

PUBLIC

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UA 241/08 **Fear for Safety**

ISRAEL/EGYPT At least 91 asylum-seekers and migrants from sub-Saharan Africa

Since 23 August, the Israeli army has been sending scores of asylum-seekers and migrants, originating from countries such as Sudan, Eritrea and Somalia, back to Egypt without providing them with an opportunity to challenge the decision to expel them. Asylum-seekers and migrants who are forcibly returned from Israel to Egypt are in danger of being detained incommunicado and then being forcibly returned to countries such as Eritrea and Sudan where they are at risk of further human rights violations.

A petition for an injunction to end the practice known as “hot returns” was rejected on 2 September by the Israeli High Court of Justice, which said it would hear the case on 12 November. The rejection of the injunction leaves the “hot returns” policy in operation and allows the violations against asylum-seekers and migrants to continue unabated, in breach of international law.

The policy of “hot returns” instructs soldiers to record the statements of the asylum-seekers and migrants and then deport them within three to six hours of arrival at the border. Soldiers can refer cases to a superior officer. However, in an affidavit dated 1 September 2008, an Israeli army commander admitted that even these procedures, which fail to give sufficient protection to asylum-seekers, were not followed. The affidavit states that 91 people were returned through the application of the “hot returns” policy between 23 and 29 August.

The army response to the Court stressed that the returns were carried out in coordination with the Egyptian government. The procedure fails to take into account the fact that Egypt has consistently violated the human rights of migrants and asylum-seekers. Egyptian forces have killed 26 asylum-seekers trying to cross into Israel since mid-2007. Most asylum-seekers who attempt to reach the Egyptian border with Israel are taken into custody and more than 1,300 have been summarily tried since mid-2007 by military courts and have received prison sentences for “attempting to exit unlawfully the Egyptian eastern border”.

BACKGROUND INFORMATION

The practice of “hot returns” contradicts Israel’s obligations under the 1951 Convention relating to the Status of Refugees and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) not to forcibly return asylum-seekers to countries where they would be at risk of torture. The International Covenant on Civil and Political Rights (ICCPR), which Israel has ratified, obligates states to ensure that procedural guarantees are respected whenever the legality of a foreigner’s presence in the country is being considered, including the right to an individual decision and to have the decision reviewed by a competent authority. The Israeli government’s response to the High Court of Justice that Israel is not responsible for the actions of the Egyptian authorities negates Israel’s obligations under the ICCPR not to deport a person where there are substantial grounds for believing that there is a real risk of serious human rights violations, either in the country to which removal is to be effected or in any country to which the person may subsequently be removed.

After a previous attempt last year by the Israeli government to put in place a policy of “hot returns”, 48 asylum-seekers, mostly Sudanese, were summarily returned to Egypt on 18 August 2007. They effectively disappeared for several months incommunicado. Twenty Sudanese were then returned to Sudan, allegedly after having agreed to return, without being granted access to the office of the UN High Commissioner for Refugees (UNHCR). There is no information on the other 28, who may remain in secret detention in Egypt.

None of those forcibly returned are known to have been allowed access to the UNHCR office in Cairo to determine whether they are eligible for asylum.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

TO ISRAEL

- calling on the Israeli authorities to end all immediate returns of people who cross its border and ensure that every individual has access to a fair and satisfactory asylum procedure to assess his or her asylum claims and ensure that individuals who are fleeing persecution are afforded international protection;
- calling on the Israeli authorities to ensure that procedural guarantees governing expulsion are respected for every person who enters or is present in their territory and whose legal status in the country is in question, including the right to be granted an individual decision on their case and an effective remedy against expulsion, to be allowed to submit reasons against their expulsion, and to have the decision reviewed by a competent authority;
- calling on the Israeli authorities to respect Israel's obligations under the 1951 Convention relating to the Status of Refugees, the UN Convention against Torture and the ICCPR not to forcibly return asylum-seekers and migrants to countries where they might suffer torture or other ill-treatment, or be at risk of forcible return to third countries where they might suffer torture or other ill-treatment.

APPEALS TO:

Ehud Barak
Deputy Prime Minister and Minister of Defence
Ministry of Defence
37 Kaplan Street
Hakirya
Tel Aviv 61909, Israel
Fax: +972 3 691 7915 or +972 3 696 2757;
Email: minister@mod.gov.il or sar@mod.gov.il
Salutation: Dear Minister

TO EGYPT

- calling on the Egyptian authorities to ensure that all asylum-seekers have access to the office of UNHCR to assess their asylum claims and that no one is detained incommunicado;
- calling on the Egyptian authorities to respect their obligations under the 1951 Convention relating to the Status of Refugees and the UN Convention against Torture not to forcibly return asylum-seekers to countries where they might suffer torture and other serious human rights violations.

APPEALS TO:

Minister Habib Ibrahim El Adly
Ministry of the Interior
25 Al-Sheikh Rihan Street
Bab al-Louk, Cairo, Egypt
Fax: +2022 279 0682
Email: moi@idsc.gov.eg or center@iscmi.gov.eg
Salutation: Dear Minister

COPIES TO: diplomatic representatives of Israel/Egypt accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 15 October.