

Immigration and Refugee Board of Canada

[Home](#)

> [Research Program](#)

> Responses to Information Requests

Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [Knowledge and Information Management Unit](#).

20 February 2017

ERI105740.E

Eritrea: Information on exemption from National Service, including for Eritrean citizens living outside the country (2014-February 2017)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Overview

In a press statement in June 2016, the Presidential Adviser of Eritrea states that

[t]he purposes of national service in Eritrea are clearly stated in a legal proclamation of 1994 and are three-fold: national defense, economic and social development and national integration. The service is not indefinite although for a time and in certain cases it has been prolonged due [to] the ... existential threat of war [with Ethiopia]. (Eritrea 8 June 2016)

Sources indicate that, by law, adult Eritreans are required to carry out an 18-month period of National Service (AI 4 Oct. 2016, 13) or that "citizens between the ages of 18 and 40 must complete 18 months of service to the state" (Reuters 25 Feb. 2016).

Reuters, however, cites "diplomats and those who have fled [from Eritrea]" as stating that the National Service can "stretch to a decade or more" (Reuters 25 Feb. 2016). Human Rights Watch similarly indicates that the National Service "is often much longer - a decade or more - and harsh with almost non-existent pay" (Human Rights Watch 19 Sept. 2016). According to Reuters, "the government reserves the right to extend [the] length of service in periods of emergency" (Reuters 25 Feb. 2016).

A 2015 UN report produced by the UN Commission of Inquiry on Human Rights in Eritrea states that "[w]ith the *Warsai Yikealo* Development Campaign [1], the Government extended the statutory national service of 18 months to an indefinite period" (UN 5 June 2015, para. 1181). Similarly, a UK Upper Tribunal decision from October 2016 indicates that "the Eritrean military/national service remains indefinite" (UK 7 Oct. 2016, 2). Amnesty International (AI) further notes that, according to their research, "there have been no discernible changes in National Service practices as of November 2015. Conscripted into National Service continues to be extended indefinitely and conscripts continue to be deployed in a range of civilian as well as military roles" (AI 18 Oct. 2016, 14).

Sources indicate that conscientious objection is not recognized (Freedom House 2016; UN 5 June 2015, para. 1208).

2. Exemptions

The June 2015 report by the UN Commission of Inquiry on Human Rights in Eritrea cites Article 15 of the *Proclamation on National Service No. 82/1995 of 1995* as stating that "only people with severe permanent

disabilities 'such as blindness and mental derangement' are permanently exempted from the national service and are issued with an exemption certificate" (UN 5 June 2015, para 1193). A copy of *Proclamation on National Service No. 82/1995 of 1995* is attached to this Response (Attachment 1).

Similarly, a 2014 paper written by Professor Gaim Kibreab [2] for the European Asylum Support Office (EASO) Practical Cooperation Meeting on Eritrea states that according to the *Proclamation on National Service* "all Eritreans, except the veterans of the 30 years' war of independence and the physically and mentally infirm are required to take part in the [National Service] regardless of family responsibility and gender. There is no other exemption" (Kibreab Oct. 2014). The same source indicates that "exemptions are granted on temporary basis until the condition of the individual concerned change[s]" (Kibreab Oct. 2014). Kibreab also cites Article 13 of the *Proclamation on National Service* as noting that

[c]itizens declared unfit for the military by the board are exempt from undertaking military training but undertake 18 months in national service in different ministries and departments in a manner that is commensurate with their capability and skills. After completing the 18 months of national service, they are compelled to serve according to their capacity until the expiry of 50 years of age. These exemptions are not permanent. (Kibreab Oct. 2014)

Citing Article 14 of the *Proclamation on National Service*, the same source indicates that "even those who have been declared unfit by the board on health grounds may be called for national service if their health situation improves before the expiry of 50 years" (Kibreab Oct. 2014).

In correspondence with the Research Directorate, a human rights lawyer who is a guest writer in the "Writers in Exile Programme" of the Luzern-based DeutschSchweizer PEN Zentrum (DSPZ) [3] and who has written on the political situation in Eritrea, stated that Eritreans who have resident status elsewhere are exempt from National Service "[i]n principle," "[h]owever, there is no consistent practice about this policy. Individuals are always at the mercy of high-ranking army commanders" (Guest Writer 17 Jan. 2017). The same source further indicated that "such an exception does not have a legal basis, because the relevant national/military service legislation is silent about Eritrean nationals who have residency abroad" (Guest Writer 17 Jan. 2017). The human rights lawyer and guest writer also noted that

[t]he only situation in which ... an Eritrean national, who lives outside of Eritrea for a specific time, may be exempted from national/military service is, when such an individual is sent abroad in pursuance of further education based on a government approved process. This is according to Article 14(2)(e) of *Proclamation 82/1995*. Understandably, this kind of exemption is temporary by nature, which means after returning home the person may be required to enroll for national/military service. Again, the problem is that there is no consistent government practice in this regard. (Guest Writer 17 Jan. 2017)

In correspondence with the Research Directorate, a reader in the anthropology of Africa and law at the School of Oriental and African Studies (SOAS) at the University of London who has researched Ethiopian and Eritrean refugees seeking asylum in the United Kingdom, explained that

[i]n Eritrean law and in practice, ALL Eritrean nationals regardless of their residence status overseas and regardless of whether they have taken the nationality of a second country remain subject to conscription if they return voluntarily or if they are forcibly returned to Eritrea. Eritreans who are born overseas also qualify for nationality under *Proclamation No. 21 (1992)* which means that they too are subject to indefinite military conscription if they return to Eritrea. (Reader 6 Jan. 2017, emphasis in original)

The Reader stated that "in law[,] [Eritrean] nationals [who have resident status elsewhere] are not exempt from conscription, however, in practice[,] the Eritrean authorities may exempt individuals with close ties to the regime" (Reader 6 Jan. 2017).

In correspondence with the Research Directorate, a migration correspondent of *The Guardian* who has written about Eritrean refugees, indicated, based on information collected from his sources, that

[p]eople living overseas are exempt unless they return to Eritrea for more than 6 months. It is important to note that you can only return if you complete the "B4" regret form, which means you have to say you regret abandoning your people, your government, and your military — and *that you are ready to accept any punishment the government might see fit.* You also have to pay 2% of your income from the time you left the country. (Migration Correspondent 7 Jan. 2017, emphasis in original)

A UN *Letter Dated 11 July 2012 from the Chair of the Security Council Committee Pursuant to Resolutions 751 (1992) and 1907 (2009) Concerning Somalia and Eritrea Addressed to the President of the Security Council*, states that the B4 form, also known as "immigration and citizenship services request form" or "regret letter," requires the applicant to "sign a statement of 'regret [for] having committed an offence by not completing national service' and indicating readiness to accept appropriate punishment in due course" (UN 13 July 2012, para. 97). A copy of the Immigration and Citizenship Services Request Form, provided in annex 3.1.b of the *Letter Dated 11 July 2012 from the Chair of the Security Council Committee Pursuant to*

Resolutions 751 (1992) and 1907 (2009) Concerning Somalia and Eritrea Addressed to the President of the Security Council, is attached to this Response (Attachment 2). Further, annex 3 of the Letter, entitled "Revenue Collection Outside of Eritrea," indicates that an opposition activist who visited the Eritrean Embassy in Stockholm in May 2011 was

instructed to complete an "Immigration and Citizenship Services Request Form"... [The opposition activist] initially refused to sign, arguing that he had in fact left Eritrea legally, having declared himself as a student in South Africa for seven years. However, the Embassy official told him that since he did not return to Eritrea upon completion of his studies, [the opposition activist] was now considered "illegal", and as a result was required to complete and sign the "regret letter". (UN 13 July 2012, annex 3 para. 9)

In a 2016 report, EASO indicates that according to information obtained from the Eritrean Department for Immigration and Nationality and the Minister of Information,

[p]eople who have refused to complete their national service or have deserted must also sign – ... at the diplomatic mission – a repentance form (officially known as 'Form B4/4.2' or the 'Immigration and Citizenship Services Request Form'). In that form, they admit to having committed a criminal offence and accept the penalty for it. (EASO Nov. 2016, 29-30)

The same source states that the Department for Immigration and Nationality, the Minister of Information, and the Head of Political Affairs of the People's Front for Democracy and Justice, pointed out "however," that "no punishment follows from this declaration" (EASO Nov. 2016, 30). The same source indicates that according to the Department of Immigration and Nationality and the Minister of Information, Eritreans who have spent at least three years outside the country may, on their return to Eritrea, make an application for 'diaspora status' to the Department for Immigration and Nationality in Asmara. For that application, in addition to [a passport or a laissez-passer travel document and the Immigration and Citizenship Services Request Form], they also require a supporting letter from the diplomatic mission that proves that they have lived outside Eritrea for more than three years. The Department issues a document called Residence Clearance Form to returnees who have 'diaspora status'. According to official information, people who hold this document are exempt from compulsory national service and – contrary to the provisions of Proclamation 24/1992 – may leave Eritrea again without an exit visa. (EASO Nov. 2016, 30).

An image of the Residence Clearance Form, provided to EASO by the State Secretariat for Migration and included in the EASO report, is attached to this Response (Attachment 3). The same source indicates that, according to the Department for Immigration and Nationality,

[t]he Residence Clearance Form, and thus 'diaspora status', may also be obtained by people who are returning to Eritrea not just as visitors but who intend to resettle there in the long-term. However, the 'diaspora status' expires after three years of uninterrupted residence in Eritrea. Thereafter, the authorities regard the person as a resident of Eritrea once again, subject to the associated duties and obligations (national service, exit visas). Similarly, people who have resided in another country for fewer than three years are regarded as residents of Eritrea again and not as people with 'diaspora status' should they return to Eritrea. This may also mean that such people have to perform their national service again. (EASO Nov. 2016, 30)

According to the June 2015 report by the UN Commission of Inquiry on Human Rights in Eritrea, "[i]nformal exemptions from national service are generally provided to women and girls who are married, pregnant or have children" (UN 5 June 2015, para. 1149). Similarly, the EASO report indicates, based on information from an "international organisation," that "[r]ural Muslim women, as well as pregnant women, married women and women with children are ... usually exempted" (EASO Nov. 2016, 23). EASO adds that this practice "is not covered legally" and that "unlike people discharged from national service, they do not receive papers ... that legalise their status outside the service" (EASO Nov. 2016, 30)

Kibreab however states that

[a]lthough there is no policy that exempts married women from serving in the military within the framework of the national service, under some circumstances, a married woman, especially women with children may be assigned to perform national service within the civil sector. This does not however mean that they are exempted from national service. (Kibreab Oct. 2014)

The same source states, based on a 2003 interview with the Eritrean President by Eritrea-Television (TVERI), an Eritrean TV-channel, that

"[t]he plea of Muslim elders concerning Muslim women's exemption from the [National Service] on the grounds of their faith and cultures was also adamantly rejected by the President who stated that the policy will apply equally to all Eritrean women regardless of their cultural or religious affiliation. (Kibreab Oct. 2014)

According to the 2016 report by the UN Commission of Inquiry on Human Rights in Eritrea, "witnesses consistently linked corruption to exemption or early release from military service" (UN 8 June 2016, para. 159). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Penalties

According to sources, penalties for non-performance of the National Service are stipulated in Article 37 of the *National Service Proclamation* and the *Eritrean Transitional Penal Code* (UN 5 June 2015, para 1234; Kibreab Oct. 2014). Kibreab adds that the *Penal Code* includes penalties for "military violations, including failure to enlist, or re-enlist, seeking fraudulent exemptions, desertion, absence without leave, refusal to perform military service and infliction of unfitness (injury to avoid service)" (Kibreab Oct. 2014). A copy of the *Eritrean Transitional Penal Code* [4] is attached to this Response (Attachment 4).

The Eritrean Ministry of Information indicates in May 2015 that Eritrea has published new codes, including a new penal code (Eritrea 11 May 2015). However, a March 2016 blog from the Library of Congress in the US, states that "it appears that the new codes ... have yet to take effect" (US 7 March 2016). Similarly, according to the June 2016 report by the UN Commission of Inquiry on Human Rights in Eritrea, "there is conflicting information about the status" of the legislation issued in May 2015, including the penal code, and that "it is unclear if they were published in the Official Gazette" (UN 8 June 2016, para. 168). The same source states that "witnesses told the Commission that Eritrean judges had not received copies of the new codes and continued to apply the older, transitional legislation" (UN 8 June 2016, para. 169). A copy of the *Penal Code of the State of Eritrea 2015* is attached to this Response (Attachment 5).

In the 2015 *Concluding Observations on the Fourth Periodic Report of Eritrea*, the UN Committee on the Rights of the Child states that

[c]hildren in migration situations and other returnees, including national service evaders and deserters, face detention and enforced disappearance and their children and other family members are not informed of their whereabouts. (UN 2 July 2015, para 45(b))

Human Rights Watch reports that "[a]rbitrary detention is commonplace, particularly for those who try to evade national service. Many Eritreans report torture in detention" (Human Rights Watch 19 Sept. 2016).

A 2016 report by Freedom House states that

[t]he police frequently conduct round-ups of people thought to be evading national service; those who resist can be executed on the spot. The government imposes collective punishment on the families of deserters, forcing them to pay heavy fines and putting them in prison if they cannot pay. (Freedom House 2016)

Similarly, in a 2016 report, AI explains that

[t]hose attempting to evade or desert conscription are often caught in round-ups and held for months in arbitrary detention as punishment before being required to complete National Service. Those caught trying to leave Eritrea without authorization face a similar fate. (AI 18 Oct. 2016, 14)

In the case of *MST and Others (national service - risk categories) Eritrea CG [2016] UKUT 00443 (IAC)*, the United Kingdom (UK) Upper Tribunal (Immigration and Asylum Chamber) states that "if a person of or approaching draft age will be perceived on return as a draft evader or deserter, he or she will face a real risk of persecution, serious harm or ill-treatment" (UK 7 Oct. 2016, para. 7). The same source indicates that this is "subject to three limited exceptions":

(1) persons whom the regime's military and political leadership perceives as having given them valuable service (either in Eritrea or abroad); (2) persons who are trusted family members of, or are themselves part of, the regime's military or political leadership. A further possible exception, requiring a more case specific analysis is (3) persons (and their children born afterwards) who fled (what later became the territory of) Eritrea during the War of Independence. (UK 7 Oct. 2016, 3)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

For more information about National Service in Eritrea, see the Response to Information Request ERI104179 of September 2012.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] The Warsai [Warsay] Yikealo campaign was introduced in 2002 (Guest Writer 17 Jan. 2017; Hirt Jan. 2010, 6). "The younger generation is referred to as *warsay*, meaning 'inheritor' or 'follower,' while *yikealo* denotes a wise elderly person, a term the government uses explicitly for the fighter generation. The younger generation is supposed to follow in the footsteps of the former fighters by internalizing and practicing the values of self-sacrifice, hard work and dedication to the Eritrean nation in the form of unlimited and unpaid service" (Hirt Jan. 2010, 6).

[2] According to the website of the London South Bank University, "Professor Gaim Kibreab is a Research Professor and Course Director of the MSc Refugee Studies at London South Bank University, School of Law and Social Sciences in the Department of Social Science. ... He has published widely on forced migration (refugees, development-induced displacement, internally displaced persons, and environmentally-induced population displacement), development and governance in post-conflict societies. He is currently working on causes of forced migration in post-independence Eritrea" (London South Bank University n.d.).

[3] DeutschSchweizer PEN Zentrum, is a member of PEN International (DSPZ, n.d.). PEN International is an "association of writers, working to promote literature and defend freedom of expression around the world" (PEN International n.d.).

[4] According to the Eritrea Ministry of Information, "until recently, Eritrea has been using the Ethiopian codes that were codified in the 1960s, which collectively comprised the 'transitional code'" (Eritrea 15 Feb. 2017). Similarly, the bibliographical information regarding the *Penal Code* in Refworld states that Eritrea adopted the Ethiopian 1957 Penal Code at independence (Refworld n.d.).

References

Amnesty International (AI). 18 October 2016. [Tackling the Global Refugee Crisis: From Shirking to Sharing Responsibility](#). [Accessed 5 Jan. 2017]

[DeutschSchweizerPenZentrum \(DSPZ\)](#). N.d. "Vorstand." [Accessed 16 Feb. 2016]

Eritrea. 15 February 2017. Ministry of Information. Semhar Mebrahtu. "[Public Awareness for a Refined Legal System](#)." [Accessed 17 Feb. 2017]

Eritrea. 8 June 2016. Ministry of Information. "[Press Statement by H.E. Mr. Yemane Gebreab](#)." [Accessed 5 Jan. 2017]

Eritrea 11 May 2015. Ministry of Information. "[GOE Puts into Effect Civil and Penal Codes and Associated Procedures](#)." [Accessed 17 Feb. 2017]

European Union (EU). November 2016. European Asylum Support Office. [Eritrea. National Service and Illegal Exit](#). State Secretariat for Migration (SEM), Division Analysis, Switzerland. [Accessed 9 Jan. 2017]

Freedom House. 2016. "[Eritrea](#)." [Freedom in the World 2016](#). [Accessed 5 Jan. 2017]

Guest Writer of the DeutschSchweizer PEN Zentrum (DSPZ), Luzern. 17 January 2016. Correspondence with the Research Directorate.

Hirt, Nicole. January 2010. "[Dreams Don't Come True in Eritrea](#)": [Anomie and Family Disintegration due to the Structural Militarization of Society](#). German Institute of Global and Area Studies, Working Papers No. 119. [Accessed 17 Feb. 2017]

Human Rights Watch. 19 September 2016. Felix Horne. "[15 Years Behind Bars in Eritrea](#)." [Accessed 5 Jan. 2017]

Kibreab, Gaim. October 2014. "[The Open-Ended Eritrean National Service: The Driver of Forced Migration](#)." [Accessed 24 Jan. 2017]

London South Bank University. N.d. "[Prof. Gaim Kibreab](#)." [Accessed 10 Feb. 2017]

Migration Correspondent of *The Guardian*. 7 January 2017. Correspondence with the Research Directorate.

PEN International. N.d. "[Who We Are](#)." [Accessed 16 Feb. 2017]

Reader in the Anthropology of Africa and Law at the School of Oriental and African Studies (SOAS) at the University of London. 6 January 2017. Correspondence with the Research Directorate.

Reuters. 25 February 2016. "[Eritrea Won't Shorten National Service Despite Migration Fears](#)." [Accessed 5 Jan. 2017]

United Kingdom (UK). 7 October 2016. Upper Tribunal (Immigration and Asylum Chamber). [MST and Others \(national service - risk categories\) Eritrea CG \[2016\] UKUT 00443 \(IAC\)](#) [Accessed 15 Feb. 2017]

United Nations (UN). 8 June 2016. Commission of Inquiry on Human Rights in Eritrea. [Detailed Findings of the Commission of Inquiry on Human Rights in Eritrea](#). (A/HRC/32/CRP.1) [Accessed 16 Jan. 2017]

United Nations (UN). 2 July 2015. Committee on the Rights of the Child. [Concluding Observations on the Fourth Periodic Report of Eritrea](#). (CRC/C/ERI/CO/4) [Accessed 5 Jan. 2017]

United Nations (UN). 5 June 2015. Commission of Inquiry on Human Rights in Eritrea. [Report of the Detailed Findings of the Commission of Inquiry on Human Rights in Eritrea](#). (A/HRC/29/CRP.1) [Accessed 16 Jan. 2017]

United Nations (UN) 13 July 2012. Security Council. [Letter Dated 11 July 2012 from the Chair of the Security Council Committee Pursuant to Resolutions 751 \(1992\) and 1907 \(2009\) Concerning Somalia and Eritrea Addressed to the President of the Security Council](#). (S/2012/545) [Accessed 9 Jan. 2017]

United Nations (UN) N.d. Refworld. [Penal Code of Ethiopia 1957 \(Eritrean Transitional Penal Code\)](#). [Accessed 17 Feb. 2017]

United States (US). 7 March 2016. Library of Congress. "[New Eritrean Codes Now Available to Researchers](#)." Hanibal Goitom. [Accessed 17 Feb. 2017]

Additional Sources Consulted

Oral sources: The United Nations Office of the Human Rights Commissioner for Human Rights; The United Nations Special Rapporteur on the Human Rights Situation in Eritrea.

Internet sites, including: Al Jazeera; All Africa; BBC; Canadian Council for Refugees; Conscience and Peace Tax International; ecoi.net; Eritrea – Consulate General in Toronto, Eritrea Embassy in Washington; Eritrea-TV.net; Fédération internationale des ligues des droits de l'homme; Free Movement; Institute for War and Peace Reporting; International Crisis Group; IRIN News; Minority Rights Group International; Radio France internationale; *The New York Times*; Transparency International; UN – Development Program, ReliefWeb, UN Women; UPR Info; US – Central Intelligence Agency.

Attachments

1. Eritrea. 23 October 1995. [Proclamation on National Service No. 82/1995 of 1995](#) [Accessed 9 Jan. 2017]
2. Eritrea. N.d. "Immigration and Citizenship Services Request Form." Provided in: United Nations (UN) 13 July 2012. Security Council. [Letter Dated 11 July 2012 from the Chair of the Security Council Committee Pursuant to Resolutions 751 \(1992\) and 1907 \(2009\) Concerning Somalia and Eritrea Addressed to the President of the Security Council](#). (S/2012/545) Annex 3.1.b , 62-64 [Accessed 9 Jan. 2017]
3. Eritrea. 2015. "[Residence Clearance Form](#)." Image provided in: European Union. November 2016. European Asylum Support Office. *Eritrea. National Service and Illegal Exit*. 30 [Accessed 9 Jan. 2017]
4. Ethiopia. 1957. [Penal Code of Ethiopia 1957 \(Eritrean Transitional Penal Code\)](#). [Accessed 25 Jan. 2017]
5. Eritrea. 2015. [Penal Code of The State of Eritrea 2015](#). [Accessed 17 Feb. 2017]

[Tips on how to use this search engine.](#)

[Top of Page](#)

Date modified: 2016-01-05