



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND  
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: ohchr-registry@un.org

REFERENCE: 2022-62/CESCR/FU

27 October 2022

Excellency,

In our capacity as Chair and co-Rapporteurs for follow up to concluding observations of the Committee on Economic, Social and Cultural Rights, respectively, we have the honour to refer to the examination of the fourth periodic report of Israel at the Committee's sixty-fourth session, held in 2019. In the concluding observations,<sup>1</sup> the Committee requested Israel to provide, within 24 months, written information on the steps undertaken to implement the recommendations contained in paragraphs 11 (c) and (d), 17 and 23 of the concluding observations.

The Committee welcomes the follow up report<sup>2</sup> received in March 2022 under its follow up procedure, as well as the spirit of openness expressed by the State party. However, the Committee notes that the State party's view that the Covenant is not applicable in the Occupied Palestinian Territory (OPT), including East Jerusalem and Gaza, is contrary to the views of the Committee and of other treaty bodies, also of the International Court of Justice in its Advisory Opinion on the Legal Consequences of the Construction of a Wall in the OPT.

The Committee thanks the State party for the information submitted through the follow up procedure, and having considered the State party's follow up report at its seventy-second session, held from 26 September to 14 October 2022, wishes to communicate the following assessment:

Her Excellency  
Ms. Meirav Eilon Shahar  
Permanent Mission of Israel  
to the United Nations Office and other international organizations in Geneva  
Email: mission-israel@geneva.mfa.gov.il

---

<sup>1</sup> [E/C.12/ISR/CO/4](#)

<sup>2</sup> [E/C.12/ISR/FCO/4](#)

**Paragraph 11: State party's policies relating to the Occupied Palestinian Territory (OPT). Paragraph 11 (c): Facilitate the free movement of Palestinians within the OPT, including East Jerusalem and the Gaza Strip, and ensure that any measures restricting the free movement of civilians and goods from, into and within the Gaza Strip are in line with its obligations under the Covenant – Assessment: Partial Progress.** The State party's follow up report in respect to this recommendation indicates that the policies and measures enforced regarding the free movement of Palestinians within the OPT, including East Jerusalem and Gaza, are regularly examined and decided based on security considerations. The State party indicates that it continues implementing its revised 2010 policy towards Gaza, and that hundreds of thousands of Palestinians enter Israel from the West Bank and Gaza, on a regular basis, and that the number of permits from Gaza for commerce purposes has increased recently. Regarding the movement of goods to and from Gaza, the State party's follow up report indicates that all goods that are not limited by Law may be transferred.

However, the State has failed to provide detailed information on the measures adopted to progressively implement this recommendation beyond its revised 2010 policy towards the Gaza Strip, nor has it demonstrated, through detailed and disaggregated data, how the steps taken have effectively facilitated the movement of Palestinians within the Occupied Palestinian Territory, including East Jerusalem and the Gaza Strip, over time. Taking note of the information provided by the State party in its follow up report, the Committee thus assess that there has been partial progress with regard to this recommendation and requests the State party to provide further information in its next periodic report.

**Paragraph 11 (d): To immediately halt and reverse all settlements policies and developments in the West Bank, including East Jerusalem, and the occupied Syrian Golan, and rescind the delegated powers granted to organizations facilitating settlement such as the World Zionist Organization (WZO) and the Jewish National Fund (JNF), and discontinue supporting these organizations – Assessment: No Progress.** The State party's follow up report in respect to this recommendation its two fold. On the one hand, it indicates that the Israeli government is entitled to delegate some of its authorities to the WZO, through agreements via the Rural Growth and Development Division, according to section 6b(b)(1) of the Status of the WZO and the Jewish Agency for Land of Israel Law 1952-5713. It further indicates that the Development Division's work is regulated through government resolution N. 1998 of 2016, which delegates certain government responsibilities and establishes a mechanism for reviewing its activities, including the establishment of a supervising unit under the Ministry of Hityashvut. It also indicates that the High Court of Justice ruled in a petition to review those delegation arrangements and approved them, finding that the Division is subject to review and supervision mechanisms and is forbidden from exceeding the set authorities delegated to it.

On the other hand, it indicates that the State has authority over the JNF by law, and it is managed by the Israel Land Authority (ILA). It adds that in 2018, the High Court of Justice ruled in a petition filed by the National Committee for Local Authorities, that requested the Court to cancel Section 4a(a) of the Israel Land Administration 1960-5720. According to the petitioners, the section, which raised the respective portion of the JNF representatives, represented a violation on the right to equality and dignity of the Arab

population in Israel. The Court found that the section does not harm the principle of equality, as the land administered by the ILA is under ownership of the JNF.

While the information provided in the State party's follow up report details the end of the internal legal processes, the Committee considers that the measures do not fulfil the recommendations made. The Committee thus assess that no progress has been made in relation to this recommendation.

**Paragraph 17: To review the Basic Law: Israel – the Nation State of the Jewish People with a view to bringing it into line with the Covenant or to repealing it and to step up its efforts to eliminate discrimination faced by non-Jews in their enjoyment of Covenant rights, particularly the rights of self-determination and non-discrimination and to cultural rights – Assessment: No Progress.** The State party's follow up report in respect to this recommendation indicates that the High Court of Justice deliberated on the effect of the Basic Law on the enjoyment of the rights covered by the Covenant at length on July 8, 2021. The Court, presiding with a panel of 11 Judges, including the President and Vice President of the Supreme Court, rejected 15 petitions in which the petitioners argued that the Basic Law is unconstitutional. It further indicates that the Court found that the Basic Law does not contradict the provisions of international law, and that it can be interpreted in a manner consistent with them. The Committee considers that while the Court's ruling finished the internal judicial process, it does not address the issues identified by the Committee, thus, the Committee assess that there has been no progress in implementation of this recommendation.

**Paragraph 23: Refugees and Asylum Seekers – Overall Assessment: Partial progress. Paragraph 23 (a): Improve the refugee status determination procedure with a view to facilitating the processing of applications and enhancing the fairness and effectiveness of the procedure.** The State party's follow up report in respect to this recommendation indicates that on June 23, 2021, the refugee status determination procedure was updated aiming at improving the services offered to asylum seekers, as well as the efficiency and professionalism of the determination process itself, while balancing relevant considerations and striving to create the most proficient and effective process possible. It further indicates that prior to entry into force, the updated procedure was presented to the public as well as to the relevant bodies involved in various aspects of the asylum process, including the United Nations High Commissioner for Refugees and civil society. It also indicates that after conducting the consultative dialogue with the relevant bodies, the procedure was amended and entered into force.

**Paragraph 23 (b): Allow asylum seekers to enter the labour market.** In this regard, the State party's follow up report indicates that asylum seekers are granted temporary stay permits, which are not categorized as work permits, pursuant to Section 2(a)(5) of the Entry into Israel Law 5712-1952. It adds that in the framework of the High Court of Justice ruling 6312/10, the State declared that despite the aforementioned legal status, there will be no enforcement against the employment of asylum seekers in practice. According to the follow up report, the State's declaration has been further anchored in Sections 1(e) and 1(f) of the refugee status determination procedure.

**Paragraph 23 (c): Expand the social assistance benefits granted to asylum seekers, including health insurance.** The State party's follow up report with regard to this recommendation indicates that a series of actions and measures have been taken for its implementation, such as the implementation of Directive N.100 from the Ministry of Welfare and Social Affairs (MoWSA) Director General's for at-risk children and their families; governmental resolutions pertaining to the provision of rehabilitation services to all victims of human trafficking without civil status; the MoWSA Director General's Directive N.168 regarding the treatment of refugees and asylum seekers who may not be returned to their country of origin; the opening of twenty (20) new social worker positions in relevant localities; the implementation of half-yearly meetings between MoWSA, Israel Police and local authorities representatives to discuss cooperation areas and individual cases related to domestic violence against migrant women; and the provision of additional need-based grants offered by the MoWSA, during the COVID-19 pandemic, to assist migrants who may not be returned to their country of origin.

On the other hand, regarding access to medical care and health insurance, the State party's follow up report indicates that pursuant to Patients' Rights Law 1996-5756, all persons are entitled to urgent medical care in a situation of medical emergency. Specifically, migrants, including minors, are offered a variety of health services and treatments in specialized clinics. It further adds, that minors without civil status in Israel are offered subsidized medical treatments, through the Meuhedet Health Fund, and that foreign workers and employed persons without civil status are entitled to health insurance sponsored by their employer.

**Paragraph 23 (c): Repeal the Law for the Prevention of Infiltration or amend it with a view to making it consistent with the Covenant.** The State party's report with regard to this recommendation indicates that on April 23, 2020, the High Court of Justice ruled that the obligation requiring people who entered Israel irregularly through the Egyptian border to deposit 20% of their salary as an incentive to leave Israel was unconstitutional and ordered is nullity. Thereby, the Court determined that the deposit would be based only on the employer component (16%) and approved an administrative deduction mechanism, according to which, certain amounts can be deducted from the employee's deposit if the employee leaves the country after the departure date set by the authorities. The deduction levels are determined in accordance with the length of the delay, and sets that the deduction will not exceed 33% of the deposit.

All things considered, the Committee welcomes the amendments and steps taken with respect to the recommendations outlined in par. 23 of the concluding observations of the four periodic report of Israel. However, the Committee is of the view that most of the measures taken are still in the early stage of implementation, which makes it very difficult to assess their effectiveness and the progress made thereby. Thus, the Committee assess an overall partial progress with regard to the implementation of these recommendations and requests the State party to provide further information in its next periodic report.

The Committee looks forward to continuing its constructive dialogue with the State party, with a view to providing it with guidance in its efforts to ensure the effective implementation of the Covenant.

Please accept, Excellency, the assurance of our highest consideration.



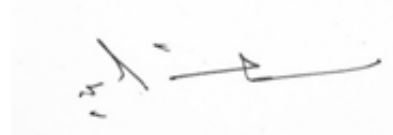
Asraf Caunhye

Co-Rapporteurs for follow-up

Committee on Economic, Social and Cultural  
Rights



Mikel Mancisor



Mohamed Ezzeldin Abdel-Moneim

Chair

Committee on Economic, Social and  
Cultural Rights