

## Eritrean organisation summons the EU due to use of forced labour

### Case summary

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#### 1. *Introduction and parties*

The EU is providing financial support for a road construction project in Eritrea for which forced labour is used. It is a fundamental rule of international law that forced labour is prohibited and unacceptable in all cases. Nevertheless, the EU refuses to cease its financial support for this project, while acknowledging the use of forced labour in the context of its project. The Dutch Foundation Human Rights for Eritreans will therefore start a court case against the relevant EU organs in the week of 11 May 2020. The Foundation will ask the Court for (i) a declaratory injunction that the EU project is unlawful, and (ii) an injunction that the EU should cease its support for the project. The case is submitted to the Dutch court in Amsterdam.

#### 2. *Forced labour in Eritrea through 'national conscription'*

There have been countless reliable, independent reports of significant violations of human rights by the dictatorial regime in Eritrea. One of the main and most far-reaching human rights violations perpetrated by the regime is the so-called 'national service'. This is a euphemism for a system wherein from an early age, Eritreans are forced via the school system and roundups to work for the regime against their will. The national service has no end date and takes away all freedom of choice. Work includes military conscription, but also civilian work, including construction work. Compensation consists of pocket money subject to deductions and is insufficient to cover basic needs. A small group of Eritrean officials benefits financially from this forced labour.

It is internationally recognized that the system of national service conscription qualifies as a very serious violation of the fundamental rights of the inhabitants by the Eritrean State. A United Nations Commission of Inquiry has concluded it undoubtedly qualifies as forced labour and may even qualify as enslavement, and the crime against humanity. The European Parliament has described the national service as a form of slavery and has urged the EU to ensure the funding does not benefit the Eritrean government. The International Labour Organisation classifies national service in Eritrea as unacceptable forced labour.

National service is the main reason for people in Eritrea to flee their country, falling into the hands of human smugglers and traffickers. EASO and UN reports, among others, show that peace between Eritrea and Ethiopia has not brought change or reform. Instead, it has led to intensification of *giffas* (raids) to round up young recruits.

### **3. *Role of state-owned enterprises such as ‘Red Sea Trading Corporation’ and ‘Segen’***

The “Red Sea Trading Corporation” (“RSTC”), which has a monopoly on import and export, as well as all large construction companies, are owned by the Eritrean regime. These companies all have de facto monopolies in Eritrea and make extensive use of forced labour from Eritreans who have been mobilised under the national service. Virtually non-existent labour costs mean high company profits, which flow into the pockets of the Eritrean regime via private accounts. The UN Monitoring Group on Somalia and Eritrea identified the companies as one of the principal sources of income of the Eritrean state and stated that RSTC is the principal entity in the “clandestine business networks of the [Eritrean regime]”. The Eritrean budget is fully controlled by a single political party in Eritrea (PFDJ), without any scrutiny. There is little to no traceability of what is happening with project funding. This is, of course, problematic, as it is precisely for this type of funding that transparency is of paramount importance.

### **4. *2019: 20 million euro from EU to Eritrea***

EU aid to Eritrea has a history of being cancelled and failing to be disbursed. However, in February 2019, the EU announced that EUR 20 million would be provided directly to Eritrea through the EU Emergency Trust Fund for Africa (‘ETFA’). In December 2019, an additional EUR 60 million was announced. The EU will provide the money to the Eritrean regime’s proxy company, which will be used for the purchase of materials and equipment to repair parts of the road network. The procurement process is led by the RSTC (i.e. the Eritrean regime). The United Nations Office for Project Services (UNOPS) offers assistance. The RSTC leads the “*governance and coordination structure*” of the project, whereas major national construction companies (inc. Segen) carry out the work.

In the project document, the EU openly acknowledges that “*The labour used by the construction companies will consist of [inter alia] those in national service (...)*”. The EU accepts this unconditionally and sees the use of forced labour as inevitable. Internal EU documents show that discussion with the Eritrean government is not possible, as the Eritrean government is opposed to “conditionality”. This means the Eritrean regime did not accept any project for which a precondition would be that no forced labour is used for its execution, and the EU accepted the use of forced labour in the project. EU member states have, in vain, expressed concerns about this. The project plans show that, via UNOPS as intermediary, procurement profits will end up in the hands of the Eritrean regime. This means the EU is directly funding the regime. The EU has refused to do any due diligence, even though it is or should be well aware of the risks and violations.

### **5. *Foundation actions towards the EU***

The Foundation represents the interests of all Eritreans whose fundamental rights are directly or indirectly violated by the Eritrean regime. It believes that the provision of €20 million to the Eritrean regime in the context of a project in which the use of forced labour is openly acknowledged is unlawful. The Foundation took several steps to alert the EU to this. However, the EU has defended the project by saying, among other things, that national service provides adequate employment and payment, despite massive evidence to the contrary. The EU has indicated there is no need to change the project, despite being aware of the far-reaching human rights abuses.

## **6. *Forced labour under the EU project: concrete case study***

The Foundation provides concrete experiences of persons that work(ed) under national service conscription, and even in particular on construction projects. They speak of punishments including torture and imprisonment without trial, lack of choice, no access to phones, no family life, and the Eritrean regime's strategies to hide the truth. The EU project contributes to the continued existence of this system and these human rights violations.

## **7. *End of 2019: new tranche of EU financing to Eritrea***

The EU ignored the criticism of the Foundation and announced it would provide an additional 60 million EUR for the road building project to the Eritrean regime. In the project documents, the EU again freely admits that it uses "two major state owned construction companies", which use forced labour, for road work. The project documents state that monitoring of the project by the EU/UNOPS only concerns "the use of the supplied items and the progress of the works," so the work conditions will not be monitored. The project documents furthermore show that the EU relies upon, and refers to, information provided by the Eritrean regime (which clearly qualifies as propaganda) without independent verification. From responses to media questions, it becomes apparent that neither the EU nor UNOPS, which both claim to be monitoring the project, know how many forced labourers work in the project or what the circumstances are.

## **8. *Violation of fundamental international human rights norms***

The use of forced labour is in clear violation of the prohibition on the use of forced labour set out in European and international law as *jus cogens*. Therefore, the EU is acting unlawfully against the Eritreans represented by the Foundation by supporting a project in which forced labour is used.

Even more strikingly, the EU and UNOPS have repeatedly claimed they will stop the project if 'any human rights violations occur' in the context of the project. Apparently neither the EU nor UNOPS think the practice of forced labour is *itself* a violation of human rights, nor a good enough reason to stop the project. Furthermore, the Foundation thinks it is clear the EU cannot reliably monitor the project as all information surrounding it is tightly controlled by the Eritrean regime. It is striking that the EU is currently reduced to defending the practice of forced labour in Eritrea, using the clearly biased and unfounded propaganda of the Eritrean regime as 'evidence'. By investing in this project, the EU has normalized and given an acceptable face to a practice which has been universally condemned by the international community and is a clear violation of the most fundamental human rights norms in existence. The Foundation will therefore take all steps it sees fit to try and hold the EU accountable for its clearly unlawful acts.

Launching this court case is the first, but certainly not the last, of these steps.

[The full writ of summons can be found here](#)

## **Contact**

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Pictures available, among which lawyer Emiel Jurjens and the Foundation:  
<https://www.belgaimage.be/#/gallery/6932089>

Link to the writ of summons and to the summary of the case:  
<https://kvdl.com/en/articles/eritrean-organisation-summons-the-eu-for-use-of-forced-labour>

[Project phase 1-](#) €20 million - Action document of the European Union

[Project phase 2-](#) €60 million - Action document of the European Union