

Israel's top court strikes down law requiring asylum seekers to deposit 20% of salaries

In effect for over two years, law was meant to encourage asylum seekers to leave. Now the state has 30 days to return the money

Lee Yaron | Apr. 23, 2020 | 6:18 PM | 3

Israel's High Court of Justice ruled on Thursday that a law meant to encourage asylum seekers to leave the country by requiring them to deposit 20 percent of their monthly salary into a locked account is unconstitutional, and therefore null and void.

Under the law, which took effect in May 2017, asylum seekers can withdraw this money only when they leave Israel.

The petitioners, who included both asylum seekers and rights organizations, argued that the law seriously eats into asylum seekers' already low salaries and thereby prevents them from supporting themselves.

The law was intended to encourage two groups - Eritrean and Sudanese asylum seekers - to voluntarily leave Israel, since the government can't legally deport them.

"The use of economic incentives is a legitimate tactic in implementing migration policy," Supreme Court President Esther Hayut wrote in her ruling. "But the means chosen in the this case – denying the worker a fifth of his salary until he leaves Israel – clearly, tangibly and substantially undermines the infiltrating worker's property rights, while the benefit stemming from it is limited."

"I haven't ignored the claim that at any given moment, the infiltrator could decide to leave the country and would then receive the money (as long as his employer in fact deposited it)," she continued. "Nevertheless, this doesn't reduce the harm done to the infiltrator while he remains in the country."

The ruling gives the state 30 days to return the accumulated 20-percent deposit to workers.

On top of the 20 percent deducted from the employee's pay, which employers are supposed to deposit every month, employers are required to deposit an additional 16 percent to cover benefits like pension and severance pay.

The government has recently debated the possibility of letting asylum seekers withdraw some of the money in their locked accounts due to the coronavirus crisis. Under this proposal, which the cabinet hasn't yet approved, they would have to repay the money later. Earlier this month, the government delayed such a move as the result of pressure from right-wing organizations.

The petition was filed in March 2017 by Kav LaOved, a workers' rights organization, and Tel Aviv University's Refugee Rights Clinic. Five other organizations also joined the petition: ASSAF, the Aid Organization for Refugees and Asylum Seekers, the Hotline for Refugees and Migrants, the Association for Civil Rights in Israel, the African Refugee Development Center, and Physicians for Human Rights.

The remaining petitioners were seven asylum seekers from Eritrea and Sudan.

Right-wing politicians in Israel expressed dismay over the High Courts' ruling. Member of Knesset Bezalel Smotrich said right-wing lawmakers will submit amendments to the law and will surely be supported by Benjamin Netanyahu's Likud and the ultra-Orthodox factions in allowing "the Jewish state to implement its immigration policy and expel infiltrators back to their countries."

Education Minister Rafi Peretz also said that the "disqualification of the 'Deposit Law' by the High Court is another phase in the splitting of the Jewish identity of the State of Israel in general and an example of the abandonment of the [Jewish] residents of southern Tel Aviv in particular."

"An infiltrator found illegally in Israel must return to his country of origin," continued Peretz in a tweet.

The court's final hearing on the petition was held nearly a year ago, in May 2019. During that hearing, the seven-justice panel criticized both the law and the government's decision to withdraw from an agreement with the United Nations under which 16,000 refugees would be relocated to other countries and Israel would absorb a roughly equal number.

Hayut noted at the time that only about 10 percent of the asylum seekers whose salaries were being docked had actually sought to leave.

