

Republic of Korea (South Korea) Immigration Detention Data Profile

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|----------------------------------|--|---------------|
| <p>Map data ©2020 SK telecom</p> | Quick Facts | |
| | Immigration detainees (2020) | Not Available |
| | Detained asylum seekers (2020) | Not Available |
| | Detained minors (2017) | 76 |
| | International migrants (2019) | 1,163,655 |
| | New asylum applications (2019) | 15,433 |
| | Number of immigration detainees on a given day (2020) | Not Available |

NOTES ON USING THIS PROFILE

- Sources for the data provided in this report are available online at: <https://www.globaldetentionproject.org/countries/asia-pacific/republic-of-korea-south-korea>
- "Observation Dates" indicate the timeframe statistical data correspond to or other data were last validated. More than one statistical entry for a year indicates contrasting reports.

STATISTICS

Detention, expulsion, and incarceration statistics

| | | Observation Date | | | Observation Date |
|---|---------------|------------------|---|---------------|------------------|
| Total number of immigration detainees by year | Not Available | 2020 | Number of immigration detainees on a given day | Not Available | 2020 |
| | | | | | |
| Top nationalities of detainees | Not Available | 2020 | Number of detained asylum seekers | Not Available | 2020 |
| | | | | | |
| Total number of detained minors | 76 | 2017 | Criminal prison population | 57,451 | 2016 |
| | | | | 47,969 | 2013 |
| | | | | 47,471 | 2010 |
| | | | | 46,313 | 2007 |
| | | | | 57,184 | 2004 |
| | | | | 62,235 | 2001 |
| | | | | 67,883 | 1998 |
| | | | | 60,166 | 1995 |
| | | | | 55,159 | 1992 |
| Percentage of foreign prisoners | 3.5 | 2016 | Prison population rate (per 100,000 of national population) | 114 | 2016 |
| | 3.2 | 2013 | | 98 | 2013 |
| | | | | 99 | 2010 |
| | | | | 98 | 2007 |
| | | | | 122 | 2004 |
| | | | | 135 | 2001 |
| | | | | 149 | 1998 |
| | | | | 135 | 1995 |
| | | | | 126 | 1992 |

Demographics and immigration-related statistics

| | | Observation Date | | | Observation Date |
|--|------------|------------------|---|-----------|------------------|
| Population | 25,800,000 | 2020 | International migrants | 1,163,655 | 2019 |
| | 51,635,256 | 2018 | | 1,327,300 | 2015 |
| | 48,600,000 | 2012 | | 1,232,200 | 2013 |
| International migrants as a percentage of the population | 2.6 | 2015 | Estimated number of undocumented migrants | 360,000 | 2019 |
| | 2.5 | 2013 | | 250,000 | 2018 |
| Refugees | 3,196 | 2019 | Ratio of refugees per 1000 inhabitants | 0.02 | 2014 |
| | 936 | 2018 | | 0.01 | 2012 |
| | 1,773 | 2016 | | | |
| | 1,463 | 2015 | | | |
| | 547 | 2014 | | | |

| | | | | | |
|--|--------|------|---------------------------------|-----|------|
| Total number of new asylum applications | 15,433 | 2019 | Refugee recognition rate | 3 | 2018 |
| | 16,173 | 2018 | | 5.4 | 2014 |
| | 9,942 | 2017 | | | |
| | 7,541 | 2016 | | | |
| | 5,711 | 2015 | | | |
| | 2,896 | 2014 | | | |
| | 1,361 | 2012 | | | |
| Stateless persons | 197 | 2016 | | | |
| | 200 | 2015 | | | |
| | 194 | 2014 | | | |

| DOMESTIC LAW | | | |
|--|--|-------------------------|--------------------------|
| LEGAL TRADITION | | | |
| Legal tradition | Name | Observation Date | |
| | Civil law | 2017 | |
| | Customary law | 2017 | |
| LAWS AND REGULATIONS | | | |
| Core pieces of national legislation | Name | Year Adopted | Last Year Amended |
| | Rules on the Protection of Foreigners | 2018 | 2018 |
| | Protection of Defecting North Korean Residents and Support of Their Settlement Act | 1997 | 2010 |
| | Immigration Control Act | 1963 | 2014 |
| | Refugee Act | 2012 | 2016 |
| LAWS AND REGULATIONS | | | |
| Additional legislation | Name | Year Adopted | Last Year Amended |
| | Enforcement Decree of the Immigration Control Act | 1999 | 2017 |
| | Enforcement Decree of the Protection of Defecting North Korean Residents and Support of Their Settlement Act | 1999 | 2018 |
| | Enforcement Decree of the Refugee Act | 2013 | 2014 |
| | Enforcement Decree of the Rules on the Protection of Foreigners | 2019 | 2019 |

| GROUNDS FOR ADMINISTRATIVE IMMIGRATION-RELATED DETENTION | | | | | |
|--|--|---|------------------|------------------|--|
| Immigration-status-related grounds | Name | | | Observation Date | |
| | Detention to prevent absconding | | | | |
| | Detention to effect removal | | | | |
| | Detention for unauthorised entry or stay | | | | |
| | Detention for unauthorised exit | | | | |
| Detention to establish/verify identity and nationality | | | | | |
| CRIMINALIZATION OF IMMIGRATION-RELATED OFFENCES | | | | | |
| Does the country provide specific criminal penalties for immigration-related violations? | Fines | Incarceration | Observation Date | | |
| | Yes | Yes | 2019 | | |
| CRIMINALIZATION OF IMMIGRATION-RELATED OFFENCES | | | | | |
| Grounds for criminal immigration-related detention/incarceration and maximum potential duration of incarceration | Grounds for Incarceration | Maximum Number of Days of Incarceration | | Observation Date | |
| | Unauthorized entry | 1095 | | 2019 | |
| | Unauthorised stay | 1095 | | 2019 | |
| Unauthorized exit | 1095 | | 2019 | | |
| CRIMINALIZATION OF IMMIGRATION-RELATED OFFENCES | | | | | |
| Has the country decriminalized immigration-related violations? | Has the country decriminalized immigration-related violations? | | | Observation Date | |
| | No | | | 2019 | |
| LENGTH OF DETENTION | | | | | |
| Maximum length for administrative immigration detention in law. | Number of Days | | Observation Date | | |
| | No Limit | | | | |
| LENGTH OF DETENTION | | | | | |
| Longest recorded instance of immigration detention. | Number of Days | | Observation Date | | |
| | 1700 | | 2018 | | |
| | 2190 | | 2018 | | |
| 1350 | | 2015 | | | |
| LENGTH OF DETENTION | | | | | |
| Maximum length of time in custody prior to issuance of a detention order | Number of Days | | Observation Date | | |
| | 2 | | | | |
| PROCEDURAL STANDARDS | | | | | |
| Provision of basic procedural standards | Name | In Law | In Practice | Observation Date | |
| | Independent review of detention | Yes | Yes | 2014 | |

VULNERABLE PERSONS

| Is the detention of vulnerable persons provided in law? Are they detained in practice? | Name | In Law | In Practice | Observation Date |
|---|----------------------|---------------|--------------------|-------------------------|
| | Women | Provided | Yes | 2019 |
| | Accompanied minors | Provided | Yes | 2019 |
| | Unaccompanied minors | Provided | Yes | 2019 |
| | Asylum seekers | Provided | Yes | 2019 |

EXPEDITED REMOVAL AND RE-ENTRY BAN

| Re-entry ban | Name | Observation Date |
|---------------------|-------------|-------------------------|
| | Yes | 2019 |

COVID-19 UPDATES

| | Update Status | Observation Date |
|-----------------------------|--|------------------|
| <p>Latest Update</p> | <p>As of the end of 2019, there were an estimated 360,000 undocumented foreign nationals living in South Korea. Amidst fears that they would not seek testing and treatment for fear of being arrested, in late January South Korean authorities announced that they were scrapping the requirement for medical staff to report undocumented migrant patients to immigration authorities. Authorities have thus appeared to create a “firewall” similar to other countries, like Ireland, which have taken on added importance because of the Covid-19 crisis (see 29 April update). Prime Minister Chung Sye-kyun said on 29 April, “Due to their unstable status, there is a high chance that they won’t seek testing even though they have suspected (COVID-19) symptoms and this is a blind spot that is possibly leading to community transmission. ... If we label them illegal immigrants and crack down on them, they will go into hiding more deeply, which could create a blind spot.” Problematically however, many undocumented migrants are not aware of this new protection, and activists have reported that some are still fearful of seeking assistance. Prior to the start of the crisis, the Ministry of Justice (MOJ) introduced a Illegal Resident Reduction Plan in December 2019 to encourage undocumented workers to leave the country voluntarily. According to the plan, undocumented foreign nationals have until 30 June 2020 to voluntarily leave the country. According to the Ministry of Justice, from 1 July 2020 onwards, operations will be initiated to reduce the size of the undocumented population within the country by arresting, detaining, and deporting them. Undocumented migrants will also face fines (and black-listing if they fail to pay the fines.) According to this scheme, persons who leave South Korea before 30 June 2020 will be exempted from fines and entry bans, and will instead be given a chance to re-enter Korea with a C-3 visa (single, valid for up to 90 consecutive days). Those re-entering Korea with a C-3 single visa will later gain an opportunity to be eligible for obtaining a C-3 multiple visa (valid for one year allowing consecutive stay for up to 90 days) if they successfully leave Korea before their C-3 single visa expires. The C-3 visa does not grant holders the right to work. The minimum waiting period required before applying for a C-3 single visa varies depending on when undocumented workers declare their voluntary departure. (Those who declared their wish to voluntarily leave the country by 31 March will be able to apply for a C-3 single visa three months after the departure date. Those who declared a wish to depart in April would face a four month wait; while those who declared in May face a five month wait; and those who declare in June will face a six month wait.) If an undocumented person is required to quarantine due to coronavirus, the declaration period will be extended to the date when the quarantine period ends, provided they submit a medical record that they have received treatment for the infectious disease. The day that they seek medical help will be recognized as the day of the declaration. On 21 January 2020, the MOJ reported that 8,033 foreign nationals had voluntarily departed since the announcement of the scheme in December 2019. In early March, it was reported that more than 5,000 undocumented Thai nationals had opted to leave South Korea due to the increase in COVID-19 cases in the country. On 11 March 2020, the MOJ established an online system for undocumented migrants to declare their voluntary departures. The declaration must take place at least three days before the departure date. Between 11 to 13 March 2020, the MOJ announced that 416 people had self-reported their intention to depart.</p> | <p>2020</p> |
| | <p>The Republic of Korea took aggressive action early on in the Covid-19 outbreak to limit the progress of the coronavirus, including adopting strict border control and immigration detention measures. On 1 April, the government adopted a rule that requires all overseas arrivals—including South Koreans—to quarantine at home or at government-designated facilities for two weeks. Reports indicate that the rule may not have been communicated properly to all incoming passengers, resulting in some foreign nationals being unexpectedly quarantined in government facilities upon arrival. Those refusing to enter the government quarantine are being summarily deported, when possible. According to the lawyers groups Advocates for Public Interest Law (APIL), one of the measures taken by immigration authorities is to accelerate the deportation process for detainees. In reality, however, it has been difficult to carry out this measure, because of the lack of carriers, which fly from Korea to countries of origin. In an email to the Global Detention Project, APIL reported that on 26 February, two days after the alert level regarding Covid-19 raised from precaution to severe, which is the highest level, Hwasung Detention Center, the largest immigration detention facility in the country, detailed a plan to address to the crisis, which is expected to be followed in other detention centres as well. This plan includes: • halting all detention visitation • increasing sanitization of the facility. • minimizing mobility of detainees, e.g., appearing to the court room for hearing. • prompt deportation of the uninfected detainees, in particular, prolonged detained, i.e., migrants detained for two months or more. • securing more medical supplies. • separating new arrivals from existing detainees. • putting into quarantine detainees for at least 14 days who have Covid 19 related symptoms including people in close proximity/ contact with the detainees. • locking down cella detaining person people who are confirmed case of Covid 19 • being lenient in granting temporary release of detainees • minimizing crack down on undocumented migrants Immigration authorities reportedly only test detainees who have Covid 19 related symptoms. According to APIL, “It is safe to say that South Korea has not adopted new immigration and/or asylum policies in response to the Covid-19 crisis. Surprisingly the immigration authorities seem to believe that immigration detention facilities are safer places than outside. Even though they planned to be lenient to grant temporary release to detainees, the number of detainees who have been permitted temporary release since the plan was set is very small, i.e., two or three under the same conditions as before like requesting bail and guarantor.”</p> | <p>2020</p> |

INTERNATIONAL LAW

Relevant international treaties and date of ratification

| | Name | Ratification Year |
|-------------------------------|--|-------------------|
| International treaties | CTOCTP, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children | 2015 |
| | CTOCSP, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime | 2015 |
| | CRPD, Convention on the Rights of Persons with Disabilities | 2008 |
| | CAT, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment | 1995 |
| | CRSR, Geneva Convention Relating to the Status of Refugees | 1992 |
| | PCRSR, Protocol to the Geneva Convention Relating to the Status of Refugees | 1992 |
| | CRC, Convention on the Rights of the Child | 1991 |
| | ICCPR, International Covenant on Civil and Political Rights | 1990 |
| | ICESCR, International Covenant on Economic, Social and Cultural Rights | 1990 |
| | CEDAW, Convention on the Elimination of All Forms of Discrimination against Women | 1984 |
| | ICERD, International Convention on the Elimination of All Forms of Racial Discrimination | 1978 |
| | VCCR, Vienna Convention on Consular Relations | 1977 |
| | CRSSP, Convention Relating to the Status of Stateless Persons | 1962 |

| | |
|--|-------|
| Ratio of relevant international treaties ratified | 13/19 |
|--|-------|

Relevant international treaties and date of ratification

| International treaty reservations | Name | Reservation Year | Observation Date |
|-----------------------------------|----------------|------------------|------------------|
| | CRC Article 40 | 1991 | 2017 |

Relevant international treaties and date of ratification

| | Name | Acceptance Year |
|--|---|-----------------|
| Individual complaints procedure | ICERD, declaration under article 14 of the Convention | 1997 |
| | ICCPR, First Optional Protocol to the International Covenant on Civil and Political Rights, 1966 | 1990 |
| | CEDAW, Optional Protocol to the Convention on the Elimination of Discrimination against Women, 1999 | 2006 |
| | CAT, declaration under article 22 of the Convention | 2007 |

Relevant international treaties and date of ratification

| Ratio of complaints procedures accepted | Number | Observation Date |
|---|--------|------------------|
| | 4/7 | 2017 |

| Relevant international treaties and date of ratification | | | |
|--|---|---|---------------------|
| Relevant recommendations issued by treaty bodies | Name | Recommendation Excerpt | Recommendation Year |
| | Committee against Torture | § 42. The Committee invites the State party to: [...] (b) Establish a legally prescribed maximum duration of immigration detention, avoid detaining immigrant minors and apply non-custodial measures to minors; (c) Eliminate overcrowding and improve material conditions in immigration detention facilities, including at points of entry and in departure waiting areas. | 2017 |
| | Committee on the Rights of the Child | § 67. The Committee urges the State party to refrain from the detention of children in a refugee, asylum-seeking or unaccompanied situation. In cases of repatriation, it urges the State party to ensure that children in such situations are accommodated in facilities which, to the greatest extent possible, are sensitive to and respectful of their rights and subject to timely periodic review and clearly defined time limits. | 2011 |
| | Committee on the Elimination of Racial Discrimination | § 18. The Committee recommends that the State party amend article 63 of the Immigration Act to ensure that the lawfulness of the detention of immigrants who cannot be immediately deported be regularly reviewed by an independent mechanism. It also recommends that the detention of asylum seekers be considered only as a measure of last resort and for the shortest possible period of time and that the State party establish a time limit for the detention of migrants and prioritize the use of alternative measures to detention. The Committee further recommends that the State party avoid the detention of minors and amend the Immigration Act to include provisions related to the best interests of the child. | 2018 |
| | Human Rights Committee | § 39. The State party should limit the period of immigration detention and ensure that such detention is used as a measure of last resort, for the shortest appropriate period. It should also ensure that children are not deprived of liberty, except as a measure of last resort and for the shortest appropriate period of time, taking into account their best interests in accordance with the Committee's general comment No. 35 (2014) on liberty and security of person. It should also ensure that living conditions in immigration detention centres are in conformity with international standards and are subject to regular independent monitoring. | 2015 |
| | Committee on the Rights of the Child | § 43. [...] The Committee urges the State Party to: (a) To prohibit the immigration detention of children, including by revising the Immigration Control Act, ensure non-custodial solutions and keep the best interests of the child as a primary consideration in asylum and family reunification matters. | 2019 |

| Non treaty-based international human rights mechanisms | | | |
|--|-----------------------|-------------|------------------|
| Relevant recommendations of the UN Universal Periodic Review | Recommendation Issued | Year Issued | Observation Date |
| | No | 2008 | 2017 |
| | No | 2012 | 2017 |

| INSTITUTIONAL INDICATORS | | | | |
|--|--------------------|---------------------|-------------------|------------------|
| Institutions responsible for immigration detention | | | | |
| Custodial authority | Agency | Ministry | Ministry Typology | Observation Date |
| | Immigration Bureau | Ministry of Justice | Justice | 2009 |
| | Immigration Bureau | Ministry of Justice | Justice | 2008 |

| Institutions responsible for immigration detention | | | | | | | | | | | | | | | |
|--|--|---|---------------------------------|-----------------------------------|--|--|-------------------------------|---------------------------|----------------------------------|-------------------------|--------------------------------------|------------------------|---------------------------------------|-------------------------|------------------|
| Types of detention facilities used in practice | Immigration detention centre (Administrative) | Immigration field office (Administrative) | Transit centre (Administrative) | Reception centre (Administrative) | Offshore detention centre (Administrative) | Hospital (Administrative) | Border guard (Administrative) | Police station (Criminal) | National penitentiary (Criminal) | Local prison (Criminal) | Juvenile detention centre (Criminal) | Informal camp (Ad hoc) | Immigration detention centre (Ad hoc) | Surge facility (Ad hoc) | Observation Date |
| | | | | | | | | | | | | | | | 2015 |
| Detention monitoring institutions | | | | | | | | | | | | | | | |
| Authorized monitoring institutions | Institution | | | | | Institution Type | | | | | Observation Date | | | | |
| | National Human Rights Commission of Korea | | | | | National Human Rights Institution (or Ombudsperson) (NHRI) | | | | | 2019 | | | | |
| Detention monitoring institutions | | | | | | | | | | | | | | | |
| Is the national human rights institution (NHRI) recognized as independent? | Is the NHRI recognized as independent by the International Coordinating Committee of National Human Rights Institutions? | | | | | | | | | | Observation Date | | | | |
| | Yes | | | | | | | | | | 2019 | | | | |
| Detention monitoring institutions | | | | | | | | | | | | | | | |
| Does NHRI carry out visits? | Does NHRI carry out visits in practice? | | | | | | | Observation Date | | | | | | | |
| | Yes | | | | | | | 2017 | | | | | | | |
| Detention monitoring institutions | | | | | | | | | | | | | | | |
| Does NHRI have capacity to receive complaints? | Does NHRI have capacity to receive complaints? | | | | | | | Observation Date | | | | | | | |
| | Yes | | | | | | | 2019 | | | | | | | |
| Detention monitoring institutions | | | | | | | | | | | | | | | |
| Does NHRI publicly release reports on immigration detention? | Does NHRI publicly release reports on immigration detention? | | | | | | | Observation Date | | | | | | | |
| | Yes | | | | | | | 2017 | | | | | | | |
| Detention monitoring institutions | | | | | | | | | | | | | | | |
| Do NGOs carry out visits? | Do NGOs regularly carry our visits? | | | | | | | Observation Date | | | | | | | |
| | Yes | | | | | | | 2019 | | | | | | | |
| Detention monitoring institutions | | | | | | | | | | | | | | | |
| Do NGOs publish reports on immigration detention? | Do NGOs publish reports on immigration detention? | | | | | | | Observation Date | | | | | | | |
| | Yes | | | | | | | 2019 | | | | | | | |
| Outsourcing and privatisation | | | | | | | | | | | | | | | |
| Types of privatisation/outsourcing | Types of Privatisation/Outsourcing | | | | | | | Observation Date | | | | | | | |
| | Detention facility management | | | | | | | 2016 | | | | | | | |

More information about immigration detention in Republic of Korea (South Korea) is available at the website of the Global Detention Project (www.globaldetentionproject.org)