of the crime of dealing dangerous drugs and even was imprisoned for this."[49]

In the third hearing of his case, there was an exchange between A.L. and the border control officer, Elimelech Vexler:

Detainee: "I feel good more or less, I don't have a lawyer, I was in treatment here at the clinic but it is all due to the nervousness because I am here. **Immigration didn't speak to me and didn't tell me what was going on. I still haven't been able to speak with my family in Ukraine and they aren't answering. I tried to contact them through friends and neighbors but no one answered, I guess because of the war there."**

Border Control Officer: "We cannot take the responsibility of a detention alternative in the case of the detainee. At the moment the policy of the respondent not to enforce the law regarding Ukrainian citizens was extended until 31.08.22. Due to his dangerousness, we would like to keep him detained. I wish to note that if the tribunal will consider releasing him from detention, it will be done under very high bail. Last week Ukrainian citizens who were denied entry to Israel and were not considered dangerous were released at a sum of 30,000 NIS per person."

49 From the protocol conducted on July 11th, 2022, in the case of detainee 9153086

Detainee: I am not dangerous. I made no trouble here. If I get out, I will not take any more drugs, I am not going to these places anymore. I am an honest person. The Rabbis of Bnei Brak know me. There will be someone who will come and pay for me. There was someone here in Section 1 and he was considered dangerous, and he was released at a bail of 7,500 NIS. My whole family is here. I am 8 months here and I give you my word, I promise in a million percent that I am not going back, I will live in Tel Aviv with a friend of mine."

At the end of the hearing, Tribunal Adjudicator Bar-Lev decided to release AL, following a deposit of 20,000NIS bail, as well as his committing to 10,000 NIS self-bail.[50]

It seems A.L. was not able to acquire the necessary sum, and within a month another hearing took place, at the end of which Tribunal Adjudicator Bar-Lev reduced the fee and split it into multiple payments. This was the last hearing in his case, so it is fair to assume that **after 3 months in detention – while his fellow countrymen were protected against deportation due to the bloody war between Russia and Ukraine – he was able to deposit the bail and get released.**[51]

50 From the protocol conducted on the 8th of August in the case of detainee 9153086
51 From the protocol on the 5th of September 2022 regarding detainee # 9153086

Detention Review Tribunal

In 2022 the Detention Review Tribunal held 2,059 hearings for 834 detainees. The most represented nationality among detainees was **Thailand** (164 individuals), followed by **Georgia** (89 detainees). Ukrainians detainees, previously the largest group, ranked third in 2022 with most hearings occurring before the war (see graph 4).[52]

In 2022 the tribunal expanded its number of adjudicators, totaling nine: Raja Marzouk, authored 601 protocols and decisions; followed by Yoav Bar-Lev, with 410; Rachel Sharem-Paldor, with 279 Asaf Noam, with 264, ; Meirav Fleischer-Levi, with 175; Yossi Barda, with 143; Ruhama Sinai, with 94; Itiel Givon with 90 and Michael Zilberschmid, with 3.

A. Suspicion of Human Trafficking or Modern Slavery

On January 6th, 2022, **M.G.** was arrested. She was a Ukrainian citizen who had resided in Israel since January 2001. M.G. entered Israel on a tourist Visa, and in 2015 she was recognized as a victim of human trafficking because she arrived in Israel through a middleman, who later blackmailed and beat her and subsequently received a B1 work visa and was transferred to a rehabilitation shelter. Despite this, she lost her visa upon leaving the shelter and her application for humanitarian status was denied In 2016, leading to her unlawful stay. She was arrested in an enforcement activity by PIA inspectors, and a day later she was brought to a hearing before the Detention Review Tribunal. In the hearing, M.G. said she will refuse to return to the Ukraine for two reasons:

52 Data was processed from the protocols of the Tribunal in 2022. We will mention that not all the protocols of the tribunal hearings are uploaded to the "Tribunal's decisions database"

- The only relative she has left in her home country is her son, who was released from prison, and she is scared of him.
- She is scared that war is about to break out in the country (which happened one month later).

Tribunal Adjudicator Assaf Noam decided to extend her detention and decided the protocol would be transferred to the unit combating human trafficking. On the 7th of February 2022, she had another hearing, at the end of which the tribunal adjudicator once again maintained the detention order, and stated the protocol would be transferred to the unit combating human trafficking.[53] M.G. had no additional hearings, and after a month in Givon prison she was transferred to a shelter for human trafficking victims.[54]

During the year migrants from Turkey were also arrested and faced the tribunal. They came to Israel as workers employed by the Turkish building company Yilmazlar and testified that they then left their jobs. Despite testimonies, declarations, and verdicts that prove untenable working conditions in the company, the tribunal adjudicators didn't stop to understand why the detainees quit their jobs.[55] This was the case with **OA**, who first arrived in Israel in 2014, left it, and returned in 2017. In July 2022 O.A. was arrested by PIA inspectors for working without a permit in Israel. In his June 21st hearing, he testified:

"When I came into the country I came to work. I had permits but I had gotten into an accident and the company I worked at didn't help me and they canceled my permits. **I got away from there and started working**

53 Taken from protocols written January 7th and 9th 2022, in the case of detainee 9171469
54 According to an exchange of communications on April 18th, 2023 with lawyer Sigalit Zohar, the head of legal aid to human trafficking victims at the legal aid bureau

55 See the Kav LaOved report "20 years of exploitation and stratifying construction workers from Turkey", 2020 https://hotline.org.il/yilmazlar20years/

somewhere new. I am not working now, they just caught me. I applied for asylum. I had an interview, but I didn't show up because I was sick and I think they canceled my request. I had my permit until May. I understand that if I don't have a permit I need to go back to Turkey. I want to return as fast as I can to Turkey because I don't want to be here."[56]

O.A. did not have another hearing, and one can assume that he had a flight coordinated back to his homeland. Tribunal Adjudicator Ruhama Sinai did not refer to his claim regarding his accident in her verdict or the way he lost his work permit.

56 From the protocol taken on the 21st of July 2022 to detainee number 9183241

Another immigrant who testified before the Detention Review Tribunal after leaving Yilmazlar is **A.A..** In December 2018 AA entered Israel as a tourist, and later received a work permit through Yilmazlar, although the Authority's protocols do not allow such status determination while the individual applying is inside the country. In February 2022, AA was arrested by PIA inspectors for working without a permit. In his first hearing in March 2022, he testified before Tribunal Adjudicator Raja Marzouk: "My visa ended on 31.02.21 But I have 3 months to find a new employer. It is true, I left my employer on 09.02.2021. **Every employee has a right to change their place of work. Yilmazlar has a lawsuit and in addition, there is another one to keep me in jail, how can I go this way? The lawsuits are in Turkey.** My passport is at home. My personal belongings are okay. They didn't pay me for work."[57]

In the next hearing, held on the 31st of March, 2022, AA explained why he left Yilmazlar, and the following is attributed to him in the detainee's statement, although it is clear that part of these statements were said by the tribunal adjudicator, and the detainee was possibly unaware of them:

"**When we came to sign the documents that he worked with, the conditions we signed weren't the conditions in reality.** [he is] Interested in hiring a lawyer who will deal with work conditions and reparations from the company he worked at. If he returns to Turkey, he might be vulnerable to a lawsuit from his previous workplace and due to that might be thrown into prison. **He was wronged. He wants to sue for the reparations he deserves and that is why he doesn't want to return right now.** He received a permit for a building company called Yilmazlar, from the mere fact that he left them, it is forbidden to be employed by any other company in Israel."[58]

Judicial Adjudicator Marzouk kept the detention order in place and ordered to hand the decision over to the foreign workers' rights department in the labor office, asking them to investigate AA's claims regarding payment. In his last hearing, on May 17th, 2022, it was written that he hired a lawyer who sent in an appeal to the appeals court.

57 From the protocol on the 3rd of March 2022 for detainee 9174777
58 From the March 31st ,2022 protocol in the case of detainee 9174777

B. Mishaps in the Arrest

On December 21st, 2021, **P.A.**, a Ghanaian citizen who entered Israel in 2019 and applied for asylum was arrested by PIA inspectors. Her application was fully denied in June 2021. In the hearing regarding her case, which took place in December 2021, Adv. Yossi Carmeli, who represented her, claimed that it was impossible her intake was performed in English because she doesn't even understand English:

"...The issue at hand is in administrative **court, and it can't be that her interview, her hearing, done at the respondent's offices, wasn't done in her language.** The respondent did state that in Ghana the official language is English. At the same time, you could say that in Sri Lanka the official language is English, but 40% of the population doesn't know a word in English. Even your honor can see here, in front of his eyes, that the detainee doesn't understand a word of English. **I don't know, and I wish the interview was documented, I don't know how the respondent staged answers given by the detainee, as yours truly has been trying to converse with her in the last few days and she doesn't know a word. Even now outside when I try to speak with her, she doesn't understand anything. The asylum interview was done in the Twee language by a translator on her behalf.** If the respondent disagrees with it, they can prove it, we have photo documents. And so, I have no idea how she had a hearing on her detention – an attack on her liberty – not in her language."

Later on in the protocol, it was written that when the tribunal adjudicator addresses P.A. in English, she looks at her lawyer, waiting for him to answer instead of her, and says she understands very little English.[59] On the 3rd of January 2022, Tribunal Adjudicator Raja Marzouk made his decision, and claimed that a severe flaw was committed in her hearing and decision regarding her detention.

"**In this case, I came to understand that the detainee is not skilled enough in English to understand questions and give answers in the framework of her hearing process made to reach a decision to grant her freedom or restrict it.** The border control officer noted that the detainee understood basic English, and the detainee said she understood a little bit. That being said, it is clear that the border control officer didn't research which language she does understand, in order to properly hold her hearing, and didn't make an effort to locate a translator for the language the detainee understands...

I believe that holding a hearing without the presence of an interpreter in the Twee language, which the detainee understands, does not serve the purpose of the hearing or give her the right to her claim. The existence of English translation alone in circumstances where the detainee doesn't understand it enough to comprehend her hearing, the questions and answers following it, damaged the hearing process and damaged the detainee's ability to understand the process in her case and to state her defense claims."

Following these statements, Tribunal Adjudicator Marzouk called for P.A.'s release.[60]

59 From December 30th, 2021 protocol in the case of detainee 9170730
60 From the January 3rd, 2022 protocol in the case of detainee 9170730

S.G., a South African citizen who entered Israel on a tourist visa, was arrested by the Immigration Authority inspectors on December 11th2022- while his application for political asylum was still in process. In a Detention Review Tribunal hearing on December 13th, he stated that he entered Israel in September 2022 on a tour of holy places, and in **November, even before his tourist visa expired, he applied online for political asylum.**

"My lawyer told me that I am permitted to be in Israel because I applied for asylum before my tourist visa expired and that I should wait for an interview in the Ministry of the Interior. **As I was waiting for a message to be summoned for an interview, I was caught by PIA inspectors but there was no confirmation of my asylum application, so they arrested me. I am like any other asylum seeker, and I need to wait for an interview. I am in the process. They didn't catch me violating a law. I wasn't working and was simply walking on the street.** They caught me after I legally sent in my asylum application. My issue was that I wasn't carrying my confirmation of the asylum application in my pocket. My lawyer was present at the hearing."

Ministry of the Interior representative, Tzvika Yamin, explained that **S.G.'**s arrest was legitimate: "The detainee applied for asylum online on 13.11.2022. **This request does not grant him protection from enforcement as was done in this case. The respondent commits not to enforce until his asylum request is decided upon.** In addition, to prevent long-term detention, upon the respondent's request that an interview will be held by the asylum unit, for the detainee, at the prison on the morning of Sunday,18.12.2022."[61]

61 From the 13th of December 2022 protocol in the case of detainee 9191223.

Tribunal Adjudicator Ruhama Sinai continued the detention order. At the next hearing, on December 25, 2022, the Ministry of the Interior Representative, Elimelech Wexler, stated that S.G. had had an asylum interview and that a decision in his case needed to be decided that day.[62] No more hearings were held in the case of S.G., he might have been released, but it is more likely that his asylum application was denied, and he was deported.

G.N., a Ugandan citizen, was also arrested by the Immigration Authority inspectors after she applied for political asylum and before she was summoned to the Authority's offices for BCR. From the first hearing in her case, it seems she entered Israel on the 28th of January 2022 as part of a group of pilgrims, and on February 8th she applied for asylum and was given an appointment for BCR on May 3rd, 2022 – 3 months later. On February 23rd, while she was waiting for her appointment, **G.N.** was arrested by the Immigration Authority inspectors because her entry visa to Israel had expired. Tribunal Adjudicator Meirav Fleischer-Levi wrote regarding her arrest:

"That same day, the detainee had a hearing regarding canceling her visa, in which she responded that she arrived in Israel intending to live in it, given her sexual orientation (Lesbian) which caused the Christian community in her country not to accept her. That being said, she replied that she has not received threats, and neither has her family been threatened in her homeland. After the hearing, the detainee was notified about the cancellation of her visa and that she must leave Israel.

62 From the protocol on December 25th, 2022, in the case of detainee 9191223

[…] **After hearing out the detainee and studying her case based on the documents, I did not find a reason to intervene in the detention order, under the reasons of illegality or lack of authority.** The detainee decided to arrive in Israel to stay, she arrived with a tour group, left the group after entering Israel, and handed in an asylum application. We were also made aware of her desire to stay in Israel by the fact that she ensured her children would be taken care of by her parents, and by her declaration during her hearing that she is asking for help to remain in Israel. Therefore, her stay in Israel is not due to an innocent mistake. If her asylum application is rejected, then, given no extraordinary reasons for her illegal stay, there is a suspicion that the detainee will not leave Israel on her account on the date that will be assigned to her. In addition, I did not find, at this point, that there is cause to release her from detention earlier for the reasons written in clauses 13(A)(1) and (2) to the Entry to Israel Law."[63]

Tribunal Adjudicator Fleischer-Levi didn't refer to the fact that G.N. was arrested while waiting for an appointment made by the Immigration Authority in her decision, nor to the fact that if the Authority had abided by its regulations the wait wouldn't have lasted months. It could have been that the detainee would have held a legal visa and would never have been arrested. There were no more hearings in her case, so there is a high likelihood that her asylum request was rejected while in detention, and she was deported.

63 From Protocol taken on 24th of February 2022 in the case of detainee # 9174476

In February 2022 a group of pilgrims landed from Uganda. 3 of its members, **L.A., R.M., and G.K.,** applied for asylum in Israel while their visas were still valid. On March 3rd, 2022, they were arrested by Immigration Authority inspectors and taken to a hearing, where it was decided to deny their visas- which were valid until early May- due to a “suspicion of settling”. From there they were moved to detention at Givon prison. Adv. Amit Sol, who represented the three of them, claimed at the Detention Review Tribunal:

"[…] The whole arrest from its beginning until its end was done with a brash overextension of authority both regarding the cancellation of their tourist visa which was valid on the day of the arrest and regarding their asylum application which was filed, and continues with their arrest, therefore it prevents enforcement and any claims regarding entry, use of housing, use of court orders, and making changes in a manner that is opposed to the respondent's protocol, as I will demonstrate.

My colleague mentioned and confirmed the following: the tourist visa was valid until 5.5.2022, This is undisputed and therefore at any point that the visa was in effect – there is no authority to arrest someone unless they transgressed the visa conditions. But, in the case of the detainees, they did not transgress any of the visa conditions in any manner. In the hearing protocol, they both stated that they weren't employed. This, for example, would be a valid reason for arrest but the respondent makes no such claim by. It was noted at the end of the hearing that they decided to cancel the visa, but no reason was given as to why it was canceled.

This laconic claim lacked any explanation and was made without the due process of hearing the findings that led to their arrest. **In a message regarding the visa cancellation, the reason given was 'transgressing the conditions of your permit to stay in Israel'. But again, it wasn't explained how they violated the conditions of their visa.**

In addition, the detainees applied for asylum soon after they arrived in Israel, and before they were arrested. As I mentioned, from the second they applied for it, it is forbidden to enforce the visa law. Not only that, but they also must be given a visa according to protocol. Clause 1(F) to the protocol for dealing with asylum seekers in Israel regulates the temporary status and claims that even those who don't hold a visa in Israel and are there for less than a year will be given a 5(A)2 visa. The protocol also regulates the status of those in Israel for more than a year. I refer to clause 1(E)- regarding the detainees, not only have they been present in Israel for less than a year, **but they held a valid visa on the day of arrest and were called to border control registration in May, which if it would have occurred- would have given them a 5(A)2 visa according to protocol.**

[…] regarding the protocols of the claims hearings - there were two hearings for both detainees: one about the cancellation of the visa, and the second about the decision to put them in detention. Both hearings were required to be performed according to regulations. **However, the content of both protocols in these two detainees' cases is identical. Not both detainees, each one of them, the two hearings which were performed at different times, in different places, they have the same questions and answers exactly, word for word, therefore There is a strong doubt if any of these hearings occurred..."**

In the continuation of the tribunal hearing the representative for the Immigration Authority, Tzvika Yamini, replied with his reason for the arrest:

“I am directing the tribunal to the protocol of the claims hearing where the detainee L.A. was asked what his reason for staying in Israel was, the detainee claimed he was a homosexual. He was asked whether he wanted to settle here, and the detainee said yes, he wanted to live here. I heard they give respect here to the gay community.

I am also directing the attorney to the protocol of the claims hearing where the detainee was told that the mere attempt to settle in Israel on a B2 tourist visa is a transgression of his visa conditions. The detainee said he was homosexual and Christian, that the community he is part of doesn't accept him, and he is afraid for his life. So, we did tell the detainee why his visa was revoked. Also, in the second protocol, we explained to the foreigner that his visa to Israel was canceled by the person authorized to do so. **We explained to the foreigner that his mere attempt to settle in Israel, as he stated in his hearing, claiming he is homosexual to apply for asylum, is a transgression of his visa conditions in Israel.”**

At the end of the tribunal hearing Tribunal Adjudicator Raja Marzouk decided that during the arrest, no notice was given to the fact that the detainees were staying in Israel with a valid visa and that there is an asylum process underway, which has yet to be finalized. Therefore, the tribunal adjudicator ruled that their continued detention was unreasonable and disproportionate and ruled that L.A. and R.M. be released.[64]

64 From the March 10th, 2022 protocol in the case of detainees 9174992 and 9174991

Another case of an asylum seeker who was arrested while his application was still pending was **K.O.**, who entered Israel as an employee of the Turkish company Yilmazler in March 2016. In August 2021 he left Yilmazlar and his visa was cancelled, after which he applied for political asylum. In February 2022 he was caught by Immigration Authority inspectors and taken to administrative detention while his asylum application was still pending.

In his hearing at the Detention Review Tribunal, his attorney claimed that according to the asylum application protocol, The Ministry of the Interior prohibits the employment of asylum seekers in their first year of residence in Israel, while K.O. stayed in Israel for several years until he applied for asylum, therefore the prohibition on his employment was improper. On March 15th, 2022, Tribunal Adjudicator Raja Marzouk ruled that legal impropriety occurred in K.O.'s hearing and in the decision to nullify his visa ordering his release from detention.[65]

This was also the case with **MI and TK**, Turkish citizens who arrived in Israel as Yilmazlar employees, left the company, applied for political asylum, and were arrested together, while working in violation of their asylum visa conditions. Tribunal Adjudicator Raja Marzouk ruled that they should be released because of the legal flaws in their hearing processes, and because those administering the hearing did not have the authority to cancel their visas, and this is against precedent.[66]

65 From the March 15th, 2022, protocol in the case of detainee 9174808
66 From the March 15th, 2022 protocol in the cases of detainees 9174782 and 9174807

H.A., an Indian national, was arrested on December 22, 2021, while working without a visa. That same day he had a hearing in English, and from there he was taken to prison at Givon Prison. During his hearing, it was made clear that H.A. had applied for political asylum in the past in Israel, but before his application was reviewed, he changed his phone number and lost contact with the Immigration Authority. Because of this, he was left without a valid visa. In the tribunal hearing of his case on January 6th, 2022, Yossi Carmeli, his attorney, argued that many flaws occurred in the arrest process:

"[...] The other attorney stated that my client was 'caught working', on the other hand, he stated that only two days ago they interviewed him- if he was caught working, where is the offense? They performed his asylum interview here. Beyond that, Sir, and this is no less bad - I enter the interview, and the interview is noted as being done with Attorney David Talmosov, they know that Ilan Shemesh and Yossi Carmeli are representing the client, **meaning that when the asylum seeker is detained by the respondent and they know I am his lawyer and the interview is done without me present – that is a significant error.**[67]

On January 10th, 2022, Tribunal Adjudicator Raja Marzouk published a ruling in the case of HA, and while denying his lawyer's claim regarding his understanding of the English language, Tribunal Adjudicator Marzouk ordered the release of HA:

67 From the January 6th,2022 protocol in the case of detainee 9170499

"I found that the detainee's circumstances weren't properly taken into account. Although the detainee's visa indeed expired on 30.8.2020, alongside this it seems that there was a political asylum application standing which was applied for on 15.09.2017, his application was rejected on 4.1.2022, meaning after he was detained. Looking over the reasoning for the detention, it seems the main motive of the decision to detain was that the detainee was seen working, without a legal work visa and it is likely that had he not been found working, the detainee would not have been detained.

In this case's circumstances, I found that the decision to detain is unreasonable and disproportional as the border control officer did not act according to the Israeli political asylum seekers' treatment protocol."[68]

On August 15th, 2022, the Detention Review Tribunal held a hearing in the case of **A.T.**, a Belarussian citizen who entered Israel in 2019 as a tourist, applied for political asylum, and her application was rejected. She then tried to gain status as a partner to an Israeli citizen. On August 4th, 2022, her request to gain status due to a partnership in Israel was denied, and the following day she was arrested by Immigration Authority inspectors.

On the day of her arrest, she was given a hearing, but she was brought before the Detention Review Tribunal only a week later- which is outside the limit defined in the Entry to Israel Law, which is within 96 hours of arrest. Therefore, Tribunal Adjudicator Yoav Bar-Lev ordered her release.[69]

68 From the July 10th,2022 protocol in the case of detainee 9170499
69 From the August 15th protocol in the case of detainee 9184453

Upon her release, she was granted a visa until 28.8.2022. At the beginning of September, Immigration Authority inspectors returned to arrest A.T., and she refused to open the door. Immigration inspectors broke down the door to her house and brought her to a hearing. At the end of the hearing, she was given another detention order, and she was taken to Givon Prison. In the tribunal hearing in her case on the 12th of September, Tribunal Adjudicator Yoav Bar-Lev extended her detention order.[70] No additional tribunal hearings were conducted in her case, so it is fair to assume that A.T. was deported back to Belarus because if she had appealed the deportation decision to higher courts, it is highly likely that conditions for her release would have been set by the appeals court and would have been in the rulings' database.

On December 22nd,2022, **M.H.** was detained in Holon by Immigration Authority inspectors. He was an Ethiopian citizen who entered Israel in 2008 and applied for political asylum. M.H.'s application was denied in 2015, and from that time he resided in Israel without a visa.

In his hearing, M.H. told the head of border inspection that he would like to return to Ethiopia after the situation stabilizes there–Ethopia has been in a civil war since November 2020. In his hearing at the Detention Review Tribunal on December 19th, 2022, M.H. said that he could not return to his country because of the war and that his whole family is in the Tigray Region, where battles are raging. In his decision, Tribunal Adjudicator Yoav Bar-Lev wrote to the border control officer, asking him to inform the court if there is a certain prohibition from deporting the detainee to his homeland.[71]

70 From the 12th of September protocol in the case of detainee 9184453
71 From the 19th of December Protocol in the case of detainee 9191628

This was despite the fact that in August 2021 HRM, HIAS Israel, and the Refugee Rights Clinic at TAU already jointly petitioned the then Ministers of the Interior, Justice, and Foreign Affairs – Ayelet Shaked, Gideon Sa'ar, and Yair Lapid. with a request to apply a non-removal policy towards Ethiopian nationals from the Tigray region. In November 2021, Yossi Edelstein, Head of Enforcement and Foreigners department at PIA responded to our request that: "Ethiopian citizens of Tigray origin who applied for asylum due to the situation in the Tigray Region will receive a permit according to clause 5A2 to the Entry to Israel Law, until finalizing treatment of their request.[72]

Despite the state of Israel's recognition of the danger to Ethiopian Nationals from the Tigray region, Tribunal Adjudicator Bar-Lev asked to check if it is possible to deport M.H. back to Ethiopia amid civil war. No further hearings were held in the case of M.H., and one should hope that he was released by the border control officer and wasn't deported to Ethiopia amid the war.

C. Migrants Detained Despite Having First-Degree Israeli Relatives

G.T., A Philippines national, was arrested by the Immigration Authority inspectors in November 2021. G.T. came to Israel first in the year 2016 as a nursing home worker and over the years requested status in Israel due to domestic partnership with an Israeli. Her request was denied, and the Immigration Authority decided that she must leave Israel by June 2021. In the first tribunal hearing in her case, G.T. said:

"I am from The Philippines, I want to return to the Philippines. I have an Israeli boyfriend, but due to COVID-19, my application process was

72 To read the full petition and its reply

delayed. Immigration arrested me two days ago. I came here to work as a caretaker... It is true, I had an application denied, 3 times I applied, and they denied it. I didn't have a lawyer, I never appealed to the appeals court. It is true, I don't have a valid visa since April 2021. I want to return. I want to go to court in the Philippines. **My boyfriend has my passport. The passport stayed with him and also my things, he has everything.** I have high blood pressure, other than that, I am fine. They did a check-up here in prison, and I have medications. I want to come back here. I have nothing to add."[73]

In the next hearing, G.T.'s lawyer claimed that she has been in a partnership with an Israeli citizen for many years and that the two are waiting for her divorce papers from the Philippines so they can properly register in Israel. The Immigration Authority representative claimed in the tribunal hearing that because G.T. and her partner did not properly contact the Authority, she must stay in detention until she is deported back to her country. Following these statements Tribunal Adjudicator Raja Marzouk denied G.T.'s request to be released from detention.[74]

In the next tribunal hearing in her case G.T. testified that she was ready to return to her homeland and that she had been waiting for a flight for several weeks

"I am not in contact with my lawyer, but with my partner. I spoke with my partner about returning to prepare my documents and that we'll apply. **My boyfriend put my passport outside in a box, 3 weeks ago. I did not receive any update from Immigration regarding my flight. I hope as soon as possible. Immigration didn't contact me..."**[75]

73 From the November 25th protocol in the case of detainee 9168656
74 From the protocol on the 7th of December 2021 in the case of detainee 9168656
75 From the December 23rd protocol in the case of detainee 9168656

At this point, G.T. had been detained for a month, and although during the first hearing, she said she would like to return to her homeland, Tribunal Adjudicator Marzouk did not ask the Immigration Authority a single question regarding the date of her flight. The next tribunal hearing in her case happened a month later, she said her partner was ready to put down bail money for her release, and that during her detention she had been sick with COVID-19 but has since recovered. Also at that hearing, she testified that the Immigration Authority had not updated her about her return flight to the Philippines.[76]

In his decision in G.T.'s case, Tribunal Adjudicator Marzouk ruled:

"While the detainee has been detained for over 60 days, in circumstances that warrant an early release from custody due to clause 13F (A)(4) of the Entry to Israel Law, we cannot ignore the fact that the deportation of the detainee was prohibited from 8.12.2021 until another decision was made by the appeals court on 13.12.2021 following the appeal that the detainee initiated. The detainee did not refer to these facts in her claims. Additionally, considering that the detainee handed over her passport on 29.11.2021, and the balance between the purpose of detention and the detainee's right to freedom, I believe the border control officer must finalize the deportation of the detainee. **Therefore, I allow her continued detention."**[77]

No more tribunal hearings were held in the case of G.T., so it is safe to assume that she was deported back to the Philippines, **Even though there was no question that she was in a partnership with an Israeli citizen and that the couple tried to regulate their legal status in Israel.**

76 From the January 30th protocol in the case of detainee 9168656
77 From the February 1st, 2022 Protocol in the case of detainee 9168656

M.R., A Filipino national, was arrested by Immigration Authority inspectors in July 2022. In her tribunal hearing she described her story to the Tribunal Adjudicator Yoav Bar-Lev:

“I entered Israel in 2001 and from then I worked as a caretaker until 2006, when I was caught for being illegal and returned to the Philippines. Then in 2009, I returned to Israel after marrying David in 2007, and I stayed there for two years. **Later on, I was in a domestic partnership, and in 2016 we got divorced, and we closed the application. Then we asked again to open the application although we were divorced. I didn't manage to organize the documents, so in 2019 we closed the application and that was it. But we are still together, I understand that I have been illegal for many years, but he told me each time he was going to the Ministry of the Interior and didn't go.** I don't want to return but I understand I have nothing to do. I spoke with David, and he told me it is hard for him to organize the whole thing, but I want to continue working, but understand there's nothing to do, so I am ready to go, everything is at my house, I will ask David to bring the things here."[78]

This was the only tribunal hearing in the case of M.D., so it is safe to assume that she was deported to the Philippines. Tribunal Adjudicator Bar-Lev did not refer in his decision to the fact that M.D. lived in Israel for 19 years, did not refer to her statement that her ex-husband told her he would try to get her status and never did so, and did not address the power Israeli citizens have over their foreign national partners in the multi-step process to determine their status.

On August 4th, 2022, **S.S.** was arrested by the Immigration Authority inspectors, she is a Moldovan citizen who entered Israel for the first time in 1994. SS even received an Olah certificate after she presented

78 From the protocol on July 11th, 2022 in the case of detainee 9182793

documents that testify to her marriage to an Israeli. But these were taken from her after she was arrested in a police raid on a prostitution venue, and it was discovered that her documents were falsified. Over the years S.S. left Israel and returned to it. In 2010, she applied for status determination in Israel under the framework of partnership with an Israeli citizen. Her request was accepted in 2012, and in 2013 she received a work visa. In 2016 her status was upgraded to a temporary resident. However, in 2017 her partner asked to stop the multi-step process. S.S. asked to appeal and claimed her partner was violent towards her. In April 2018 it was ruled that S.S. must be allowed to apply for status determination for humanitarian reasons. In October 2018, her application was denied. During the appeals process, it was ruled that her case would be reviewed only after she left, and she did leave in 2019. In January 2022, S.S. returned to Israel with a tourist visa. In August she was caught without a valid visa and was arrested.

In the first tribunal hearing in her case, she said that her mother was residing in Israel and was dealing with a difficult medical condition and that she wanted to speak with her.[79] In the next tribunal hearing in her case, Adv. Alon Leibovitch represented S.S.. He explained that her mother is an elderly Israeli Citizen, and S.S. came to Israel at the beginning of the year to nurse her. This all happened after her mother fell at home, was admitted to Geriatric care, and insisted on returning to her house, although it was medically mandated that she needed rehabilitation, and was not able to walk independently. Since then, S.S. has taken care of her mother, and she wanted to apply once again for humanitarian status, so she could nurse her mother and remain in Israel legally. The state representative in the case claimed that S.S. had to leave Israel, and

79 From the August 7th, 22022 protocol in the case of detainee 9184141

she could return only if her request was approved. Tribunal Adjudicator Asaf Noam mentioned in the protocol that S.S. said in her hearing the following things, in Hebrew: “Yesterday I saw my mother, no one knows how to care for her. I was the last one to care for her, she is very skinny. She is scared for her well-being and wants me to come live with her. I did everything for her for 6 months, and she was in great shape when I was with her. Now we are waiting for my brother".[80]

In her next hearing, S.S.'s lawyer claimed that the PIA operates problematically when it asks on the one hand for S.S. to leave Israel while her application for a status decision is being reviewed, and on the other hand, gives her an appointment to file her application for status only in 6 months. The state representative claimed during the hearing that they had booked S.S. a flight ticket with an escort back to her homeland and that she was not cooperating with her deportation. S.S. herself said during the discussion:

"My mother's situation at the nursing home is very bad. She isn't receiving the medication she needs; they took her clothes off and she is sitting naked, and no one cares for her. When I saw her at the courthouse, I got scared of how she looked and the treatment she was receiving in the place she was staying at. My mother says every day that she was sent there to die. She doesn't want to wait to stay there. When I took care of my mother, her situation was better, and she needs my treatment.”[81]

80 From the August 17th, 2022 protocol in the case of detainee 9184141
81 From the September 21st Protocol in the case of detainee 9184141

On September 28th, 2022, Adv. Leibovitch told the Tribunal that S.S. would like to return to her homeland with her mother, who is an Israeli citizen. The representative of the PIA told the tribunal on the 2nd of October that he would book a flight for S.S., but her mother must pay for the ticket herself. The state representative even offered help in contacting a travel agency. Despite S.S.'s willingness to return to her homeland, it seems that the state had trouble booking a flight, and on the 20th of October, another hearing was held in her case. The following statements were attributed to her in the hearing:

"...They took her mother from the house to a nursing home, and she was left outside while in the apartment with all the clothes and things and documents. Her mother needs medicine and isn't given it. She had a heart attack, and they gave her intravenous fluids because she didn't feel well. Her mother came to visit and they didn't let her enter Givon.

She has a brother in Canada and said to her and her mother that they need to go to the Ministry of the Interior to extend their visa. Her mother was in Psycho-Geriatric treatment for four months and she wasn't clearheaded, so they couldn't go to the Interior Ministry."[82]

S.S.'s statements during the discussion show a deterioration in the state of her mother's health, which could be a direct result of S.S.'s arrest and her months-long detention. It seems that the tribunal adjudicators who ruled over S.S.'s case were not particularly impressed by these issues and chose to renew her detention order repeatedly.

82 From the 20th of October 2022 Protocol in the case of detainee no. 9184141

The last hearing in S.S.'s case occurred on November 16th, 2022, where she claimed that she refused to get on the flight coordinated for her and that the Authority refused to allow her to ensure that she and her mother had all the important personal documents they needed. Following that, the head of border enforcement announced he would coordinate a flight back, with an escort, and her mother could join it if she wanted.[83]

Given that no more decisions were made in the case, we can assume that after more than 4 months in detention, S.S. was deported back to Moldova, escorted by Immigration Authority representatives. It is unknown what happened in the case of her sick mother. During the whole chain of events Tribunal Adjudicators Assaf Noam and Rachel Sharem did not see it necessary to challenge the state stance that S.S., who is nursing her mother, an elderly Israeli citizen, must leave the state- when all the while her mother's situation was deteriorating. **At no point were conditions for her release offered, that would allow her to take care of her mother, and in parallel to decide her status in Israel. The Tribunal was indifferent to the difficulties entailed by S.S. leaving Israel with her mother –flying an elderly lady, in need of geriatric care, – The tribunal only cared about S.S. leaving Israel.**

83 From the 16th of November Protocol in the case of detainee 9184141

D. Flaws in the Tribunal Hearings and Decisions

On the 6th of February there was a hearing at the Detention Review Tribunal in the case of **A.M.**, an Indian citizen who entered Israel as a tourist in April 2018, and later applied for political asylum. In August 2021 her asylum was rejected, and she was finally arrested at the end of January 2022. At the beginning of the protocol that documents the hearing overseen by Tribunal Adjudicator Raja Marzouk, it is noted that due to a lack of a translator from the translation company- the translator in the hearing was another detainee from India.[84] In the tribunal hearings in the case of **S.A.,** the detainee that was used as a translator, Tribunal Adjudicator Marzouk noted that he himself had translated the hearing to English.[85]

On the 15th of November, the Detention Review Tribunal held a hearing in the case of S.V., a Cameroonian national. Tribunal Adjudicator Meirav Fleischer-Levi did not record a protocol, and all she wrote in her decision was a single sentence:

"**In continuation to yesterday's hearing, until an alternative decision the detention order will stay in place**".[86]

This was done without any documentation of the hearing that was held, and in complete contrast to what is usually the case in the tribunal, and the open court principle.

84 From the 6th of February, 2022 Protocol in the case of detainee 9172956.
85 From the February 6th protocol in the case of detainee number 9171248
86 From the 15th of November Protocol in the case of detainee 9189418

On the 9th of August, 2022, the case of **A.M.** was brought before the Detention Review Tribunal. A.M. was a Sudanese national who was transferred to administrative immigration detention after he spent time in jail for a criminal drug offense, in accordance with the Immigration Authority's protocol regarding "infiltrators" involved in criminal offenses. At the end of his tribunal hearing the Tribunal Adjudicator Meirav Fleischer-Levi extended his detention order, and the next decision in his case was received on August 31st, 2022. The Adjudicator ruled:

"Given that the detainee was put in detention on 8.8.22 **and 60 days available for the requesting authority to try and deport the detainee have yet to pass**, it will only be possible to hold the detention release hearing, given a rehabilitation alternative, after the judicial review hearing will be held on 1.9.22."[87]

It is unclear how the tribunal adjudicator, who noted in her first decision that it refers to a person staying in Israel under group protection and is not a candidate for deportation- decided to delay the hearing in his case to allow the Immigration Authority to try to deport him from Israel. The last decision in the case of A.M. was ruled by Tribunal Adjudicator Yoav Bar-Lev, who ruled for his release in November 2022, contingent upon his participation in a community rehabilitation program.[88]

87 From the August 25th, 2022 protocol in the case of detainee 1441727
88 From the November 21st, 2022 Protocol in the case of detainee 1441727

In January 2022, Adv. Michal Schwartz from HRM petitioned the head of the Detention Review Tribunal, Tribunal Adjudicator Michal Tzuk-Shafir, and Adv. Avital Shterenberg, head of administrative law at the legislative and consulting department in the Ministry of Justice. In her petition Adv. Shwartz informed them of the unlawful behavior of Tribunal Adjudicator Assaf Noam, who had started that month to force detained migrants to pay for border control officer expenses before their deportation from Israel. An HRM team traced five decisions by Tribunal Adjudicator Noam where he forced Chinese, Philippines, Georgian, and two Turkish residents to pay for expenses ranging from 7,000 to 20,000 NIS.[89] These sums were decided randomly, without any factual basis or authority, after a court ruling that no one should pay expenses as a sanction punishing them for transgressing the Entry to Israel Law.[90] That same day the petition was answered by Tribunal Head Michal Tzuk-Shafir. She referred to corrected decisions by the tribunal adjudicator, where the "expenses" element was removed, without explanation or reasoning.

89 From the January 9th, 2022 protocols in the cases of detainees 9171377, 9171435,9171428,9171446, and 9171452.
90 See Drakuah vs. Ministry of the Interior, 78(3) 354(2004)

E. Mentally Ill Detainees

In January 2022, a hearing was held for **M.V.,** an Ethiopian citizen, by the border control officer, at the end of which, it was decided to transfer him. from criminal imprisonment, where he was serving a sentence for assault offences, to administrative detention before deportation. In the hearing M.V. claimed to be an Israeli. [91] This was also true at the next hearing in his case. On March 27th, 2022, Tribunal Adjudicator Yoav Bar-Lev decided that M.V. would meet a psychiatrist who would assess his situation. M.V. said the following in the hearing on the 25th of April, 2022:

"I feel fine, thank God. They still haven't spoken with me from immigration. I am receiving medical treatment. He gives me pills so I can sleep better because I find it hard to sleep. I don't know when I will see a doctor again. I have family in Israel, my dad, and my mom. I am not in contact with them. If I get released, I plan to live in Jerusalem, I have a place to live there, at my friends' house. I have been in Israel for 6 years out of which I have spent 5 years in jail. I spent time stealing food mainly. I was in jail also for violence against the police. I was at Nitzan prison for 6 months and then they transferred me here."[92]

On May 3rd, 2022 Tribunal Adjudicator Yoav Bar-Lev ruled that M.V will be released:

91 From the 30th of January, 2022 Protocol in the case of detainee 9074941.
92 From the April 25th, 2022 protocol in the case of detainee 9074941

"After I reviewed the detainee's case and referring to the amount of time in which he was detained without a hope for a decision regarding his asylum application that he applied for according to the border control officer, **I found that the purpose of detention is not relevant in his case, as long as there is no effective deportation process happening in his case**."[93]

M.V. could not meet the bail requirements set by Tribunal Adjudicator Bar-Lev determined, so in his next hearing, on May 30th, 2022, his conditions for release were amended to only necessitate self-bail.[94] This hearing was his last suggesting his release in Israel.

On the 23rd of June, 2022, **S.A.**'s case was brought to the Detention Review Tribunal. From the hearing's protocol it seems that the circumstances of S.A.'s arrest and his behavior at the hearing show that he might be suffering from a mental illness:

"The tribunal: the tribunal explained to the detainee that it wanted to know who he was and asked him to state his name and ID number. **It is noted that the tribunal is under the assumption, after reviewing the detainee's documents and after conversing with him during the hearing, that he might be mentally ill--he talks to himself, is aggressive, and answers unrelated things.** We explained to the detainee that until he reveals his identity, it will not be possible to check if he has a permit to stay in Israel and we won't proceed in the process.

93 From the May 3rd, 2022 protocol in the case of detainee no. 9074941
94 From the May 30th, 2022 protocol in the case of detainee 9074941

The detainee: The detainee refuses to reveal his name or identity number, he was asked multiple times by the tribunal to identify himself, and he remained silent."

In her decision Tribunal Adjudicator Meirav Fleischer-Levi noted that S.A. is not registered in Immigration Authority databases, and on the 21st of June 2022, he was suspected of riding a bus without paying. In response, S.A. confronted the ticket inspector and threatened the bus driver. The police were called to the scene, and S.A. was arrested.

After the police could not identify him, he was transferred to the Immigration Authority. In the hearing held for him at PIA, S.A. claimed he was in Israel for more than 20 years, during which he served time in Maásiyahu prison, and he has a 10-year-old son in Israel, but he hasn't been in contact with him for many years. He did not have any identification documents, and even the Immigration Authority wasn't able to identify him in their system. **At the end of the hearing, he was transferred to detention at Givon Prison, before being deported- all the while, it wasn't clear where the Immigration Authority wanted to deport him.**

Although Adjudicator Fleischer-Levy noted that she is afraid that S.A. is mentally ill, she didn't find it necessary to transfer the case to the Legal Aid Office at the Ministry of Justice and request that they appoint a lawyer to represent S.A. and help him explain himself before the court (perhaps they could have even helped the identification process). Instead, she requested that the prison service send a medical specialist from the mental health field to assess his situation. [95]

95 Forom the June 23rd, 2022 protocol in the case of detainee 9181777

At the end of S.A.'s next hearing, Tribunal Adjudicator Flesicher Levy noted that in a check by the FBI, S.A., who claims he is a US citizen, was not identified as such. The US consul was expected to visit him in the next few days in an attempt to identify him.[96]

From the protocol of the 9th of August hearing, it seems that S.A.'s mental state and his ability to manage himself in court did not improve:

"The detainee refuses to reveal personal details about himself, and confirms that a US embassy representative visited him, but he did not know what he decided. **The detainee raises his voice at the court, uses violent hand motions, and says he does not want to come again before the court. He says everyone knows who he is and demands that they return his documents and that they pay him for arresting him. He also adds that there are schools and institutions named after him that belong to him in Israel, as well as land, and he demands his release. The detainee says that if within a week his documents will not be returned to him and he won't be released, something bad will happen, and he isn't ready to say what."**

In her decision Tribunal Adjudicator Fleischer Levy noted that on July 19th, 2022, S.A. was brought to a psychiatric check-up at the Israeli Prison service, but he signed a paper that he is not interested in being checked. This is after on the 5th of July 2022 S.A. had a psychiatric checkup where he was found to work as a healer in religious ceremonies, and his judgement was found reasonable.[97]

96 From the July 17th,2022 protocol in the case of detainee 9181777
97 From the August 9th, 2022 protocol in the case of detainee 91817777.

On the September 1st hearing, the same trend continued: He claimed that the authorities knew who he was. The tribunal adjudicator tried to explain that this was not the situation and asked him to identify himself; S.A. shouted during the hearing and refused to share his details.[98] S.A. refused to attend the next hearing.[99] At the October 23rd hearing S.A. and the tribunal adjudicator repeated the same dialogue:

"**The detainee starts to raise his voice and talk to himself,** saying everyone keeping him detained knows who he is, they are playing games and he wants to leave already. **It was explained to him once again that he has to share his identity beforehand, the detainee got angry and went back to threatening and speaking in a loud voice."**

In her decision Tribunal Adjudicator Fleischer-Levi mentioned that since S.A. refuses to cooperate with the Immigration Authority in his identification process, “The prison authority started identifying him with unusual means at its disposal". She added:

"His refusal to cooperate during the detention process, the aggressiveness he displays during his detention from the recent border control officer\s report, and even the tone he spoke in while referring to the tribunal time and again during the hearings, his decision to exit one of the previous hearings, his refusal to arrive at the last hearing, all these show the detainee is a violent person who does not adhere to laws **and did not show any recognition of his situation. The detainee does not understand where he is physically, and from his manner of speaking, it seems he is disconnected from reality although he was observed twice by psychiatrists and refused to cooperate.”**[100]

98 From the August 1st, 2022 protocol in the case of detainee 9181777
99 From the August 29th protocol in the case of detainee 9181777.
100 From the October 23rd,2022 protocol in the case of detainee 9181777

In the next hearing in his case, S.A. still refused to identify himself, and Tribunal Adjudicator Fleischer-Levi decided to continue his detention order.[101] From his hearing protocol on the 8th of December, it seems he was involved in and injured during a fight between prisoners. Tribunal Adjudicator Fleischer-Levi lengthened the detention order again.[102] As of April 2023, SA was still in detention. In the hearing protocol in his case from January 2023, Tribunal Adjudicator Fleischer-Levi noted: "The detainee refuses to identify himself before the tribunal, says things unrelated to the topic at hand, speaks to himself, looks at the ceiling, and mumbles."[103]

He refused to attend at his February 9th tribunal hearing.[104] **Starting February 2023, SA appeared before Tribunal Adjudicator Itiel Givon. On May 24th the tribunal adjudicator mentioned that the detainee "is mumbling sentences without any context or logic".**

For 11 months the tribunal adjudicators met SA once a month, although there was no progress in identifying him or any improvement in his mental state. They do not find it necessary to transfer his case to the Legal Aid Office to appoint him a lawyer to help him represent himself and manage himself in court. The tribunal adjudicators also do not address in their decisions the purpose of keeping someone that the immigration Authority isn't able to identify, and who may even have legal status in Israel.

101 From the 15th of November 2022 in the case of detainee 9181777
102 From the 8th of December, 2022 protocol in the case of detainee 9181777
103 From the January 15th, 2023 protocol in the case of detainee 9181777.
104 From the February 9th,2023 protocol in the case of detainee 9181777

Another individual struggling with mental illness who is imprisoned in administrative migration detention is **S.L.,** an immigrant whose country of citizenship is unknown, and who has been in detention since September 2019, until the writing of this report (February 2023). In the first tribunal hearing he had, S.L. refused to say what his country of citizenship is and was quoted in the protocol as saying:

“I know where I am from."[105]

In the protocol of his November 2019 tribunal hearing, S.L. was quoted as saying "The computer knows where I was born", Tribunal Adjudicator Liron Krispin Boker added:

"The detainee is smiling and saying again and again that this tribunal is not his judge and that he will refuse to answer the tribunal's questions".[106] In the next hearing protocol Tribunal Adjudicator Krispin Boker noted*:* "When he was asked if he agrees to say where he is from- he just started laughing as he nods his head in a 'no' movement."[107]

On January 7th, 2022, HRM staff visited Saharonim Prison as part of the regular activity of the hotline in representing prison detainees. During that visit staff members met SL and were under the impression that he was not mentally well. Following the meeting and the clear evidence of his mental hardship from the protocols, HRM petitioned the head of the Israel Entry Law Tribunal, Michal Tzuk-Shafir, with a request to appoint a lawyer for S.L. or a legal guardian in the framework of his process opposite the Detention Review Tribunal, to protect his basic rights and assess his mental state.

105 From the September 25th, 2019 protocol in the case of detainee 9113129
106 From the November 5th, 2019 protocol in the case of detainee 9113129
107 From the December 4th, 2019 protocol in the case of detainee 9113129

S.L. refused to appear at his February tribunal hearing, and the Prison Service representative was quoted in the protocol, saying:

"We addressed the detainee again and again; we asked him to come to the hearing and he adamantly refused. I fear that if I persist with him, he will act violently. He has a violent background."

The Immigration Authority representative, Vered Amsalem, said following the HRM petition that she has no resistance to appointing a legal guardian for S.L.. Following these statements Tribunal Adjudicator Krispin Boker said that options should be explored regarding appointing a legal guardian for S.L.. But, from reading the law to her understanding, the tribunal has no authority to decide that, so she is forwarding the question to the attorney general.[108]

In May 2020 HRM petitioned the attorney general's office with a request to continue the appointment of a legal guardian for S.L. and another mentally ill detainee, for whom Tribunal Adjudicator Krispin Boker had also petitioned the attorney general's office to appoint a legal guardian.

About a week later the attorney general's office sent a letter to us that our request was received. On May 20th, 2022, Sara Seidler from the Legal Consultation and Legislation Office at the Ministry of Justice answered that the two detainees' cases are under the care of the welfare office, which is under heavy workloads and manpower cuts due to the COVID-19 epidemic. In June 2020, HRM once again petitioned Adv. Raz Nizri, the deputy attorney general, regarding the appointing of legal guardians for S.L. and another mentally ill detainee. In her response Adv. Seidler once again wrote, in July 2020, that the two cases are under the care of the Ministry of Welfare.

108 From the 24th of February, 2020 protocol in the case of detainee 9113129

In the hearing protocol for SL on the 3rd of September 2020, Tribunal Adjudicator Raja Marzouk wrote that the Legal Aid Office must declare by the next hearing if they will represent SL or not. On the hearing on October 1st, Adv. Michal Pomerantz represented SL on behalf of the Legal Aid Office, but according to her, S.L. did not want a female attorney to represent him.[109] Adv. Gili Eisen came to the October 22nd hearing to represent SL, but S.L. left the hearing in the middle and claimed he did not want to be represented before the court. [110]

In the next several months there was no advancement in S.L.'s case: No new lawyer was appointed to represent him; he refused to answer the tribunal adjudicator's questions. It seems from their decisions that in previous deportation decision interviews done by border control officials S.L. claimed he was a Sudanese citizen, but this claim turned out to have no basis; and he did not attend the hearings in February and March 2021.[111]

S.L. attended the April hearing but once again refused to answer the questions of Tribunal Adjudicator Raja Marzouk. In his decision, the adjudicator ruled that the prison doctor must give a medical report regarding SL's situation by the next hearing.[112] S.L. refused to attend the hearings in May and June 2021.[113]

109 From the September 3rd and October 1st, 2020 protocols in the case of detainee 9113129
110 From the October 22nd, 2020 protocol in the case of detainee 9113129
111 Taken from the November 12th,December 9th, January 14th, February 12th, and March 18th protocols in the case of detainee 9113129
112
113 From the May 4th and June 9th protocols in the case of detainee 9113129

During the June 22nd hearing, once again S.L. refused to answer the questions of Tribunal Adjudicator Marzouk, and the adjudicator noted in his decision that the head of border enforcement has to register S.L.'s readiness to exit to Sudan.[114] In this manner, after almost a year in detention, when it was clear to the tribunal beyond a doubt that S.L.'s mental state does not allow him to represent himself before the court, and while there is no advancement in the ability of the Ministry of the Interior to deport him, Tribunal Adjudicator Marzouk once again did not transfer the case to legal aid. Instead, he reminded the Immigration Authority of SL's "willingness" to leave for a state that may not be his state of citizenship. At the end of the next tribunal hearing Tribunal Adjudicator Marzouk decided that the Israeli Prison Service must get a new Psychiatric opinion and a social worker's report on his case.[115]

In the tribunal hearing held on October 2021, S.L. said "I don't want a lawyer. God is my lawyer". Despite these statements Tribunal Adjudicator Marzouk said in his decision: "The head of border control will act to advance the deportation of the detainee despite a lack of full cooperation on his side."[116] Also in Tribunal Adjudicator Marzouk's decision in the case of SL in February 2022, it was decided that the Israeli Prison Service must publish a new Psychiatric report concerning his case.[117]

114 From the June 22nd, 2021 protocol in the case of detainee 9113129
115 From the July 27th protocol in the case of detainee 9113129
116 From the October 14th, 2021 protocol in the case of detainee 9113129
117 From the February 6th protocol in the case of detainee 9113129

In the decision given in March 2022 Tribunal Adjudicator Marzouk quoted from the updated Psychiatric opinion, where it was written that:

"The detainee is known to be schizophrenic and receives treatment by prescription. His consciousness and his awareness of his surroundings are proper in all senses. He cooperates and acts in a thought-coordinated manner and does not show any delusional thinking. He denies having perception issues. Does not need oversight."

This decision was transferred to the tribunal adjudicator's request to the Legal Aid Office in the Ministry of Justice to review the possibility once more to allow SL legal representation- over a year after the last time the tribunal did so.[118] S.L. refused to show up to the next tribunal hearing. Tribunal Adjudicator Rachel Sharem-Peldor wrote the following in her decision:

"It is true, that the detainee has been in detention for a long time, but the circumstances in this case show that his deportation isn't being executed, solely due to his adamant refusal to leave Israel to his home country, and his standing behind this refusal even in the hearings in his case in the Detention Review Tribunal, saying he isn't ready to leave Israel to start his journey in his country of origin. **Not only that, but the detainee also refused many times, as well as today, to attend the hearing of his case before the Detention Review Tribunal.**

118 From the March 13th, 2022 protocol in the case of detainee 9113129

To all this we must add that in addition, according to the information from the documents brought before me, the detainee suffers from Schizophrenia, and he is under medical treatment. It must be noted that under his complex medical condition and his past hospitalization in a psychiatric ward, the Legal Aid Office in the Ministry of Justice was willing to represent the detainee, but due to his refusal to cooperate even with his representatives, they announced the termination of representation. Therefore, an especially difficult situation formed wherein the detainee was kept in prison for a long time of two and a half years, due to a lack of cooperation from his side, without finding a proper solution for his situation.

The border control officer will act as follows:

A. The border control officer will check again with the Legal Aid Office regarding their ability to aid the detainee given the unique circumstances detailed above. In an unusual decision, the Legal Aid Office approved representation for the detainee in the past, but the attempts by Adv. Pomerantz to help him were unsuccessful, due to his refusal to cooperate. **That being said, given the complex situation we are in, in which there is no way to order the release of the detainee and on the other hand, attempts to deport him from Israel hit a wall on the side of the detainee, it seems it would be right to check again the option that the detainee will gain legal representation from the Legal Aid Office, and will find a solution in his case.**

B. The border control representative will update the tribunal regarding the steps taken by him to deport the detainee

C. The border control officer will review the possibility that a mental health professional, ideally a psychiatrist, will speak with the detainee personally to explain to him his situation and status in Israel, and what is expected to happen to him if he continues to refuse to cooperate with his deportation. Someone with expertise in the mental health field might have the necessary tools to create a real conversation with the detainee."[119]

This is how Tribunal Adjudicator Rachel Sharem-Paldor described the next tribunal hearing in S.L.'s case:

"We suggested to the detainee that we would review the option of legal representation by legal aid, but the detainee objected and found it difficult to cooperate. When we explained to the detainee that his cooperation was necessary to get out of the situation he was in, he kept saying that only god could help him. Any attempt to have a conversation with the detainee during the hearing failed. It will be noted that during the hearing the detainee is under distress and uneasy."[120]

119 From the April 12th, 2022 protocol in the case of detainee 9113129
120 From the May 3rd,2022 protocol in the case of 9113129

The protocol in the case of S.L. on May 29th included all the "detainee's statements" that were attributed to him on May 3rd. Despite that, it was written in the decision that SL refused to appear before the tribunal adjudicator. At the end of her decision, Tribunal Adjudicator Sharem-Paldor wrote:

"Due to a mental illness that the detainee suffers, there is also a difficulty in releasing him, because his illness can present a real danger to the public. Given that, at the time being, the reason for his detention is due to his danger to the public wellbeing if he is released. This danger is only due to the mental illness he is suffering from. We cannot be at ease with this type of reality. The situation that the detainee found himself in demands a balance between the need to protect the public and the protection of his rights while imprisoning him indefinitely might damage his basic rights disproportionately."

Therefore, the tribunal adjudicator told the IPS once again to get another psychiatric opinion for S.L..[121] At the end of the August 16th hearing Tribunal Adjudicator Sharem-Paldor ruled that:

"It would be proper to re-evaluate the possibility that the detainee will receive legal representation from the Legal Aid Office of the Ministry of Justice."[122]

In the continuation of the process, S.L. did have a lawyer appointed from the legal aid apparatus, and in the hearings of his case in October and November 2022 his identification issue was debated- and for the first time, the possibility of translation for SL in the Dinka Language spoken in South Sudan was brought up. The border enforcement representative claimed

121 From the May 29th, 2022 Protocol in the case of detainee 9113129
122 From the August 16th, 2022 protocol in the case of detainee 9113129

that S.L. can translate himself, but Tribunal Adjudicator Sharem Paldor ruled:

"[...] due to the complexity of the case, from all its angles, and either way, the responsibility for providing a translator, in the agreed upon framework, is the responsibility of the state and is not to be put upon the detainee. Moreover, after 3 years of detention, it seems the time has arrived that all state arms come together to find a practical solution in his case."[123]

In May 2023 S.L. was finally released from detention.

F. Migrants in Detention Due to Technical Issues

On November 28th, 2021 the couple **D.A. and G.B.**, Philippines citizens, were arrested by Immigration Authority inspectors. They entered Israel as nursing home workers and stayed in the country illegally after their employers passed away. In the first tribunal hearing in **G.B.'s** case the following statements were attributed to her:

"I feel fine. She is aware that her stay in Israel was illegal, the fact that she worked in Israel illegally, and the fact that she must leave to return to her country. She asks to receive her things and money stored in the bank. In addition, she asks that her flight to the Philippines be coordinated with her husband's flight, although he is currently detained in Givon and meant to be deported to the Philippines. In addition, she wants to speak with her husband during their stay in Givon."[124]

123 From the November 13th, 2022 protocol in the case of detainee 9113129.
124 From the November 29th,2021 protocol in the case of detainee 9168954

In the tribunal hearings they had a month later, D.A. and G.B. were quoted as saying almost the same things exactly, in D.A.'s he said:

"I feel fine. He is aware that his stay in Israel was illegal that he worked in Israel illegally, and to the fact that he has to leave to return to his country. He asks to receive his things as early as possible and before his flight to the Philippines. In addition, he asks that his flight be coordinated with his Wife's flight, although she is currently detained in Givon and meant to be deported to the Philippines. **He was told that he might have a flight back to his country on 6.1.2022, and he wants to quickly return to his home."**[125]

The following hearings in their cases occurred on January 24th, both couples were confused as to why a return flight to their homeland was not booked for them. In the time that passed G.B. was infected with Covid-19. She was quoted in the Protocol:

"Feels sick because she was infected with Covid-19. **She asks adamantly to return home as quickly as possible. She does not understand why they did not find a flight home for her for two months."**[126]

Her partner, D.A., was quoted:

"I feel fine. **He adamantly requests to return to his home country after two months in detention. He has been in detention too long and does not understand why he and his wife aren't being flown back to the Philippines.** His wife became sick during her time in detention.[127]

125 From the December 27th, 2021 protocol in the case of detainee 9168953
126 From the January 24th protocol in the case of detainee 9168954
127 From the January 24th,2022 protocol in the case of detainee 9168953

The last decision in the couples' case was made on February 8th, and it is safe to assume that afterward, **following more than 3 months of detention- the entire duration of which they declared that they wanted to return to their homeland**- a flight to the Philippines was booked for them.

S.Z., a Chinese national, was also detained for several months due to delays following the COVID-19 pandemic. S.Z. entered Israel in December 2015 as an expert Chef on a work visa and worked legally until August 2020. On February 13th, 2022, Immigration Authority inspectors arrested him, held a hearing, and transferred him to Givon Prison.

In the first hearing of his case, his lawyer claimed that the Chinese translation wasn't accurate. S.Z. said the following things:

"I did not know I could not stay in Israel without a legal visa. **My employer said I could continue to work in Israel. I do not want to return to China, if I return bad things will happen,** I want to stay in Israel. My visa is expired, **I asked my boss to apply for a new one and he said I shouldn't worry and just keep on working.** My health is fine, just sometimes I have stomach pain, I don't take medication. **I don't have a passport here; I don't know if it's at a friend's or my place."**

At the end of the hearing Raja Marzouk ruled to continue the detention order for S.Z., and in his decision, he did not refer in any way to his statements regarding the fact that he might have been abused by his employer, and the fact that the employer might be holding his passport illegally.[128]

128 From the February 17th, 2022 Protocols in the case of no. 9173783

In his next tribunal hearing S.Z. expressed his will to return to his home country:

"I was not in touch with a lawyer. Boss owes me money; he did not give it back to me. I gave my passport to Immigration. The lawyer is dealing with the money issue. **Immigration still did not tell me when the flight is".**

In his decision, Tribunal Adjudicator Marzouk ruled that before the next hearing the Immigration Authority representatives will need to detail the steps they took to advance the deportation of S.Z. to China.[129] In the hearing on April 26th, S.Z. said:

"I understand the Ministry of the Interior declaration from 25.4.2022 stating there was a request to book a flight, but there are no regular flights to China because of COVID-19. **I have been here for two and a half months, If this situation continues, will I stay here? I have been here so long, I have headaches, I am not working, and it is very worrying for me.**

In his decision, Tribunal Adjudicator Yossi Berda referred to the Immigration Authority statement that since 60 days had yet to pass since S.Z.'s arrest, there was no reason to release him:

"Despite the claim by the border control officer, the detainee was detained for more than 60 days without a clear date of expulsion from Israel. So, unless he is deported from Israel within 7 days of this decision, his release will be considered."[130]

It seems that the disagreement between the Immigration Authority and Tribunal Adjudicator Berda continued, as is seen from his May 2nd decision:

129 From the March 16th,2022 protocol in the case of detainee number 9173783
130 From the April 26th, 2022 protocol in the case of detainee number 9173783

"**As stated in my 26.4.2022 decision, the detainee was detained for more than 60 days, because the detention order was given on 13.02.2022. It is emphasized that the counting of days written in clause 13F(A)(4) of the Entry to Israel Law 1952-1953 is not from the date of the request to book a flight for the detainee but from the day he was first put in detention, as is written in the clause 'he is staying in detention for more than 60 days straight...'**

In this case we had a detainee held in detention for more than 60 days, and according to the border control officer there have been no flights out to China yet due to the COVID-19 situation in that country."[131]

In S.Z.'s next tribunal hearing on May 15th, the border control officer put out a release notice for S.Z. under the condition that he makes a bail payment of 20,000 NIS and appears once a week at the Immigration Authority offices. This was the last hearing in his case, and it is **safe to assume that after 3 months in jail, during which his country was closed due to the spread of COVID-19- he was released.**[132]

On December 22, 2021, A Ghanaian national named **M.A.** was arrested by Immigration Authority inspectors while working as a janitor. M.A. entered Israel in June 2019 on a tourist visa and a month later applied for asylum. His asylum process ended with a rejection in November 2021.

131 From the May 2nd, 2022 protocol in the case of detainee 9173783
132 From the May 15th,2020 protocol in the case of detainee 9173783

In the hearing after his arrest, he testified that he knew he was staying in Israel illegally. In the first tribunal hearing at the Detention Review Tribunal, the Immigration Authority representative, Tzvikah Yemini, claimed that M.A. was offered to stop at his home before being transferred to Givon Prison, but he declined. Therefore, he sees M.A. as someone who is not cooperating with his deportation- because according to M.A., his passport is at his home. Yemini also claimed the M.A. refused to fill out a request for travel documents to his country. To the contrary, MA himself claimed at the hearing that he was ready to leave Israel and to sign travel documents.[133]

The next hearing in the case of M.A. was conducted in February 2023, where he said:

"I am in touch with a lawyer, my friend did not find my passport. **Immigration gave me the documents and I filled in the documents**, I do not remember the date. **I would like to leave for my home country.** I took a first COVID-19 test which was negative, I am doing a second and waiting for an answer.[134]

On February 28th, another hearing was conducted in M.A.'s case, where he testified that he met with the Ghanaian consul and told him he did not know where his passport was. In his decision, Tribunal Adjudicator Raja Marzouk noted that the Immigration Authority said that M.A. did fill out the travel documents request form on January 11th, 2022 but since the Ghanian authorities know he had a passport, it is difficult to produce new travel documents for him.[135]

133 From the December 30th,2021 Protocol in the case of detainee no. 9170495
134 From the February 3rd, 2022 Protocol in the case of detainee 9170495
135 From the February 27th,2022 protocol in the case of detainee 9170495

On the 27th of March hearing, he stated:

"I feel fine thank you. I have a lawyer and I don't know why he didn't attend; I spoke with him. **Last week I filled out the documents they asked me to and gave them all the information I had.** I met with the Consul, I think it was in February but I don't remember the exact date. I have a passport, but I do not know where it is. I want to go back to Ghana already".

The Immigration Authority representative Tzvika Yemini countered the claim:

"On 24.2.22, the detainee met with the Ghanian consul at the detention facility. The Consul said he would transfer a report but until now the respondent never received the updated report. **The detainee promised multiple times that his attorney would bring his passport to the detention center and until today he hasn't shown it, this should be seen as non-cooperation...**

We are working in parallel with the Consulate to issue a new document. Given the behavior of the detainee during his whole time in detention and the difficulties heaped upon the Consulate, because they were told that the detainee has a valid passport outside the facility walls, I would like to extend the detention order".

Tribunal Adjudicator Yoav Bar-Lev agreed to Yemini's petition and approved the detention order, although more than 60 days passed since M.A.'s arrest.[136] On the April 14th, 2022, hearing there was a disagreement regarding completion of the form, between MA and Yemini, a fact that discouraged M.A.'s cooperation with the deportation proceedings. At the end of this hearing, Tribunal Adjudicator Bar-Lev continued the detention order.[137]

On May 9th, 2022 there was another hearing in M.A.'s case, where he said:

"They spoke with me from immigration. It was after Passover. They let me fill out documents. I filled out everything like they asked me, but they didn't tell me when I would be leaving. When Immigration came to me, I asked them but they still didn't give me an answer. I want to go to Ghana. I even sent my things. I just want to leave for Ghana. Even at the end of the hearing, almost half a year after MA was arrested, Tribunal Adjudicator Bar-Lev extended the detention order.[138]

In the next hearing in M.A.'s case, which took place on May 30th, 2022, the border control officer claimed that the 60 days after which detainees can be released according to the Entry to Israel law should be counted from April 26th,2022- the day in which M.A. properly filled

136 From the March 27th, 2022 protocol in the case of detainee 9170495
137 From the April 14th, 2022 protocol in the case of detainee 9170495
138 From the May 9th, 2022 protocol in the case of detainee 9170495

his request for travel documents. At the end of the hearing once again Tribunal Adjudicator Bar-Lev continued the detention order.[139] In the hearing on June 20th, 2022 in M.A.'s case Tribunal Adjudicator Bar-Lev set the conditions for his release. Given that it was the last hearing in his case, M.A. might have been released or put on a flight to his homeland. **His last hearing occurred over a year and a half after his arrest.**[140]

In M.A.'s case, as in the case of S.Z., the Immigration Authority interpreted the law as saying that the 60 days in detention, which are the basis for release, ought to be counted according to the level of "cooperation" of the migrant with his deportation process(as was the case with M.A.), or according to the steps taken by the PIA for his deportation(as was the case with S.Z.), and not counted as written in the law: according to the detainee's arrest date.

Another migrant who was arrested in administrative immigration detention for an extended period, despite his willingness to return home was **Z.B.**, a Ghanaian national. Z.B. was arrested in December 2021 by Immigration Authority inspectors after residing in Israel illegally. Already in January 2022, Z.B. announced that he would hand his passport over to Immigration Authority inspectors and that he was ready to return to Ghana. In February he was taken to the airport for deportation to Ghana, but there he discovered that an Israeli travel document was attached to his expired passport. Z.B. claimed that he is afraid of being arrested in Ghana if he attempts to enter the country with the travel document and an Ethiopian Airlines representative claimed that he cannot be ticketed if he refuses to fly and that there is no reason to fly a Ghanian citizen with a travel document if Ghana has an embassy in Israel.

139 From the May 30th, 2022 protocol in the case of detainee 0170495
140 From the June 20th, 2022 protocol in the case of detainee 9170495

Adv. Amit Sol who represented Z.B. petitioned the Ghana embassy in Israel, and the embassy said that the Ghanaian authorities will only allow entrance to Ghana to those with valid Ghana travel documents.[141] In the tribunal hearing in ZB's case in March 2022, the Immigration Authority representatives claimed that the Ghanaian authorities approved ZB's deportation with his expired Ghana passport and Israeli travel documents.[142]

At the end of March 2022, ZB agreed to pay 140 dollars for his deportation, according to the Immigration Authority's request. However, at the beginning of April Immigration Authority representatives noted before the tribunal that although a ticket was bought for ZB, he refused to leave his cell to reach the airport, and his deportation was stopped. **In the protocol of the tribunal hearing in Z.B.'s case on the 14th of April, 2022, the detainee's statements and the immigration representatives' statements do not appear, but only the decision of Tribunal Adjudicator Yoav Bar-Lev, who mentioned: "Today the detainee was brought before me, and a tribunal hearing was held with both sides present"**.[143]

The May 9th, 2022 hearing also has no documentation, other than Tribunal Adjudicator Bar-Lev's decision to continue the detention order.[144] The May 30th, 2022 hearing also has no documentation, but this time Tribunal Adjudicator Bar-Lev decided his release conditions, after ruling that "At the time being there is no effective deportation process."[145] After 6 months in detention, it seems Z.B. was released.

G. Individuals Detained for Extended Periods of Time

During 2022, at least 8 male detainees and one female detainee had been held in detention for a year or more.[146]

Y.G., A Kazakhstan national, entered Israel for the first time in May 2001 as a tourist and stayed in the country without a visa until August 2011, then she left and returned two months later, after applying for status in Israel for humanitarian reasons, because her elderly mother is an Israeli citizen and a widow who needs her help. In July 2013, Y.G. received a B2 tourist visa, and in November 2015 her status application was rejected, and she was required to leave Israel. Y.G. stayed in Israel, and in July 2021 was arrested by Immigration Authority inspectors and taken to detention at Givon Prison. In her first hearing, Y.G. told Tribunal Adjudicator Meirav Fleischer-Levi that she would like to apply for status due to her partnership with an Israeli citizen. She also said that she does not have contact with anyone in Kazakhstan and therefore she asks not to be deported there.[147]

In the following hearing, Y.G. said her whole family is in Israel, and she asked to remain in the country and informed the tribunal that she is working on applying once again for humanitarian status.[148] In her hearing

141 From the 22nd of February 2022 protocol in the case of detainee 9170734
142 From the February 22, 2022 protocol in the case of detainee 9170734
143 From the April 14th,2022 protocol in the case of detainee 9170734
144 From the April 1st,2022 protocol in the case of detainee 9170734
145 From the May 30th, 2022 protocol in the case of detainee 9170734
146 Detainee 9164193 was detained in September 2021 and was released, or deported, in November 2022; detainee 9071855 was detained in January 2022 after serving a criminal sentence, and during the time of writing is still detained, detainee 9113129 was detained in September 2019 and at the time of writing is still in detention, detainee 1468605 who was imprisoned in July 2019 and deported in March 2022; detainee 1240636 imprisoned in March 2018 and deported June 2022, detainee 9124885 who was detained in December 2022 and was most likely deported July 2022; detainee 9107169 who was imprisoned in February 2021 and released March 2022; detainee 9148305, who was imprisoned February 2021 and most likely was deported in February 2022, and detainee 9161618 who was imprisoned in July 2019 and most likely was deported in September 2022
147 From the August 2nd, 2021 protocol in the case of detainee 9161618
148 From the August 30th, 2021 protocol in the case of detainee 9161618

in October 2021, Y.G.'s lawyer Ariana Pinsker Lehrer claimed that Y.G.'s non-cooperation with her deportation was due to the shock and distress caused by her detention. Adv. Pinsker-Lehrer claimed that Y.G.'s detention makes it difficult to apply for status on humanitarian grounds, for which she must provide documents and certifications, and she suggested that Y.G. be released on condition of depositing 3,000 NIS bail. Tribunal Adjudicator Fleischer-Levi did not accept the claims and ruled to continue the detention order.[149]

In the following hearings in Y.G.'s case, it was discovered that her humanitarian application was delayed because she did not have a valid passport. In her tribunal hearing in December 2021, she was told that a flight was booked to her homeland, but she replied that she did not intend to board it and asked to be released under the condition of depositing bail.[150] In January 2022, Y.G.'s application for humanitarian status was finally submitted, therefore at the next hearing in her case in February 2022, her lawyer asked for her to be released under the condition of depositing bail. The border control officer claimed in his counter-defense: "The detainee's visa expired in 2014. Since then, she has been staying in Israel without a visa. The detainee is trying to latch on to her ongoing application, and to re-apply for status, in order to settle in Israel, many applications were denied. The detainee admits that after each rejection she stayed in Israel against the law and while in detention she refused to fly. Applications can be made and reviewed even in her absence and their existence doesn't prevent her deportation. Today she is on an escorted flight' status due to her previous refusals. In these circumstances, we ask to approve the detention order".

149 From the October 4th, 2021 protocol in the case of detainee 9161618
150 From the December 27th, 2021 protocol in the case of detainee 9161618

Adv. Pinsker-Lehrer replied to these statements:

"The reason for her stay in Israel is that her parents are Israelis. She did not come to work, and, naturally, a person asks to stay next to their relatives. The last flight was booked for her despite them knowing that she applied for a humanitarian application, therefore it should not be seen as non-cooperation."

Y.G. added in Hebrew:

"I came to Israel because my parents are here. I asked the Consulate if I could come with them, and I was told that they would make Aliyah, and then I could come too. My parents are very important to me- I lived with them and helped them. I still have relatives in Israel, and I am in good relations with them. I want to be useful here."

At the end of the hearing Tribunal Adjudicator Asaf Noam ruled to continue the detention order.[151]

In the following hearings, Y.G. had no legal representation and no progress occurred in her case: her status request was still not decided, the border control officer continued to claim that she had to leave Israel and wait for a response in her country, and Tribunal Adjudicator Asaf Noam did not find reason to intervene in the detention order.

Her last hearing occurred in September 2022, more than a year after her arrest. Even at the end of it, Tribunal Adjudicator Assaf Noam ordered to extend the detention order, therefore it seems that following an extended detention period, and despite the fact that her connection to Israel was made clear throughout her case, Y.G. was deported back to Kazakhstan, where no one was waiting for her return.[152]

151 From the February 7th, 2022 Protocol in the case of detainee 9161618
152 From the September 4th, 2022 protocol in the case of detainee 9161618

K.P. entered Israel in 2010 and applied for political asylum. His application was denied in August 2019, and in February 2021 his appeal was rejected, and it was ruled that he must report to the voluntary leave unit and advance his exit from Israel. In September 2021, he was arrested by PIA inspectors and sent to detention at Givon prison. This entire time, his country of origin remained unknown.

The first hearings in K.P.'s case did not reveal his country of origin. The short protocols show that K.P. had a difficult time communicating with the lawyer representing him and gave the tribunal different names of lawyers that could represent his case, and later on he had to explain why these lawyers did not attend his hearing. For example, the December 14th, 2021, protocol included the following detainee statement:

"**I know the lawyer isn't attending.** Immigration told me two weeks ago they would photograph me; they didn't get back to me." The February 6th Protocol in K.P.'s case included the following detainee statement: **"I am in touch with my lawyer".** The April 4th, 2022, protocol also included the detainee's statement regarding a lack of representation: "I understand that my lawyer was here, and she was not allowed to enter, I ask that she be present during the hearing." The 11th of April 2022 hearing in K.P.'s case started late after his lawyer once again did not attend.[153]

A review of the tribunal decisions regarding K.P. shows that according to him he is a citizen of Mali but given that he has no documents proving this- Mali authorities refuse to recognize him as a citizen.[154]

153 From the September 19th, October 10th and December 14th,2021 protocols as well as the February 6th, April 4th, and April 11th,2022 protocols in the case of detainee 9164193
154 From the March 15th, 2022 Protocol in the case of detainee 9164193

In his hearing on April 11th, 2022 K.P. explained how difficult it was to prove his citizenship and illuminate the Immigration Authority's attempt to deport him:

"They wanted to take me to Ben Gurion two weeks ago. They said they called Mali, and they replied that I am not from there, and the flight company canceled my flight because they said I was not from there. Because I have an issue in Mali. I am not from Congo. **I want to go there, but because a long time has passed, I have no one there. Because I am here, I have no way of proving my Identity. I have no way of contacting people on the outside.** This whole time I have been trying to get documents. I do not know if I will succeed, even at any point in the future, to prove that I am from Mali. **I want to go to my country; I have been here for seven months.** If I were outside, I would try to get someone from here. It is hard."[155]

In his next hearing K.P.'s lawyer wasn't present once again, and he explained why he didn't leave Israel before he was arrested:

"[...] I said yesterday that I left my country because I wanted to help my mother, but I have no contact with her right now, last time I spoke with her was in 2008. I also have had no contact with my brothers since. The last time I was released I did not want to return to Mali because I had a problem then, but now I do want to return. I have no specific person I can contact but maybe if I leave, I will find someone in Tel Aviv who might be able to help me contact my family. I've been trying to get a document this whole time, but until now I haven't succeeded."[156]

On the June 27th hearing in K.P.'s case Border Control Officer Tzvika Yamin described the PIA attempts to determine K.P.'s country of citizenship:

"Following the response on 21.6.22 last week with the detainee, there was a search of his cellphone, and several phone numbers from Congo, Mali, Gabon and Spain were found. No photos of documents were found. We will continue to look through any piece of information to find out his identity. As his cooperation will continue the chances of success will grow."

K.P. added to these things:

"I have phone numbers of people from Gabon, I met him, but I don't know if he knows where I am from. The number of the person from Congo, I met him, and he knows I am from Mali. I don't have the phone number of anyone from Mali. It could be that they accidentally called me, but if I had the number, I would call it but he isn't in Mali and couldn't get me the documents.[157]

The next hearing in K.P.'s case is on July 26, 2022 was also focused on the phone numbers saved in his device and the question as to how he knows the individuals behind these phone numbers, and why he didn't call them even though he was removed from his cell by Immigration Authority representatives especially to do so. It seems that besides the meeting with Congo embassy representatives that was arranged for K.P. in his first months of jail time– all Immigration Authority attempts to identify K.P. were invested in these phone numbers.[158]

155 From the April 11th protocol in the case of detainee 9164193
156 From the May 3rd protocol in the case of detainee 9164193
157 From the June 26th, 2022 protocol in the case of detainee no. 9164193
158 From the July 26th, 2022 protocol in the case of detainee no. 9164193.

Finally, after the hearing in K.P.'s case on November 2nd, 2022, a year and 2 months following his arrest – Tribunal Adjudicator Yoav Bar-Lev ruled to release K.P.:

"[...] **We are dealing with a detainee who has been in detention for more than a year,** following the fact that his detention was due to his lack of full cooperation with his deportation process as he thwarted the possibility of identifying his country of origin. Also, during his detention, the detainee refrained from finding documents or evidence that could prove his nationality...

"[…] That being said, more than 3 months ago the detainee started to try and look for documents to prove his nationality and cooperated with the respondent as he contacted individuals via his cell phone, in an attempt to help him prove his country of origin and to try to receive support documents to his being a Mali national. Although these efforts did not succeed, the detainee made it clear that unlike in the past, he is not interested in staying in Israel and he means to exit the country shortly after he is released, if he is released. According to him if he is released, he can go to people outside who he hasn't been in touch with due to his detention, to return to his country of origin. Given these circumstances and considering to the purpose of detention according to High Court ruling 8425/13 Eytan – Israeli Migration Policy NGO vs. The State of Israel, **I found that there is reason to release him**."[159]

This was the last protocol in K.P.'s case; therefore, he might have been released or a new way was found to deport him to Mali.

[159] From the November 2nd, 2022 protocol in the case of detainee 9164193

Another migrant who was jailed during 2022 for a long time was **Y.K.**, an Cote D'Ivoire citizen. Y.K. was in administrative immigration detention for more than 5 years, from March 2013 until May 2018. In July 2019 once again Y.K. was arrested by Immigration Authority inspectors.

In the first few years of his previous detention, Y.K. was considered by the tribunal and Immigration Authority representatives as someone who was not cooperating with his deportation, so the representatives decided to try and deport him with accompaniment.

In the hearing held in Y.K.'s case in November 2020, the representatives said that as long as the COVID-19 pandemic is still occurring, there is no possibility of deporting Y.K. with accompaniment and so he must be left in jail until the situation changes. The tribunal accepted this position. In the hearings held in his case throughout 2021, Y.K. repeated his position that he is willing to return to his home country, upon receiving a monetary payment. Immigration Authority representatives were adamant about the fact that monetary payments are given to Eritrean and Sudanese citizens who voluntarily leave Israel, not to people in Y.K.'s position- a citizen of Cote d'Ivoire that the PIA wants to deport. Finally, in October 2021, the representatives changed their minds and agreed to review the option of giving Y.K. a monetary payment to advance his deportation to his country.[160]

In his hearing of February 2022 his lawyer Amit Sol said that Y.K. agrees to return to his country upon receiving a monetary payment, which the border control officer agreed to, noting that it is an unusual agreement.[161] The last protocol in Y.K.'s case was held in March 2022 and by looking at its content, it is fair to assume that following an arrest of over 2 years Y.K. was deported to the Ivory Coast.[162]

Yahalom Detention Facility at Ben Gurion Airport

Yahalom Detention Facility continued to be an ex-territorial area that was managed with no accountability and no judicial or public oversight. During the year 5,500 people who were denied entry were detained in the facility, each for an average period of 15 hours.[163]

An internal oversight report was written by facility's comptroller, Adv. Avihou Ben Moshe, in October 2022. However, the PIA refused to publish the complete version. The report, states that the imprisonment conditions in the facility are harsh and that there is a severe lack of equipment and medicine. The comptroller dedicated special attention to the **arrest of a 13-year-old boy with his grandfather while visiting his mother, who resides in Israel. The boy was imprisoned for 3 days at the facility and was not even allowed to speak with her.** The comptroller noted "I was not able to understand if a social worker met with the child", and he concluded:

"Due to the young age of the child and the imprisonment conditions, it is recommended to once again review the communications issue (Television) or to allow younger children to use their cell phones to help them pass the time in the detention facility.

The comptroller also noted that two families with children were detained in the facility, but it was not clear if it was families who were denied entrance to Israel, or if it was families of refugees with Israeli children who

[160] 1468605From the October 25th, 2021 protocol in the case of detainee
[161] From the February 7th,2022 protocol in the case of detainee 1468605
[162] From the March 14th, 2022 protocol in the case of detainee 1468605
[163] From a statement by Yossi Edelstein, head of the Enforcement and Foreigners Administartion at PIA taken from a visit by the Knesset Special Committee for Foreign Workers at Yahalom Detention Center. https://main.knesset.gov.il/activity/committees/foreign/news/pages/02032023.aspx

were arrested and transferred for deportation. In the description of his conversation with them the comptroller stated:

"They are supposedly flying back today, they got what they requested. Their room was left open due to the fear of the children staying in a closed room. The food given to them wasn't to the kids' taste, so they barely ate. They asked for fruit for the Children." The comptroller added and said: "They have special medical needs for the kids, like anti-itching creams for the kids who got bitten by mosquitoes and are scratching themselves to the point of bleeding."

In his conclusion and recommendations, the comptroller noted: "Deep thought needs to be invested in everything that has to do with the detention of families with children. **The facility is not built for the detention of children and someone needs to work on that**. Food, and activities(including Television which is lacking) are the most basic conditions that need to be present in the facility for children. One of the younger children wanted an apple because she hadn't eaten breakfast. Sadly the detention facility didn't have an apple so I gave the child an apple that I brought for myself. Another point is to buy food for the kids independently from Ben Gurion airport to prevent a reality where the kids don't eat and stay hungry."[164]

A review of access to the asylum process at the detention facility found that in 2022, a total of 5 asylum applications were processed by people detained at Yahalom Detention Facility--2 men, and 3 women.[165]

[164] Report states: Ben Gurion Airport Detention Center not Prepared to Receive Children,Bar Peleg, Haaretz, 26.1.2023

[165] From the response to a FOI request regarding accessibility to asylum processes in Givon and Yahalom Facilities, May 2022.

Conclusion and Recommendations

This eight annual report, continues our commitment , to illuminate the dark corners where the rights of statusless migrants are easily trampled: jails and prisons, the Detention Review Tribunal, and Yahalom Detention Facility, for individuals refused entry into Israel. These spaces, often ignored by the public, house marginalized populations whose grievances remain largely unseen.

The year 2022 was anticipated to mark the end of the COVID-19 pandemic and return to normalcy. Instead, Russia-Ukraine war broke out, leading to an influx of refugees unseen in recent decades. It began with the detention and deportation of Ukrainian migrants during the days before the Russian invasion of their country, was followed by HRM's demand for group protection of Ukrainian refugees when the fighting started and reviewing the implementation of this protection, and continued up until the entry refusal of war escapees as they entered Ben Gurion Airport.

Our continuous monitoring of the Detention Review Tribunal, revealed an improvement in the awareness of the tribunal adjudicators to cases of human trafficking and modern slavery. However, despite our efforts in recent years to raise the awareness of the tribunal adjudicators in the Detention Review Court to the challenges facing mentally ill detainees, the tribunal adjudicators rarely answer our petitions for Legal Aid Office representation. This occurs even in cases involving unidentifiable migrants detained for extended periods, contrary to the state's commitment to provide representation for detainees who aren't able to self-represent due to mental illness.

The practice of detaining asylum seekers while their asylum application are processed by the Immigration Authority severely undermines the accessibility of asylum procedures in Israel and exposes asylum seekers to arrest, detention, and deportation. This year, as well, it seems the liberties of migrants and asylum seekers were easily taken, despite the media attention given to refugees issues due to Ukranian forced migrants.

Consequently, we recommend:

1. Establishing specific release conditions for detainees who cannot be deported due to uncontrollable circumstances, such as a lack of available flights or other technical issues.
2. Limiting the extended detention of refugees whose country of origin is unknown or to where deportation is not feasible.
3. Enhancing collaboration with the Legal Aid Office, which is ready to represent migrants who cannot advocate for themselves before the Detention Review Tribunal. Particular attention the tribunal adjudicators should pay to detained individuals with mental illnesses.
4. Avoiding the arrest of asylum seekers while their asylum applications are active.
5. Guaranteeing that migrants whose lives might be endangered in their country of origin will not be deported, including those denied entry, without exhausting their asylum process in Israel.
6. Providing professional and accurate translations during border control and tribunal hearings, as well as ensuring access to all the relevant information, including asylum applications, in understandable languages.

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