Home Office

# Country Policy and Information Note
## Eritrea: National service and illegal exit

**Version 5.0**

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# Preface

## Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the basis of claim section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis of COI; and (2) COI. These are explained in more detail below.

## Analysis

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment on whether, **in general:**

- A person is reasonably likely to face a real risk of persecution or serious harm
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- Claims are likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

## Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), Researching Country Origin Information – Training Manual, 2013. Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a terms of reference which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the 'cut-off' date in the country information section. Any event taking place or report/article published after this date is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion.

Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the bibliography.

## Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email the Country Policy and Information Team.

## Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the gov.uk website.

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# Analysis

Updated: 7 June 2018

## 1. Introduction

### 1.1 Basis of claim

1.1.1. Fear of persecution or serious harm by the state because the person evaded or deserted national service and / or left Eritrea illegally (i.e. without an exit visa).

### 1.2 Points to note

1.1.2. Within this note:

(a) 'National service' means compulsory military training followed by either military service and/or a civilian posting (see National Service).

(b) 'Military training' refers to the initial compulsory period of training of three to six months at Sawa or another camp that all Eritreans are required to undertake as part of national service.

(c) 'Military service' means a posting to the military upon completion of compulsory military training.

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## 2. Consideration of issues

### 2.1 Refugee Convention reason

2.1.1 Persons who have evaded or deserted national service and / or left the country illegally in order to avoid national service are likely to be perceived by the government as holding a political view contrary to the state. Consideration should therefore be given to their claims on the basis of their imputed political opinion.

2.1.2 Although draft evaders and deserters from national service can be considered as having an imputed political opinion, establishing a Convention ground alone is not sufficient to be recognised as a refugee. The question is whether or not a particular person faces a real risk of persecution on the basis of their imputed political opinion and the individual circumstances of their case.

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### 2.2 Exclusion

2.2.1 The Refugee Convention provides a framework for international refugee protection but contains specific provisions to exclude certain individuals from those benefits. Persons who have been found to have left Eritrea illegally or to have evaded or deserted national service are unlikely to face exclusion from the Refugee Convention on that basis alone. The circumstances of each case, however, must be considered on its own facts.

2.2.2 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instructions on Exclusion under Articles 1F and 33(2) of the Refugee Convention, Humanitarian Protection and Restricted Leave guidance.

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## 2.3 Credibility

2.3.1 For information on assessing credibility, see the Asylum Instruction on Assessing Credibility and Refugee Status.

2.3.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants).

2.3.3 Decision makers should also consider the need to conduct language analysis testing (see the Asylum Instruction on Language Analysis).

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## 2.4 Assessment of risk

2.4.1 In the country guidance case of MST and Others (national service – risk categories) Eritrea CG [2016] UKUT 00443 (IAC) (7 October 2016) ('MST and Others') the Upper Tribunal gave guidance on those persons leaving Eritrea illegally and avoiding national service. The UT reconfirmed parts of the country guidance given in MA (Draft evaders; illegal departures; risk) Eritrea CG [2007] UKAIT 00059 (26 June 2007) (hereafter referred to as 'MA') and MO (illegal exit - risk on return) Eritrea CG [2011] UKUT 190 (IAC) (27 May 2011) (hereafter referred to as 'MO') and replaces that with further guidance (see paragraph 431(1)).

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### a. Illegal and legal exit

2.4.2 In MST and Others, the UT found that categories of people who can lawfully exit were likely to be:

- Men aged over 54
- Women aged over 47
- Children aged under five (with some scope for adolescents in family reunification cases)
- People exempt from national service on medical grounds
- People travelling abroad for medical treatment
- People travelling abroad for studies or for a conference
- Business and sportsmen
- Former freedom fighters (Tegadelti) and their family members
- Authority representatives in leading positions and their family members (para 431(4))

2.4.3 The UT further held:

'It continues to be the case (as in MO) that most Eritreans who have left Eritrea since 1991 have done so illegally. However, since there are viable, albeit still limited, categories of lawful exit especially for those of draft age for

national service, the position remains as it was in MO, namely that a person whose asylum claim has not been found credible cannot be assumed to have left illegally.' (para 431(5))

2.4.4 The Tribunal added that the 'position also remains nonetheless (as in MO) that if such a person is found to have left Eritrea on or after August / September 2008', at which time the Eritrean authorities suspended visa exit facilities, 'it may be that inferences can be drawn from their health history or level of education or their skills profile as to whether legal exit on their part was feasible, provided that such inferences can be drawn in the light of adverse credibility findings. For these purposes a lengthy period performing national service is likely to enhance a person's skill profile' (para 431(5)) and therefore improve the prospect of them being able to obtain an exit visa.

2.4.5 On illegal exit per se, the UT found 'that the totality of the evidence continues to support the view that the fact of illegal exit is not of itself enough to place an individual at risk.' (para 345). Rather two further elements are required to place a person at risk, namely:

- that the person will be perceived on return as a national service evader or deserter; and
- that they will be subject to forcible return (para 347).

2.4.6 Even if these additional elements are met, there are certain exceptions – outlined in paragraph 2.4.12(iii) below.

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### b. National service

2.4.7 In MST and Others, the UT found that 'The Eritrean system of military / national service remains indefinite' and that national service starts at 18 years old, or younger in some cases (para 304), with the upper limit for men being 54 years old, and for women 47 (para 431(3)).

2.4.8 The UT also held that children aged 5 years or above are not likely to be issued an exit visa because the government believes it has lost too many young people, although this is with the exception of some adolescents who have applied for family reunification with relatives outside of Eritrea (paras 322 and 431(3)).

2.4.9 Therefore, in general, children aged 5 and over may be considered by the government to be approaching national service age and by leaving the country perceived as seeking to evade it.

2.4.10 While accepting that the length of national service is 'indefinite' (para 431(7)), the UT found that in practice release from national service is likely to be commonplace (para 306) and many Eritreans are effectively 'reservists', not in active national service. However, although such reservists are unlikely to face recall it also remains unlikely that they have received or be able to receive official confirmation of completion of national service demonstrating that their national service is formally complete (i.e. to be discharged or 'demobilised') (paras 306 and 431(7)).

2.4.11 In practice while many people may not be in active national service, officially they remain subject to national service and are likely to be considered as such by the authorities on return.

2.4.12 The UT went on to find 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 or a breach of Articles 3 and / or 4 of the European Convention on Human Rights (ECHR) (para 431(7)), which is highly likely to be for a Convention reason: their imputed political opinion (para 431(10)). The Tribunal also held that:

i) 'A person who is likely to be perceived as a deserter/evader will not be able to avoid exposure to such real risk merely by showing they have paid (or are willing to pay) the diaspora tax and/have signed (or are willing to sign) the letter of regret.

ii) 'Even if such a person may avoid punishment in the form of detention and ill-treatment it is likely that he or she will be assigned to perform (further) national service, which, is likely to amount to treatment contrary to Articles 3 and 4 of the ECHR unless he or she falls within one or more of the three limited exceptions set out immediately below in (iii).

iii) 'It remains the case (as in MO) that there are persons likely not to face a real risk of persecution or serious harm notwithstanding that they left illegally and will be perceived on return as draft evaders and deserters, namely:

'(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 [i.e. persons or their descendants who left the territory of Eritrea before 1991].' (para 431(7))

2.4.13 The UT ultimately found that, aside from the exceptions above, '… it remains the case, as in MO, that "(iv) The general position adopted in MA, that a person of or approaching draft age … and not medically unfit who is accepted as having left Eritrea illegally is reasonably likely to be regarded with serious hostility on return, is reconfirmed…"' (para 431(8))

2.4.14 The UT also found '… a person whose asylum claim has not been found credible, but who is able to satisfy a decision-maker (i) that he or she left illegally, and (ii) that he or she is of or approaching draft age is likely to be perceived on return as a draft evader or deserter from national service and as a result face a real risk of persecution or serious harm.' (para 431(9))

2.4.15 The UT also considered the situation of persons who were able to obtain an exit visa and leave lawfully: 'While likely to be a rare case, it is possible that a

person who has exited lawfully may on forcible return face having to resume or commence national service. In such a case there is a real risk of persecution or serious harm by virtue of such service constituting forced labour contrary to Article 4(2) and Article 3 of the ECHR.' (para 431(9)

2.4.16 The available, cogent evidence does not indicate that there has been a significant and durable change in the country situation since MST and Others was heard in June 2016 and promulgated in October 2016 (see COI section in general and in particular Desertion and evasion in practice, and Lawful and illegal exit). Therefore, MST and Others continues to apply.

2.4.17 In general, a person who is of or is approaching national service age and who has left Eritrea illegally and is not i) perceived to have given valuable service to the government; ii) a member of a family that belongs to the military / political leadership; and/or iii) someone who fled Eritrea during the war of independence, is likely to be perceived as having evaded or deserted from national service. Such persons are likely to be subject to treatment that by its nature and repetition is likely to amount to persecution or serious harm.

2.4.18 However, a person whose claim is found to be wholly incredible may, depending on the facts of the case, not be assumed to have left Eritrea unlawfully and consequently be punished on return or be compelled to undertake national service. It may be that, such a person may not be at risk on return because of their exceptional circumstances, namely their links to the Eritrean leadership or provision of valuable service to the government.

2.4.19 Each case must, therefore, be considered on its facts with the onus on the person to show that they evaded national service and left the country illegally, and would be at risk of being punished and / or compelled to undertake national service on return.

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### c. People's Militia

2.4.20 The UT in MST and others found that since 2012 national / military service has been 'expanded to include a people's militia programme, which although not part of national service, constitutes military service' (para 431(2) with upper age limits are 'likely to be 60 for women and 70 for men'. (para 431(3)).

2.4.21 However, unlike for national service, the UT found that a person liable to perform service in the People's Militia and who is assessed to have left Eritrea illegally is not likely on return to face a real risk of persecution or serious harm. (para 431(8))

2.4.22 There is no cogent evidence that there has been a significant change since MST and Others was heard in June 2016 and promulgated in October 2016 (see People's Army/Militia).

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### d. Failed asylum seekers

2.4.23 In MST and Others, the UT held that '[i]It remains the case (as in MO) that failed asylum seekers as such are not at risk of persecution or serious harm on return' (431(6)).There is no cogent evidence that there has been a

significant change since MST and Others was heard in June 2016 and promulgated in October 2016 (see Failed asylum seekers).

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## 2.5 Protection

2.5.1 As the person's fear is of persecution or serious harm at the hands of the state, they will not be able to avail themselves of the protection of the authorities.

2.5.2 For further information on assessing the availability or not of state protection, see the Asylum Instruction on Assessing Credibility and Refugee Status.

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## 2.6 Internal relocation

2.6.1 As the person's fear is of persecution or serious harm at the hands of the state, they will not be able to relocate to escape that risk.

2.6.2 For further information on internal relocation and the factors to consider, see the Asylum Instruction on Assessing Credibility and Refugee Status.

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## 2.7 Certification

2.7.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

2.7.2 For further guidance on certification, see the Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims).

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# Country information

Updated: 10 June 2018

## 3. National Service

### 3.1 The National Service Proclamation

3.1.1 The National Service Proclamation No 82/1995 issued by the Eritrean government on 23 October 1995 sets out conditions of national service[1].

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### 3.2 The aim of national service

3.2.1 The European Asylum Support Office (EASO) Eritrea Country Focus report on Eritrea of May 2015 ('the May 2015 EASO Report'), based on a compilation of sources, stated:

'Eritrea's national service (Hagerawi Agelglot) differs from the defence forces of other countries in that its overall aim is not only to defend the country, but also to rebuild it following the war of independence and to propagate the national ideology. National service is regarded as the 'school of the nation' in Eritrea.

According to the National Service Proclamation of 1995 its aims are:

- To establish a strong defence force … [to] ensure a free and sovereign Eritrea.
- To preserve and entrust future generations with the courage, resoluteness and heroic episodes shown by our people in the past thirty years.
- To create a new generation characterised by love of work, discipline and a willingness to participate and serve in the reconstruction of the nation.
- To develop […] the economy of the nation by investing in the development of our people as a potential wealth.
- To foster national unity among our people by eliminating sub-national feelings.'[2]

3.2.2 In its 2016 report, the UN Commission on Inquiry concluded that '…despite the justifications for a military/national service programme advanced in 1995, the military/national service programmes today serve primarily to boost the economic development of the nation, profit state-endorsed enterprises, and maintain control over the Eritrean population …'[3] This is done, they state '…in a manner inconsistent with international law.'[4]

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[1] Government State of Eritrea, Eritrea: Proclamation on National Service No. 82/1995 of 1995, 23 October 1995, url
[2] EASO, Eritrea Country Focus (section 3), May 2015, url
[3] OHCHR, 'Detailed findings of the commission of inquiry on human rights in Eritrea' (para 234), 8 June 2016, url
[4] OHCHR, 'Detailed findings of the commission of inquiry on human rights in Eritrea' (para 234), 8 June 2016, url

### 3.3 Eligibility and composition

3.3.1 The National Service Proclamation of 1995 states that any Eritrean citizen between the ages of 18 and 50 is obliged to carry out national service. All Eritreans between the ages of 18 and 40 are required to take part in active national service.[5]

3.3.2 However, in MST and Others, the UT found that national service starts at 18 years old, or younger in some cases (para 304), with the upper limit for men being 54 years old, and for women 47 (para 431(3)).[6]

3.3.3 The United States State Department (USSD), Country Reports on Human Rights Practices for 2016, (USSD Report 2016) published on 3 March 2017 noted '… The national service obligation consists of six months of military training and 12 months of active military service and development tasks in the military forces for a total of 18 months, or for those unfit to undergo military training, 18 months of service in any public and government organ according to the person's capacity and profession.'[7]

3.3.4 The May 2015 EASO Report stated, 'No official data is available regarding the number of people engaged in national service but various estimates place the figure at between 200,000 and 600,000 in recent years, approximately half of whom are assigned to active military service. Deserters have reported that many army units are seriously undermanned and that the whole force numbers only 100,000.'[8]

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## 4. Duration of national service

### 4.1 The Proclamation and the Warsai Yikealo Development Campaign

4.1.1 The National Service Proclamation stipulates that 'active national service' will last for 18 months and may be extended in case of general mobilisation. See section above on The National Service Proclamation.

4.1.2 However, the Warsai Yikealo Development Campaign, the Government extended the statutory national service of 18 months to an indefinite period, effectively leading to a constant state of general mobilisation.[9] The Government cites the threat from Ethiopia and the "no war, no peace" situation as the justification for this extension.[10]

4.1.3 The Landinfo report 2016 noted 'After the first service all Eritreans are registered in the reservist army until the age of 50, and they can be recalled for training and mobilisation (National Service Act 1995, § 23 and 25). In practice, however, the service, on the basis of the statutory provision for

[5] Government State of Eritrea, Eritrea: Proclamation on National Service No. 82/1995 of 1995, 23 October 1995, url
[6] Immigration and Asylum Chamber, Upper Tribunal, MST and Others, promulgated on 7 October 2016, reissued on 24 October 2016, url
[7] USSD, USSD Report 2016 (Section 7b), 3 March 2017, url
[8] EASO, Eritrea Country Focus (section 3.1), May 2015, url.
[9] OHCHR, Advance version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (para 1181), 5 June 2015, url
[10] OHCHR, Advance version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (para 1257 and 1261), 5 June 2015, url

expansion in crisis situations, has been effectively permanent for many since the border war with Ethiopia.' [11]

4.1.4 The same report added 'Although the law does not distinguish between service time for women and men, the sources claim that the authorities have a more relaxed attitude to women's service, and it is thought that there is an "age limit" of between 25 and 27 years for women.'[12]

4.1.5 The Amnesty report 2017/2018 stated 'The mandatory national service continued to be extended indefinitely despite repeated calls from the international community on the government to limit conscription to 18 months. Significant numbers of conscripts remained in open-ended conscription, some for as long as 20 years.'[13]

See also The UK Home Office's fact finding mission to Eritrea, 7-20 February 2016, section 9.18.

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## 4.2 Reform of length of national service

4.2.1 The EASO report 2016 stated

'Over the last few years, the Eritrean authorities have announced several reforms of the national service. Most notably, they promised to limit the length of duty to 18 months starting from the 27th conscription round. This has not been fulfilled yet. National service remains open-ended and conscription lasts for several years. According to sources consulted, a growing number of conscripts who had been deployed in civilian roles are discharged once they have served for between 5 and 10 years. However, no reliable information is available on the demobilisation and dismissal of conscripts assigned to the military part of national service.' [14]

4.2.2 The Amnesty report, Eritrea: Submission to the UN Human Rights Committee, 119 session 6-29 March 2017 (The Amnesty report to the UNHRC 2017), published in 2017 stated 'The National Service Proclamation No. 82/1995 envisages 18 months of compulsory national service including six months of military training followed by 12 months of military deployment or government service…Despite promising in 2014 to end indefinite national service, there is no evidence that the Eritrean authorities have demobilized those in national service beyond the legal limit of 18 months.'[15]

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## 4.3 Eritrea / Ethiopia relations

4.3.1 The May 2015 EASO Report provided background information on the history of Eritrea, including events leading up to the Eritrea and Ethiopia peace agreement signed in December 2000. The report noted:

[11] Landinfo, Eritrea: National Service (section 2.2), 20 May 2016, url
[12] Landinfo, Eritrea: National Service (section 2.10.3), 20 May 2016, url
[13] Amnesty International, Eritrea 2017/ 2018 (Forced labour and slavery), 22 February 2018 url
[14] EASO, EASO report 2016 (executive summary), November 2016, url
[15] Amnesty International, Eritrea: Submission to the UN Human Rights Committee, 119 session 6-29 March 2017 (section 5), 2017, url

'A peace agreement signed in December 2000 obliged both parties to the conflict to recognize the demarcation of the common border by a UN Commission. When the borderline was announced in April, 2002, however, it was recognised only by Eritrea and not by Ethiopia, which continues to control territory (such as Badme) granted to Eritrea. Eritrea therefore regards the border conflict as unresolved and believes that it is still under threat from its larger neighbour[16].

4.3.2 The OHCHR noted in the Advance version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea, published in June 2015, that the Eritrean government used the perceived threat from Ethiopia as the justification for extended national service[17].

4.3.3 The BBC, in an article published on 9 July 2018, noted that Ethiopia's Prime Minister Abiy Ahmed travelled to Eritrea to meet Eritrea's President Isaias Afewerki, for the first time in nearly 20 years[18]. On the 9 July 2018, the two leaders signed a declaration stating that the state of war between the two countries was over[19].

4.3.4 Although sources confirm that there have been talks between the Ethiopian and Eritrean leaders culminating in the signing of a peace declaration[20], there is not yet information on the impact of this on national service obligations.

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# 5. Exemptions and alternatives to national service

## 5.1 General

5.1.1 Article 12 of the Proclamation covers the categories of people who are exempt from 'Active National Service'. These are: '(1) The citizens who have performed National Service before the promulgation of this proclamation; (2) All Fighters and Armed peasants who have proved to have spent all their time in the liberation struggle.'[21]

5.1.2 The May 2015 EASO report notes that 'All of these exemptions (with the exception of that applying to former freedom fighters) apply only on a temporary basis and can be withdrawn at any time'.[22]

See also sections on Law regulating national service, Exemptions and Demobilisation, in the report of the UK Home Office fact finding mission to Eritrea, February 2016.

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[16] EASO, 'Eritrea Country Focus' (section 1.3), May 2015, url
[17] OHCHR, Advance version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (para 1257 and 1261), 5 June 2015, url
[18] BBC, Ethiopia's Abiy and Eritrea's Afewerki declare end of war, 9 July 2018 url
[19] Eritrea Ministry of Information, Shabait website, 9 July 2018, url
[20] BBC, Ethiopia's Abiy and Eritrea's Afewerki declare end of war, 9 July 2018 url
[21] Government State of Eritrea, Eritrea: Proclamation on National Service No. 82/1995 of 1995, 23 October 1995, url
[22] EASO, Eritrea Country Focus (section 3.2), May 2015, url

## 5.2 Medical

5.2.1 Article 13 of the Proclamation covers those who are unfit for military service. It states that:

'(1) Those citizens who have been declared unfit for military [service] by the Board composed of the Ministry of Regional Administration of other Government Organs under the directives given by the Ministry of Defence will undertake 18 months of National Service in any public and Government organ according to their capacity and profession.

'(2) After completing 18 months of service they will have the compulsory duty of serving according to their capacity until the expiry of 50 years of age under mobilization or emergency situation directives given by the Government.'[23]

5.2.2 Article 15 of the Proclamation deals with medical exemptions and states that individuals who are disabled, blind or suffer from psychological derangement, can be given official exemption from all types of national service - not just military service[24] .

5.2.3 The Commission of Inquiry's 2015 report observed that it had '… documented cases of conscripts who had to participate in military training and subsequent service in the army despite severe injuries sustained during the military training or disabilities sustained during torture inflicted by prison guards or interrogators. The Commission is concerned that exemptions on health grounds are rarely granted, even though the state of health of the persons concerned prevents them from serving in the military.'[25]

5.2.4 During the UK Home Office's fact finding mission to Eritrea, 7-20 February 2016 ('the February 2016 UK FFM'), the Home Office spoke to Amina Nurhussk, the Eritrean Minister of Health, about assessments for and exemptions from national service on the grounds of health, including mental health as well as the possibility of appeal and recall. For the notes of that discussion see section 12 of the report of the UK Home Office fact finding mission to Eritrea, February 2016.

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## 5.3 Women

5.3.1 The UN Commission of Inquiry's 2015 report stated:

'Proclamation No.11/1991, which regulated the national service prior to the promulgation of the National Service Proclamation (No. 82/1995), provided for married women and single mothers to be exempt from national service. Although the 1995 National Service Proclamation removed these exemptions de jure for married women and mothers, many married women and single mothers continue to be de facto exempted, at the discretion of recruiting officers.

[23] Government of the State of Eritrea, 'Proclamation No 82/1995 - National Service Proclamation of 23 October 1995', available via UNHCR's RefWorld website, url
[24] Government of the State of Eritrea, 'Proclamation No 82/1995 - National Service Proclamation of 23 October 1995', available via UNHCR's RefWorld website, url
[25] OHCHR, 'Advance version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea' (para 1196), 5 June 2015, url

'… Reportedly, the exemption is, however, applied on an ad hoc basis, and women who are married or had children have been taken to national service against their will.

'… The Commission received recent reports indicating the Government of Eritrea is trying to restrict girls and women who have not completed national service from marrying. One report suggests the Government is prohibiting churches and mosques from officiating marriages of women and girls of conscription age without permission from the Government, which is only issued if the woman has completed national service. Such a prohibition would amount to a violation of the right to form a family.

'…Some women marry while in national service in order to be able to leave with the permission of the officers in charge. Women who become pregnant (by choice or otherwise) are also able to obtain permission to leave. Leaving the national service early due to marriage or motherhood, however, does not guarantee a woman will be officially discharged. The provision of a certificate of completion to a woman who is leaving national service also appears to be a non-standardised practice that is effectively at the discretion of a conscript's leader. The timing of release is also at the leader's discretion and women are not always permitted to leave directly after marrying, rather many must serve until they are visibly pregnant.'[26]

5.3.2 The December 2015 Amnesty International Report, 'Just Deserters', noted, 'Exemption from National Service is usually granted to women and girls who are married, pregnant or have children. This is an unwritten policy and appears to be arbitrarily implemented.'[27]

5.3.3 The Landinfo report 'Eritrea: National Service', based on a compilation of documentary and oral sources, dated 20 May 2016, noted:

'Several sources within and outside Eritrea have in recent years claimed that more and more women are being either exempted or demobilized from national service if they can document marriage, pregnancy or care for children, or if they have contacts in the government apparatus. Although the law does not distinguish between service time for women and men, the sources claim that the authorities have a more relaxed attitude to women's service, and it is thought that there is an "age limit" of between 25 and 27 years for women. Representatives of the Eritrean authorities went far in confirming to Landinfo in January/February 2016 that married women and mothers to a large extent are exempted from service (interviews in Asmara on 29 January 2016; 5 February 2016). Exemption is not a consequence of formal changes to regulations, but rather of practical and pragmatic considerations. The reason for the "age limit" is that the authorities realize that the majority of the country's women get married and have children when they are in their mid-twenties and are thus not eligible for the service. This practice may have led to temporary increases in early marriage. Parents take their daughters out of school at 15 so that they can get married and thus avoid the service.

[26] OHCHR, Advance Version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (para 1201,1203, 1205 and 1256), 5 June 2015, url
[27] Amnesty International, Just Deserters (page 28), December 2015, url

'At the same time women, like others who do not perform national service, lose many privileges, such as the ability to get land assigned or get ration cards, exit visas or passports…

'In regards the so-called giffas or arrests of persons for enlistment in the service, which occurred relatively frequently in the early 2000's, mothers who had not completed national service risked being taken if they could not demonstrate that they had children. If they could submit the required documentation on care responsibilities, they were usually released in a matter of weeks…

'According to a well-informed diplomatic source in Asmara, as of April 2013 there were clear signs of personnel shortages at all levels in the army, and women with children were in some places ordered to serve (diplomatic source (1), email 2 April 2013). But none of the sources Landinfo has interviewed in Eritrea annually since the spring of 2014 discussed this. Although it is difficult to get an insight into what happens in the country, a large scale summoning of women with children for national service would probably have drawn attention, and the information would probably have reached the international community of Asmara.' [28]

5.3.4 The EASO report 2015 noted that women are:

'… occasionally conscripted during a giffa (round-up), for example, or assigned to civilian service. Conscripts may marry during national service (with the exception of the six-month military training period) and apply for demobilisation, although this is not always granted. Women who give birth during national service are generally demobilised, however. Women who have not been issued with demobilisation papers frequently work either at home or in shops, although there is an element of risk that they will be recruited during a giffa. Women over the age of 27 can 'regularise' their status, i.e. be officially demobilised.'

'Women frequently marry or get pregnant in order to avoid national service, not least because they are afraid of being sexually assaulted.'[29]

5.3.5 See also Round-ups (Giffas)

5.3.6 The EASO 2016 report, based on a compilation of sources, stated 'Rural Muslim women, as well as pregnant women, married women and women with children, are also usually exempted from national service. However, since this practice is not covered legally, unlike people discharged from national service, they do not receive the papers (see Chapter 4.1.4 2015 and 2016 reports) that legalise their status outside the service.'[30]

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## 5.4 Religious grounds

5.4.1 The USSD International Religious Freedom Report for 2017 stated 'The law does not provide for conscientious objector status for religious reasons, nor

[28] Landinfo, Eritrea: National Service (section 2.10.3), 20 May 2016, url
[29] EASO, 'Eritrea Country Focus' (section 3.2), May 2015, url
[30] EASO, EASO report 2016 (1.2.3), November 2016, url

are there alternative activities for persons willing to perform national service but unwilling to engage in military or militia activities.'[31]

5.4.2 The United States Commission on International Religious Freedom report 2018, covering events in 2017/18, observed that 'The government requires indefinite national service with no alternative for conscientious objectors…' [32]

5.4.3 The USSD International Religious Freedom Report for 2017 noted:

'Students attending the Roman Catholic seminary, as well as Catholic nuns, did not perform national service and did not suffer repercussions from the government, according to Church officials. Some Catholic leaders stated, however, national service requirements prevented adequate numbers of seminarians from completing theological training in Rome or other locations, because those who had not completed national service were not able to obtain passports or exit visas.'[33]

5.4.4 The same report noted, in relation to Jehovah's Witnesses, that '[t]he government did not recognize a right to conscientious objection to military service, and continued to single out Jehovah's Witnesses for particularly harsh treatment such as arrest and detention.[34]

See also the country policy and information note on Eritrea: religious groups.

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## 5.5 Time-limited exemptions (students)

5.5.1 Article 14 of the Proclamation covers exemptions that are only valid for a limited period, and mainly affects students.[35]

5.5.2 The UN Commission of Inquiry's 2015 report stated:

'By law, temporary exemptions to the military service may be granted to students with a view to allowing them to complete their studies. Since the establishment of the 12th grade of high school in the Warsai Yikealo school in Sawa, the temporary exemption regime for students has been rendered irrelevant, as all students have to pass through active military training in Sawa for their final year of high school.

'According to the National Service Proclamation, students who are temporarily exempted only get their diplomas once they have completed their active military service at the end of their studies. The principle of withholding diplomas is still being applied to students of higher education, who only receive their final diplomas once they have been formally released from national service, which does not happen as national service is indefinite. Those who have graduated are thus unable to apply for jobs for which they would require their diploma.'[36]

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[31] USSD, International Religious Freedom Report for 2017 (section 2), 29 May 2017, url
[32] The United States Commission on International Religious Freedom, Annual report (p. 38),2018, url
[33] USSD, International Religious Freedom Report for 2017 (section 2), 29 May 2017, url
[34] USSD, International Religious Freedom Report for 2017 (Executive Summary), 29 May 2017, url
[35] Government of Eritrea Proclamation No 82/1995 - National Service Proclamation of 23 October 1995, available via UNHCR's RefWorld website, url
[36] OHCHR, Advance version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea, (para 1198-1199), 5 June 2015, url

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# 6. Recall for reserve duties

6.1.1 The UN Commission of Inquiry's 2015 report stated:

'In theory, the holder of a certificate of completion of national service should not be subjected to call-up or arrest for service evasion. However, information received by the Commission indicates that people who have been formally released were recalled at a later point in time. For example, conscripts of the 1st to 4th rounds, who completed the statutory 18-months national service before 1997, were initially released and provided with certificates of completion. However, they were recalled ahead of the first round or during the border war with Ethiopia, without being discharged from national service once the war was over and indefinitely retained in the national service …

'Reportedly, even persons who have documentary evidence that they have completed their active military service find themselves at risk of punishment as evaders of reserve responsibilities if they leave the country while still of military age.'[37]

6.1.2 The USSD report 2017 stated 'Police are responsible for maintaining internal security, and the armed forces are responsible for external security, but the government sometimes used the armed forces, the reserves, demobilized soldiers, or the civilian militia to meet domestic as well as external security requirements.'[38]

See also People's Army/Militia.

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# 7. Military training: Sawa and other camps

## 7.1 Location and size of training camps

7.1.1 Based on a range of sources, Landinfo's thematic report of May 2016 noted:

'Sawa, Kiloma and Wia are the most referred to training centres and have existed for a number of years.'

'Sawa camp, which is located in the Gash Barka region by the River Sawa in the western part of the country, not far from the border with Sudan… is currently the size of a city that can accommodate up to 30,000 persons, and was built in the 1990s as a military training camp.' [39]

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## 7.2 Organisation of training

7.2.1 Landinfo's thematic report of May 2016 noted:

'The six months-long military part of the national service, according to the national service law, must be carried out at a training centre (§ 9). According to various sources, in the course of recent years military camps/training

[37] OHCHR, Report Advance version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (para 1257 and 1261), 5 June 2015, url
[38] USSD, USSD report 2017 (section 1.d), 20 April 2018, url
[39] Landinfo, Eritrea: National Service (para 2.6.), 20 May 2016 url

centres have been set up in all regions for those not attending the twelfth school year in Sawa (interviews with international representatives in Asmara March/April 2014). Yemane Gebreab claimed for his part in January 2016 to Landinfo that the military training only lasted three months. He claimed further that for some it was even shorter. A representative of the Eritrean Youth Organisation NUEYS in February 2016 reported that young people who do not come to Sawa have three-month military training in other camps and then serving either in the civilian sector or in the army (interview in Asmara, 11 February 2016).' [40]

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## 7.3 Recruitment of under 18s

7.3.1 The EASO report 2015 noted that:

'Standard recruitment procedures operate on the basis of the education system, which means that pupils are called up to Sawa as soon as they have finished their 11th year at school, regardless of their age. Conscripts may therefore be 17 years old or even younger. According to a leaked Eritrean military report, one-third of those drafted during the 21st recruitment round in 2010 were under 18. The Eritrean government claimed that the under-age pupils attending Warsay-Yikealo school did not belong to the army. The conscription of minors for national service during giffas is also a frequent occurrence and age is often judged merely by appearance. Parents who submit identity papers proving their child's real age are often ignored. One report claims that kebabi administrations conscript minors for national service partly to make up numbers but also for arbitrary reasons or as a reprisal against the child's family.[41]

7.3.2 The Landinfo report of 20 May 2016, Eritrea: National Service noted 'To increase the control over young persons of service age, all school students in high school since the summer of 2003 must spend the twelfth and last school year in Sawa camp…No other schools in Eritrea offer the twelfth school year, which must be completed for admission to University. Many young Eritreans, however, leave school before the twelfth school year and therefore do not come to Sawa.[42]

7.3.3 The Australian Government Department of Foreign Affairs and Trade (DFAT) Country Information Report Eritrea, published on 8 February 2017 (DFAT report 2017), based on a compilation of sources including in Eritrea, stated

'A 1995 Proclamation on National Service required the conscription of all 18-year old Eritreans, (complementing previous laws); while (as noted in 'Education') since 2002 both boys and girls completing their 12th and final year of school have been required to do so at the residential Sawa national military training centre, which includes six months of military training. Conscripts who pass the final examination at Sawa are permitted to continue their education while remaining formally in national service, while those who

[40] Landinfo, 'Eritrea: National Service (Eritrea: Nasjonaltjeneste)' (section 2.5), 20 May 2016, url
[41] EASO, Eritrea Country Focus (section 3.3.3), May 2015, url
[42] Landinfo, Eritrea: National Service (para 2.6.1), 20 May 2016 url

fail are required to serve in either the military or the civil service for at least 12 months.'[43]

7.3.4 The USSD Annual report on trafficking in persons – Eritrea (covering April 2016 to March 2017) published 27 June 2017 noted:

'While the Proclamation of National Service 11/199 prohibits the recruitment of children younger than 18 years of age into the armed forces and applies sufficiently stringent penalties for this crime, reports allege children younger than age 18 are sent to Sawa military and training academy for completion of their final year of secondary education. The country remained without an independent monitoring body to verify ages of new recruits into governmental armed forces and lacked transparency on efforts to ensure children did not participate in compulsory activities amounting to military service or other forms of forced labor.'[44]

7.3.5 The same source added:

'All 12th-grade students, including some younger than age 18, are required to complete their final year of secondary education at the Sawa military and training academy; those who refuse to attend cannot receive high school graduation certificates, attain higher education, or be offered some types of jobs. Government policy bans persons younger than 18 from military conscription; however, during some round-ups, the government detains children younger than age 18 and sends them to Sawa.'[45]

7.3.6 The Amnesty report 2017/2018 stated 'Despite a minimum legal conscription age of 18, children continued to be subjected to military training under the requirement that they undergo grade 12 of secondary school at Sawa […]'[46]

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## 7.4 Physical conditions at Sawa

7.4.1 The Landinfo report of 23 March 2015, 'Eritrea: National Service' (English translation September 2015) noted: 'In winter 2013, Landinfo's sources in Asmara claimed that while Sawa has undoubtedly had a bad reputation in the past, it had improved in recent years. According to the source, Sawa has primarily become an educational institution.[47]

7.4.2 The May 2015 EASO Report on Eritrea pointed out that:

'Human rights monitors describe the conditions in the Eritrean military as highly problematic. According to these reports, recruits and soldiers are mostly subjected to the arbitrary decisions of their superiors and learn first and foremost to be fearful and obedient. Dissent, attempted escape and disobedience are punished severely and even minor transgressions against military discipline may attract draconian punishments including beatings and torture. The absence of functioning military courts means that punishments are meted out by military superiors on an arbitrary basis. Soldiers' living conditions are described as 'harsh'; neither their clothes nor their living

[43] DFAT, DFAT report 2017 (section 3.16), 8 February 2017, url
[44] USSD, Annual report on trafficking in persons – Eritrea, (section 'Eritrea') 27 June 2017, url
[45] USSD, Annual report on trafficking in persons – Eritrea, (section 'Eritrea') 27 June 2017, url
[46] Amnesty International, Eritrea 2017/ 2018 (Forced labour and slavery), 22 February 2018 url
[47] Landinfo, Eritrea: National Service (page 9), 23 March 2015 url

quarters are adequate for the weather conditions and they lack food and medicine.'[48]

7.4.3 In their December 2015 report, 'Just Deserters', Amnesty International noted that:

'Former students at Sawa described the living conditions and the training and treatment of students at the centre as harsh…

'The region where Sawa is located can experience high temperatures during the day. Students sleep in hangars, with 100 or 150 sharing a dormitory. Several former conscripts at Sawa told Amnesty International the food they were given was inadequate and of poor quality, mostly consisting of lentils and bread every day….'[49]

7.4.4 The Amnesty report 2017/2018 stated at Sawa National Service training camp children 'faced harsh living conditions, military-style discipline and weapons training.'[50]

7.4.5 For more information on conditions at Sawa see UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016.

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## 7.5 Treatment during military training

7.5.1 The UN Commission of Inquiry stated in June 2015 that:

'….Torture is widespread, routine and deliberate in the military. …. Many witnesses trained in various military training camps described being subjected to harsh punishment amounting to torture during military training. Conscripts are regularly punished and humiliated, often in front of other conscripts….Until today, punishment amounting to torture forms part of the conscripts' daily routine in Sawa and other military training camps. Punishment inflicted in Wi'a, however, seem to be applied with more cruelty, leading more frequently to death…'[51]

7.5.2 Further details of conditions at Sawa are set out in paragraphs 1274-1293 of the Commission's report[52]. Military training is also reportedly undertaken at other camps, including Wi'a. Details about these are set out in paragraphs 1294-1309 of the Commission's report.

7.5.3 In their December 2015 report, 'Just Deserters', Amnesty International alleged that: 'Although students are purportedly there for education as well as military training, the whole ethos of Sawa is militarised. The students are subjected to military style discipline, presided over by military commanders.'[53]

7.5.4 The HRW report 2018 stated 'Abuse in national service is rampant and is the principal reason why thousands flee the country annually… Conscripts are

[48] EASO, Eritrea Country Focus (section 3.5), May 2015, url
[49] Amnesty International, Just Deserters (page 20), December 2015, url
[50] Amnesty International, Eritrea 2017/ 2018 (Forced labour and slavery), 22 February 2018 url
[51] OHCHR, Advance Version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (para 1078-1080), 5 June 2015, url
[52] OHCHR, Advance Version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (para 1274-1293), 5 June 2015, url
[53] Amnesty International, Just Deserters (page 20), December 2015, url

subjected to 72-hour work weeks, severe arbitrary punishment, rape by commanders if female, and grossly inadequate food rations.'[54]

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## 7.6 Sexual and gender based violence

7.6.1 The United States State Department 'Trafficking in Persons Report 2017', published on 27 June 2017, reported that '[r]eports indicate some male and female recruits at Sawa were beaten, and female recruits sexually abused and raped in previous years.'[55]

7.6.2 The Landinfo report of 20 May 2016, Eritrea: National Service noted (the report is a composite of many sources, please see the full report for full details of the sources quoted):

'Rumours and stories of sexual abuse, in both Sawa and other training camps, were previously not uncommon. Kibreab (2009b, p. 60) points out that it is impossible to distinguish between allegations, rumours and truth because of censorship in the country. Thus, a number of unconfirmed stories about suicide, fatal malaria and sexual assaults during service have circulated. Boys and girls live in separate dormitories, but associate freely during the rest of the day. According to a diplomatic source (2) Landinfo met in Asmara in 2011, sexual abuse in Sawa occured "as much as you can expect in a place like this." Another international representative (3) stated to Landinfo in 2014 that the claims of abuse were probably exaggerated (interview in Asmara, March 2014). None of the sources Landinfo interviewed in Asmara in January/February 2016 mentioned sexual assaults in Sawa as a relevant subject. The Commission, however, argues in its report that there is widespread sexual abuse of women in the training camps.'[56]

7.6.3 During the February 2016 UK FFM, the team asked several sources about the allegations in human rights organisations' reporting about violence at Sawa, especially gender based violence. Representatives from the National Union of Eritrean Women stated that 'It's not the case that violence in Eritrea takes place at Sawa', adding that 'Thes[e] stories are made up to get asylum. They know they have to say this and foreigners will believe it. They have to lie to get asylum.

'If it happens [violence against a woman], the punishment is harsh. Offenders will be punished. Even the people given the training there are given gender sensitivity training.'[57]

7.6.4 Diplomatic source A told the UK FFM, in response to the question 'Is there ill-treatment at Sawa?', 'Personally, I don't think that there is widespread abuse, but abuses may happen, as in many military services. Widespread is doubtful. I know of 1 case of a friend's daughter who came back to Eritrea voluntarily to do National Service. She wouldn't have done so if violence is common place.'[58]

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[54] HRW, HRW report 2018, 18 January 2018, url
[55] United States State Department, 'Trafficking in Persons Report 2017', 27 June 2017, url
[56] Landinfo, 'Eritrea: National Service (section 2.6.1), 20 May 2016 url
[57] UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016, section 9.10),url
[58] UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016, section 9.10),url

7.6.5 In response to being asked about the allegations of sexual violence towards women in Sawa the same source replied: 'The Government may be tolerant to harsh treatment, but they would not tolerate sexual violence. Government would follow-up. It would undermine the credibility of the national service program from within. It is not in their interest: reduce their credibility and would be a disincentive for young people.'[59]

7.6.6 A group of young professionals and a group of (mainly) young artists whom the UK FFM spoke to also strongly disputed the allegations of widespread sexual violence. A training manager at Bisha mine, in conversation with the UK FFM, said she thought claims of systematic sexual abuse were ridiculous and 'doesn't know of any such cases personally. If there are some isolated incidents, it's nothing more than you would get at any large institution.' [60]

7.6.7 For the full notes of those discussions, see section 9.10 of the report of the UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016.

7.6.8 The UN Commission of Inquiry's second report of June 2016 stated:

'Sexual and gender-based violence persists in Eritrea. The Commission collected evidence that some cases of rape committed by men against women in local communities had been adjudicated by courts and that the perpetrators had been sentenced to terms of imprisonment. However, rapes committed in military training centres, in the army, and in detention by military officials, trainers, as well as detention officials and guards continue to be committed with impunity. The Commission also collected evidence about recent cases of domestic servitude imposed on some young women in the national service or in the army. Similarly, evidence collected recently confirm that rape in the society, including by soldiers, continue to be committed without fear of prosecution.'[61]

7.6.9 The USSD report 2016 listed, amongst others, the most significant human rights issues of the reporting period as 'violence against women and girls, including in military camp settings and national service positions'[62]

7.6.10 The USSD report 2017 repeated information from its 2015[63] and 2016[64] reports that '…sexual violence against women and girls was widespread in military training camps, that the sexual violence by military personnel in camps and the army amounted to torture, and the forced domestic service of women and girls in training camps amounted to sexual slavery.'[65]

7.6.11 The Amnesty report 2017/2018 stated 'Women, in particular, faced harsh treatment in the camp including sexual enslavement, torture and other sexual abuse.'[66]

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[59] UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016, section 9.10), url
[60] UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016, section 9.10), url
[61] UN Commission of Inquiry, Detailed findings of the Commission of Inquiry on Human Rights in Eritrea - A/HRC/32/CPR.1 (para 120), 8 June 2016, url
[62] USSD, USSD Report 2016 (executive summary), 3 March 2017, url
[63] USSD, USSD Report 2015 (section 6), April 2016, url
[64] USSD, USSD Report 2016 (section 6), 3 March 2017, url
[65] USSD, USSD report 2017 (section 7), 20 April 2018, url
[66] Amnesty International, Eritrea 2017/ 2018 (Forced labour and slavery), 22 February 2018 url

7.6.12 The statement by Ms. Sheila B. Keetharuth, Special Rapporteur for the Office of the High Commissioner for Human Rights (OHCHR) on the situation of human rights in Eritrea at the 34th session of the Human Rights Council Geneva, 13 March 2017 stated 'The Commission concluded that there are reasonable grounds to believe that Eritrean officials have committed the crime of rape, both in the context of military/national service and in detention centres. In committing this crime, perpetrators took advantage of the coercive environment and, in many cases, also used force or threat of force.'[67]

7.6.13 In the same statement, the Special Rapporteur added '… the Commission called on the Government to implement a zero-tolerance policy for sexual abuse in the army and in detention centres; and to establish complaint mechanisms and to ensure the prompt and adequate investigation, prosecution and accountability of perpetrators. Again, I have not been informed of any Government efforts to address sexual abuse in the army and detention centres or a willingness to tackle impunity of perpetrators.'[68]

See also conditions during national service - treatment

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# 8. Conditions during national service

## 8.1 Pay / salary

8.1.1 The UN Commission of Inquiry of June 2016 stated

'The stipends paid to national service conscripts remained very low during the reporting period. In a February 2016 television interview, President Isaias Afwerki stated that pay increases had "started in mid-2015." The general context of the discussion suggested that the President was referring to public service employees, and it was therefore unclear whether this included military or national service conscript labour. A number of witnesses said they had heard of plans to increase stipend payments to military/national service conscripts, and others had heard of individuals who had received such increases, but none had personally received an increase and some expressed fears about arbitrary implementation of any new stipend scheme.' [69]

8.1.2 The EASO report 2016 stated 'In early 2016, the authorities announced a pay rise in the civilian part of the national service. According to sources consulted, implementation has already started.'[70]

8.1.3 The UK FFM team interviewed a number of sources regarding pay reform and implementation. See The UK Home Office's fact finding mission to Eritrea, 7-20 February 2016 section 9.7.

8.1.4 The Human Rights Watch (HRW) World Report 2018 – Eritrea covering events of 2017, published 18 January 2018 (HRW report 2018) noted 'Pay

[67] OHCHR, Statement by Ms. Sheila B. Keetharuth, Special Rapporteur on the situation of human rights in Eritrea at the 34th session of the Human Rights Council Geneva, 13 March 2017, url
[68] OHCHR, Statement by Ms. Sheila B. Keetharuth, Special Rapporteur on the situation of human rights in Eritrea at the 34th session of the Human Rights Council Geneva, 13 March 2017, url
[69] UN Commission of Inquiry, Detailed findings of the Commission of Inquiry on Human Rights in Eritrea - A/HRC/32/CPR.1 (paras 94-95), 8 June 2016, url
[70] EASO, EASO report 2016 (executive summary), November 2016, url

increased after 2014, but deductions for food limited the increase, and net pay remained inadequate to support a family.'[71]

8.1.5 The USSD report 2017 stated:

'The national minimum wage for employees of PFDJ-owned enterprises and government employees was 360 nakfa per month. At the official exchange rate, this equaled [US]$23, but it was considerably less at the unofficial market rate…The government paid national service recruits according to a fixed scale, and the most common salary was 800 nakfa ($52) per month. During the year the government announced salaries of recruits would be raised, but reportedly increased deductions from salaries, such as taxes and maintenance, resulted in a decrease in some cases. The standard workweek was more than 40 hours, and employers sometimes required overtime. The law allowed for more than two hours per day or eight hours per week of overtime. The law entitles workers to overtime pay, except for those employed in national service…'[72]

8.1.6 The OHCHR Special Rapporteur noted in her report on the situation of human rights in Eritrea, 24 July 2017 that:

'The Special Rapporteur received reports that the Government had increased the stipends paid to national service conscripts. While this would be a positive and much needed development, it is not sufficient to counter the other factors that render the military/national service programmes tantamount to enslavement. In any event, there are serious doubts as to whether the Government really has increased the stipends given that it also imposes deductions for various purposes such as taxes, logistics and construction. The Special Rapporteur is not in a position to verify the information…'[73]

8.1.7 The USSD report 2017 noted 'There were reports of recruitment efforts for national service projects such as cutting grass at the airport or fixing roads happening without notice or extra payment for participants.'[74]

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## 8.2 Other entitlements

8.2.1 The December 2015 Amnesty International report, 'Just Deserters', considered leave allowance, claiming that:

'There is no standard leave entitlement for conscripts. Those interviewed reported a leave allowance of one month per year. However, leave is granted at the discretion of the relevant commander and therefore varies. Some conscripts get leave more frequently - maybe twice per year or for shorter periods - a few days or one or two weeks. Some former conscripts told Amnesty International they had gone for several years without being granted any leave. Requests can be made for leave, for personal or family reasons, including the death of a relative or a marriage, but may not necessarily be granted.'[75]

[71] HRW, HRW report 2018, 18 January 2018, url
[72] USSD, USSD report 2017 (section 7.e), 20 April 2018, url
[73] OHCHR, SR report July 2017 (section IV), 24 July 2017, url
[74] USSD, USSD report 2017 (section 7.b), 20 April 2018, url
[75] Amnesty International, Just Deserters (page 31), December 2015, url

8.2.2 And on access to health care:

'Former conscripts repeatedly told Amnesty International that access to health care in National Service is restricted, including at Sawa and including for children conscripted under the age of 18. Conscripts have to secure the permission of a commander to access even basic first aid, and this is reluctantly and infrequently granted. A number of former conscripts said only when people are visibly very ill might permission to seek health care be granted.'[76]

See also The UK Home Office's fact finding mission to Eritrea, 7-20 February 2016, section 11.7.

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## 8.3 Additional / secondary jobs

8.3.1 During the UK FFM an Eritrean-US training manager at Bisha mine who was interviewed noted 'Many people have part-time jobs or businesses and they come to an arrangement with their bosses to work part-time at their national service job and spend the rest of their time working in another job or running their own business. For example, they arrange to work efficiently in half the day in their assigned place, then after lunch they will work in family business or tutoring to earn more money.'[77]

8.3.2 Diplomatic source E, talking to the UK FFM, noted **'**I know people who go to their office for a bit (as part of their national service) – they then go off to do their "real" job.'[78]

8.3.3 An entrepreneur interviewed by the UK FFM team noted: '**Are there many small companies in Eritrea?** Yes. **Is it common to do more than one job?** [2] Yes. Depends on free time. Most of the professionals do two or three jobs. There is also lots of casual work.'[79]

8.3.4 For more information on additional and secondary jobs outside of national service see The UK Home Office's fact finding mission to Eritrea, 7-20 February 2016 section 9.17.

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## 8.4 Physical conditions and treatment

8.4.1 The UN Commission of Inquiry's 2015 report concluded that:

'During active military service, conscripts perform various tasks, some of a purely military character, others related to prison management, policing and internal security. Often, conscripts also have to perform civil tasks, such as working in construction and agriculture. It is very common for Eritreans, who spend their life in the military, to perform both sets of tasks, military and non-military assignments, either interchangeably during the same period of time, or during alternating periods. Very few conscripts serving in the army perform purely military tasks, such as serving in the logistics department of the army, transportation staff or guarding the borders with neighbouring countries... It

[76] Amnesty International, Just Deserters (page 33), December 2015, url
[77] UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016, section 9.17),url
[78] UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016, section 9.17),url
[79] UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016, section 9.17),url

appears that the Government subjects conscripts to deliberately harsh conditions aimed at transmitting the values and the conditions experienced during the struggle.'[80]

8.4.2 In paragraphs 1354 to 1382 of the Commission's report, it also documents conditions in the Eritrean military based on testimonies of Eritrean migrants.

8.4.3 The UN Commission of Inquiry's 2015 report observed that 'The working and living conditions of conscripts assigned to perform non-military work within military units, such as military nurses and teachers, are usually similar to the conditions of conscripts performing military tasks. … The Commission finds that working conditions of conscripts assigned to construction and agricultural works are often harsh, similar to the conditions in the army…[81]

8.4.4 However, it also noted that 'General conditions for conscripts assigned to perform work of a civil nature are quite different from those of national service in the army. Shortly after finishing their studies, graduates get their first civil assignment, which can last up to two years. It is referred to as the "university service" or "pre-national service." During the university service, they are paid on average 450 Nakfa per month.' [82]

8.4.5 And that:

'Conditions in civil service are perceived to be far better than in the army because conscripts may lead a civilian life. They have regular office working hours. Outside working hours, their time is free and they usually have at least part of the weekend off. Only those conscripts assigned to certain public companies or ministries are reportedly requested to work during weekends. However, it seems that it is the exception rather than the rule.

'Conscripts are free to live with their families, may attend religious services outside of working hours and can get married without restriction or prior authorisation. Some may get annual leave, but others have none. Conscripts in civil service are, however, subjected to the same restrictions on movement as those in the army. Their travel permits are limited to their area of service. They must obtain special permits to travel outside their areas, for example to visit relatives.

'Unlike conscripts in the army, those in civil service are not provided with any food or accommodation by the Government. As their salaries are below the subsistence level, they face severe financial difficulties. This is particularly difficult for those assigned in Asmara, where a single room costs a minimum of 500 Nakfa per month. Some conscripts raised this issue directly with the Government, but it fell on deaf ears. The Government only provides accommodation for conscripts in civil service based in remote areas or for those who are former freedom fighters. Consequently, conscripts have to rely on accommodation or financial support from relatives, find a second job or

[80] OHCHR, Advance Version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (para 1351-1353), 5 June 2015, url
[81] OHCHR, Advance Version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (paras 1427-8; 1440), 5 June 2015, url
[82] OHCHR, Advance Version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (paras 1427-8; 1440), 5 June 2015, url

"just need to be creative." Former conscripts assigned to civil service told the Commission about their difficulties.'83

8.4.6 The US State Department's 'Trafficking in Persons Report 2017' repeated the assessment from its 2015 report[84] that 'Working conditions are often harsh and sometimes involve physical abuse.'[85]

8.4.7 The Amnesty report, Eritrea: Submission to the UN Human Rights Committee, 119 session 6-29 March 2017 (The Amnesty report to the UNHRC 2017), published in 2017 stated '… national service amounts to slavery and servitude due to its indefinite nature and the use of conscript labour in mining and construction plants owned by private companies.'[86]

8.4.8 In relation to mining, the UK FFM team interviewed Dr Seife Berhe who noted:

'If you are doing business in mining, we get a lot of support. Fuel, for example, comes quick and easy. We are given people who are demobilised or staff members on secondment. We pay them full wages.

'Graduates in geology or mining are demobilised to the Ministry of Energy and Mines once they have fulfilled their national service obligations.

'Since the exploration/mining companies require staff and also because the Ministry wants their staff to be trained they send the geologists and mining engineers to all companies on a rota basis. In the early days they used to send them on secondment for few months which was counterproductive because it disrupted their training. After discussion with the Ministry it was decided for companies to keep them as long as they require their service or have finished a specific assignment.

'If we say we don't need them anymore, they are retruned back to the Ministry. If they are demobilised and released to the market from the Ministries, it is a case-by-case thing. If you are doing business in mining, we get a lot of support. Fuel, for example, comes quick and easy. We are given people who are demobilised or staff members on secondment. We pay them full wages.

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[83] OHCHR, Advance Version of the Report of the detailed findings of the Commission of Inquiry on Eritrea (para 1443-4), 5 June 2015, url
[84] USSD, Trafficking in Persons Report 2015- Eritrea, 27 July 2015, url
[85] USSD, Annual report on trafficking in persons – Eritrea, (section 'Eritrea') 27 June 2017, url
[86] Amnesty International, Eritrea: Submission to the UN Human Rights Committee, 119 session 6-29 March 2017 (section 5), 2017, url

'If we say we don't need them anymore, they are returned back to the Ministry. If they are demobilised and released to the market from the Ministries, it is a case-by-case thing.'[87]

See also Military training: Sawa and other camps – treatment during military service and treatment of women

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# 9. Detention conditions

9.1.1 The May 2015 EASO Report noted that:

'Human rights reports describe the conditions of detention in Eritrean prisons as precarious. Given the lack of access to Eritrea, the quoted human rights reports are based on a range of sources abroad. International observers such as the ICRC have not been allowed to visit Eritrean prisons since 2009. Therefore the information cannot be verified on-site.

'The following problems are mentioned in human rights reports:

- Some prisons are located underground or in shipping containers, which can become extremely hot due to the climate in Eritrea.
- Prison cells are often overcrowded to the point that prisoners can only lie down in turns, if at all.
- Hygiene conditions are poor. Some prisons have only a hole in the ground or a bucket instead of a toilet. The prisoners are often not let out to exercise and medical care is limited.
- Food rations are small and non-nutritious, and access to drinking water is scarce.
- Some prisoners are mistreated or tortured or used for forced labour.
- Relatives are frequently unable to visit.
- Women are usually kept in cells separate from men but there are still reports of sexual assaults and rape, for example by guards
- Deaths have been reported a frequent occurrence due to the mentioned difficult circumstances.

'Many prisoners (in particular those imprisoned on political, religious or military grounds, including draft evaders or deserters) are kept in incommunicado detention; no criminal proceedings are initiated, no end date is set for their detention and their relatives are not informed. These prisoners are often mistreated or tortured. Prisoners are kept in incommunicado detention at Aderser and Tesseney prisons and in Track B at Asmara prison.'[88]

9.1.2 And that:

'Reports on torture in Eritrea are based on the same mainly abroad-based sources as the reports on prison conditions, since visits to Eritrean prisons have not been possible for international observers such as ICRC since 2009.

[87] UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016, section 9.17.5),url
[88] EASO, Eritrea Country Focus (section 4.1), May 2015, url

'Torture is used for various purposes in Eritrean prisons, for example to force confessions, obtain information or as a means of punishment. There are reports of prisoners being tortured for criticising the government, for lack of discipline during national service, for insubordination and in case of other prisoners' escape. Members of religious minorities (including members of Pentecostal churches and Jehovah's Witnesses) have also been tortured as punishment for practising their faith or in an attempt to force them to abandon their religion.

'Methods of torture include being chained at the hands and feet for days or even weeks with ropes and handcuffs ('Helicopter', 'Ferro', 'Otto' or 'Jesus Christ' methods) and being kept in a lorry tyre ('Goma'). Prisoners have also been waterboarded or forced to walk barefoot over sharp objects or the scalding desert floor. Prisoners are also beaten.

'Eritrea acceded to the Convention against Torture in September 2014.'[89]

9.1.3 The USSD report 2017 stated:

'Detention conditions reportedly remained harsh, leading to serious health damage and in some instances death.

'Physical Conditions: There were numerous official and unofficial detention centers, some located in military camps…The law requires juveniles be held separately from adults. There is a juvenile detention center in Asmara, but authorities held some juveniles, particularly teenagers, with adults, due to overcrowding in that center. When police arrested mothers, their young children sometimes were held with them. Severe overcrowding was common.

'Data on the prevalence of death in prison and detention facilities were not available, although persons reportedly died from harsh conditions, including lack of medical care and use of excessive force…

'Authorities held some detainees incommunicado in metal shipping containers and underground cells without toilets or beds. Use of psychological torture was common, according to inmates held in prior years. Some former prisoners reported authorities conducted interrogations and beatings within hearing distance of other prisoners to intimidate them. The government did not provide adequate basic or emergency medical care in prisons or detention centers. Food, sanitation, ventilation, and lighting were inadequate, and potable water was sometimes available only for purchase.

'Former detainees and other sources reported harsh detention conditions in police stations and in prisons for persons held for evading national service and militia duties.'[90]

9.1.4 The OHCHR Special Rapporteur noted in her statement of 13 March 2017:'The Commission found that there are reasonable grounds to believe that Eritrean officials have committed the crime of torture, against persons under their control. It concluded that the use of torture was, and remains, an integral part of the Government's repression of the civilian population.'[91]

[89] EASO, Eritrea Country Focus (section 4.2), May 2015, url
[90] USSD, USSD report 2017 (section 1.d), 20 April 2018, url
[91] OHCHR, Special Rapporteur on the situation of human rights in Eritrea at the 34th session of the

9.1.5 The DFAT report 2017 noted that 'DFAT assesses that officials in Eritrea commonly use a variety of forms of ill-treatment of detainees during interrogations, or as a form of punishment, which may amount to torture. Groups at a high risk of tortured may include political prisoners, practitioners of unauthorised religions, and deserters from national service.'[92]

9.1.6 The same source also stated 'The government does not release any information regarding either the number of people held in custody or deaths occurring in its detention facilities. It is therefore impossible to say with any certainty how many Eritreans may die in custody in any given year, and whether the circumstances of their death are related to torture or poor detention conditions.'[93]

9.1.7 The USSD report 2017 stated:

'In 2013 an international nongovernmental organization (NGO) reported the government held at least 10,000 suspected political prisoners and prisoners of conscience, including opposition politicians, journalists, members of registered and unregistered religious groups, and persons suspected of not completing national service or evading militia practice. Such persons were subjected to harsher treatment in detention than were other detainees…

'Persons arrested in previous years for refusing to bear arms on grounds of conscience…remained in detention.[94]

9.1.8 The same report noted that a 'Lack of transparency and access to information made it impossible to determine the numbers or circumstances of deaths due to torture or poor detention conditions.'[95]

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## 9.2 Redress for mistreatment

9.2.1 Human Rights Watch's World Report 2016 concluded that, 'There is no mechanism for redressing abuses'[96]

9.2.2 The OCHR Special Rapporteur (SR) noted in her statement of 13 March 2017

'I am aware that the Government of Eritrea continues to grant access to the country to bilateral and international delegations; however, none of these visitors or any of the foreign diplomats or staff of international organisations based in Asmara have been permitted to visit any places of detention. I have no information as to whether the independent monitoring of prisons figures in any of the ongoing discussions.'[97]

9.2.3 The SR also stated

'… the Commission called on the Government to establish adequate complaint mechanisms and ensure investigations are conducted into all

Human Rights Council Geneva, 13 March 2017, url
[92] DFAT, DFAT report 2017 (section 4.13), 8 February 2017, url
[93] DFAT, DFAT report 2017 (section 4.7), 8 February 2017, url .
[94] USSD, USSD report 2017 (section 1.d), 20 April 2018, url
[95] USSD, USSD report 2017 (section 1.c), 20 April 2018, url
[96] HRW, World Report 2016: Eritrea (page 234), 21 January 2016, url
[97] OHCHR Special Rapporteur on the situation of human rights in Eritrea at the 34th session of the Human Rights Council Geneva, 13 March 2017, url

allegations of torture and ill-treatment with a view to bringing perpetrators to justice.

'The Government was widely praised for the 2014 ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Notwithstanding the ratification, I have not heard about any steps the Government has taken that would suggest its seriousness in putting an end to the systematic and widespread use of torture by Eritrean officials in civilian and military detention centres.'[98]

9.2.4 And further noted

'… the Commission called on the Government to implement a zero-tolerance policy for sexual abuse in the army and in detention centres; and to establish complaint mechanisms and to ensure the prompt and adequate investigation, prosecution and accountability of perpetrators. Again, I have not been informed of any Government efforts to address sexual abuse in the army and detention centres or a willingness to tackle impunity of perpetrators.'[99]

9.2.5 In relation to treatment of detainees during detention the DFAT 2017 report stated 'DFAT further assesses that those committing the torture are likely to enjoy general impunity.'[100]

9.2.6 The USSD report 2017 noted 'The government did not take action against persons responsible for detainee deaths.'[101]

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# 10. Discharge/demobilisation and dismissal

## 10.1 Clarification of terms

10.1.1 Although the UN Commission of Inquiry's 2015 report concluded that the terminology to describe a conscript's separation from the military was unclear[102], in the May 2015 EASO Report, it was highlighted that: 'a distinction should be made between demobilisations and dismissals; demobilisations follow wartime mobilisations, and dismissals take place on an individual basis after the discharge of national service obligations.'[103]

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## 10.2 Procedures

10.2.1 The UN Commission of Inquiry's 2015 report concluded that the procedure for discharge from national service was unclear[104] and that the Commission had: '…not been able to access official documentation outlining rules and

[98] OHCHR Special Rapporteur on the situation of human rights in Eritrea at the 34th session of the Human Rights Council Geneva, 13 March 2017, url
[99] OHCHR Special Rapporteur on the situation of human rights in Eritrea at the 34th session of the Human Rights Council Geneva, 13 March 2017, url
[100] DFAT, DFAT report 2017 (section 4.13), 8 February 2017, url
[101] USSD, USSD report 2017 (section 1.d), 20 April 2018, url
[102] OHCHR, Advance version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (para 1252), 5 June 2015, url
[103] EASO, Eritrea Country Focus (section 3.7.1), May 2015, url
[104] OHCHR, Advance version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (para 1252), 5 June 2015, url

procedures in place guiding the process of release. Testimonies reveal a pattern of arbitrariness in this regard.'[105]

10.2.2 The EASO report 2016 stated 'According to sources consulted, a growing number of conscripts who had been deployed in civilian roles are discharged once they have served for between 5 and 10 years. However, no reliable information is available on the demobilisation and dismissal of conscripts assigned to the military part of national service.'[106]

10.2.3 The EASO report 2016 referred to an interview with Yemane Gebreab, Head of Political Affairs, People's Front for Democracy and Justice, in Asmara on 11 March 2016 which stated '…discharges from national service are, in principle, granted on a case-by-case basis only; there are no "blanket discharges"'[107]

10.2.4 The EASO report 2016 also noted:

'In connection with the national service reforms announced, the two government representatives interviewed [by the Swiss FFM of March 2016] pointed out that…in the past few years, an increasing number of those assigned to civilian national service have been demobilised or discharged. 'Yemane Gebreab told the Norwegian COI unit Landinfo that Eritrea has discharged 70 % of national service members since the end of the border war with Ethiopia. In addition, 85 % of the conscripts are now assigned to the civilian branch of national service after completing a three-month military training programme. In June 2016, Yemane Gebreab made a public statement to say that 90 % of those performing national service were working on civilian projects, primarily as teachers or within the health service.

'Interlocutors from the fields of education and politics mentioned that university graduates were newly required to undertake one year's community service. After completing their studies, the graduates are deployed as teachers or at courts, for example. The idea is that, in this way, they are giving something back in return for their free university. Performance of community service does not, however, constitute an exemption from national service.'[108]

10.2.5 Sources consulted during the UK Home Office's FFM to Eritrea in February 2016 also confirmed that the procedures for demobilisation were opaque and lacked transparency.[109] See The UK Home Office's fact finding mission to Eritrea, 7-20 February 2016 section 9.18.

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## 10.3 Women

10.3.1 The EASO report 2016 noted:

'The two reports published by the UN Commission of Inquiry state that, following the border war with Ethiopia, the Eritrean Army did not demobilise all its forces from active duty, and that military service is usually extended

[105] OHCHR, Advance version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (para 1252), 5 June 2015, url
[106] EASO, EASO report 2016 (Executive summary), November 2016, url
[107] EASO, EASO report 2016 (4.1.2), November 2016, url
[108] EASO, EASO report 2016 (4.1.2), November 2016, url
[109] UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016, section 9.18),url

beyond the 18-month period laid down in law. The 2015 report does, however, point out that some people are discharged, for example pregnant women. In addition, people serving within the civilian branch of the national service are normally discharged after six to eight years; by contrast, those in the military branch still have no prospect of being discharged'.[110]

10.3.2 The Landinfo report 2016 noted:

'Already in 2011 Landinfo received information that indicated that women were discharged from service for various reasons. This information has been confirmed by various sources at meetings with Landinfo in Asmara, most recently in January 2016. Although women are probably discharged in their mid-twenties, they can, in principle, be recalled to the service in line with the legislation on National Service. During crises and mobilization situations anyone can in principle be summoned to the service. At the same time several of sources emphasize that women do not get exit visas before the age of 47.'[111]

10.3.3 The EASO report 2016 referred to a public statement made by Yemane Gebreab on 8 June 2016 who said "virtually all" women have been removed from active service'[112]

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### 10.4 Teachers

10.4.1 The following information was found in relation to teachers in the Ministry of Foreign Affairs (Netherlands) 2017 report Country of Origin Information Report on Eritrea published on 6 February 2017:

'After their training they are required to do community service for one year, after which they enter military service for several months. They then work for several (usually two) years as a conscripted teacher for a salary of 350 to 700 nakfa. After this, they are demobilised and given a regular teaching post. Salaries for teachers were increased in 2016 from 1,420 to 3,500 nakfa, depending on education and experience. By making the profession more attractive and applying less stringent national service criteria for teachers, Eritrea tried to attract more motivated students during the reporting period.' [113]

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## 11. Desertion and evasion in law

11.1.1 Article 17 of the Proclamation sets out the regulations that relate to exit from the country when either being eligible for the draft or performing national service. According to this Article, an Eritrean citizen eligible for national service may travel abroad 'upon giving evidence that he is exempted from National Service or that he has completed his service by producing a Certificate of Service' or, alternatively, by 'producing a registration card and

[110] EASO, EASO report 2016 (4.1.4), November 2016, url
[111] Landinfo, Eritrea: National Service (section 4.2), 20 May 2016, url
[112] EASO, EASO report 2016 (4.1.2), November 2016, url
[113] Ministry of Foreign Affairs (Netherlands), Country of Origin Information Report on Eritrea, 6 February 2017, (section 4.3) url

entering into a bond of 60,000 Birr as security that he will return to resume his duty when called upon to do so.'[114]

11.1.2 Article 37 (Penalties) of the National Service Proclamation 82/1995 lists a range of sanctions which exist for evading national service, and is sub-divided into four sections.

- Article 37(1) states that any violation of the Proclamation is punishable by two years imprisonment or a fine, or both.
- Article 37(2) states that avoidance of national service by deceit or self-inflicted injury is punishable by up to two years imprisonment or a fine, followed by national service. If the self-inflicted injury precludes national service, the prison term is three years.
- Article 37(3) states that individuals who travel abroad to avoid national service and return before they are 40 years of age must undertake national service. The penalty for individuals who return after the age of 40, but are under 50, is imprisonment for five years; and they also lose the right to employment, to own a business licence, to be issued with an exit visa, and to own land.
- Article 37(4) states that the punishment for deliberately delaying being registered for national service or avoiding national service by deceit or the use of obstructive methods is two years imprisonment or a fine, or both.[115]

11.1.3 The UN Commission of Inquiry explained that:

'Article 37 of National Service Proclamation provides for punishments for the non-performance of military service, without prejudice to more rigorous punishment under the 1991 Transitional Penal Code of Eritrea. Avoiding national service by mischief, deliberate infliction of bodily injury or by any other means (para 1); absconding from national service by leaving the country (para 2); and assisting to avoid national service or registration (para 3) are punishable with payment of a fine or imprisonment of up to five years. Under the Transitional Penal Code, these statutory offences can lead to imprisonment of longer periods of time, in the case of desertion in times of emergency, general mobilisation or war up to life imprisonment. Desertion from active service can be punished with the death penalty.'[116]

11.1.4 The May 2015 EASO Report, citing various sources, stated:

'According to Proclamation 82/1995, a deserter must pay a fine of 3,000 birr and/or serve a two-year prison sentence. The prison sentence rises to five years for those who leave the country after deserting. Deserters also lose their right to be employed or own land. Article 300 of the Criminal Code also stipulates that wartime desertions are punishable by prison sentences ranging in length from five years to life imprisonment, or even the death penalty in

[114] Government of the State of Eritrea, 'Proclamation No 82/1995 - National Service Proclamation of 23 October 1995', available via UNHCR's RefWorld website, url
[115] Government of the State of Eritrea, Proclamation No 82/1995 - National Service Proclamation of 23 October 1995, available via UNHCR's RefWorld website, url.
[116] OHCHR, Advance Version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (para 1234), 5 June 2015, url

particularly severe cases. According to Article 297, wartime draft evasion is punishable by imprisonment of up to five years.' [117]

11.1.5 The EASO report 2016 stated 'It is unclear which authority is responsible for punishing draft evaders. The Ministry of Justice was unable to provide any information in this regard.'[118]

See also sections on Law regulating national service and Treatment for evading / absconding, UK Home Office Fact Finding report, June 2016.

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# 12. Desertion and evasion in practice

## 12.1 Round ups 'giffas'

12.1.1 The UN Commission of Inquiry provides information on giffas, and provides quotes from witnesses of their experiences up to 2011. However it is not clear from the data if the frequency and location of giffas has changed over time and by location (see paras 1211 to 1233):

'Members of the Eritrean Defence Forces regularly conduct round-ups in search of citizens who have failed to respond to a national service call by the Government to report for national service, have absented themselves from the army without leave or have otherwise attempted to evade conscription. In Eritrea, these round-ups are known as giffas in Tigrinya or raffs in Afari. While many people reported voluntarily to conscription calls in the early years of independence, the Commission has collected testimonies indicating that people have been forcefully recruited during round-ups from as early as 1995.

'Usually, round-ups are conducted by soldiers in cities and villages where draft evaders or deserters are suspected to be hiding. The number of soldiers participating in a giffa depends on the size of the village or the city. Often soldiers are deployed in regions far from their home town to avoid them coming across relatives and friends when conducting giffas. As a result, they do not know the age of people and arrest everyone without distinction…'[119]

12.1.2 For more information on the UN Commission of Inquiry's findings see 'Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea'[120] and 'Advance Version of the Report of the detailed findings of the Commission of Inquiry on Eritrea'[121]

12.1.3 The EASO report 2016 noted:

'Draft evaders are usually tracked down in round-ups ('giffas'). Those apprehended are usually detained for some time before starting a military training, which often takes place in camps with hazardous and detention-like conditions. A part of the draft evaders, however, manages to avoid these

[117] EASO, Eritrea Country Focus (section 3.8.1), May 2015, url
[118] EASO, EASO report 2016 (1.4.1), November 2016, url
[119] UN Human Rights Council, Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea (para 1211-1212), 5 June 2015, url
[120] UN Human Rights Council, Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea' (para 1211-1212), 5 June 2015, url
[121] UN Human Rights Council, 'Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea' (para 1214-1215, 1220-1221), 5 June 2015, url

round-ups in the long run. Sporadically, military units try to individually track down certain draft evaders, particularly those who have been called up already.'[122]

12.1.4 In the Freedom House report 2016, it was noted that 'The police frequently conduct round-ups of people thought to be evading national service; those who resist can be executed on the spot.'[123]

12.1.5 The Amnesty report to the UNHRC 2017 stated 'The military conducts round-ups in cities and on known routes to leave the country. Information gathered by Amnesty International suggests that people of national service age, without proper permits, caught in roundups are often punished before being sent for military training, on suspicion of attempts to evade conscription.'[124]

12.1.6 The USSD report 2017 stated 'Authorities sometimes arrested persons whose papers were not in order and detained them until they were able to provide evidence of their militia status or demobilization from national service. The government contacted places of employment and used informers to attempt to identify those unwilling to participate in the militia.'[125]

For more information on giffas see UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016

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## 12.2 Children

12.2.1 The OHCHR in the Advance Version of the Report of the detailed findings of the Commission of Inquiry on Eritrea stated:

'The Commission of collected a large number of testimonies regarding the round-up of children, both boys and girls. In some instances, the soldiers examined the student identification cards or birth certificates on the spot and refrained from arresting those who had a valid document. However, it is very common for soldiers to initially arrest any young persons who look tall and strong and in good physical condition for national service, without taking into account the fact that the children can prove they are going to school. Later, when their student cards are verified, these children may be released… On many occasions, however, children are rounded up and sent for military training despite the fact that they can produce a document indicating that they are under-age, such as a student card or a birth certificate.'[126]

12.2.2 The USSD report 2017 stated 'The law prohibits the recruitment of children under age 18 into the armed forces. Children under age 18, however, were detained during round-ups and sent to Sawa National Training and Education Center…'[127]

[122] EASO, EASO report 2016 (executive summary), November 2016, url
[123] Freedom House, Freedom House report 2016, 14 June 2016, url
[124] Amnesty International, Eritrea: Submission to the UN Human Rights Committee, 119 session 6-29 March 2017 (section 6), 2017, url
[125] USSD, USSD report 2017 (section 1.d), 20 April 2018, url
[126] OHCHR, Advance Version of the Report of the detailed findings of the Commission of Inquiry on Eritrea (para 1226-1227), 5 June 2015, url
[127] USSD, USSD report 2017 (section 6), 20 April 2018, url

12.2.3 The Amnesty report to the UNHRC 2017 states 'Eritrean youth approaching conscription age are aware of the indefinite nature of national service, the low pay while in national service and the lack of livelihood choices once they are in national service. An ever increasing number of youth, therefore, many of them teenagers, attempt to leave the country to avoid conscription. Others try to avoid it by hiding whilst still in Eritrea.'[128]

See section 7.3 Recruitment of under 18s

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## 12.3 Treatment of draft evaders / deserters

12.3.1 The EASO report 2016, based on a compilation of sources, noted:

'According to most sources consulted for this report, deserters apprehended within Eritrea are usually returned to their military unit or civilian duty and punished. These punishments are imposed extrajudicially by their superiors. There is no possibility of appeal. However, the treatment of deserters appears to have become less harsh in recent years. Most sources report that first time offenders are now usually detained for several months. Punishment for deserters from the military part of national service is reportedly more severe than punishment imposed on those deployed in the civilian part. As deserters are not tracked down systematically, a number of them effectively go unpunished.'[129]

12.3.2 The same report added:

'If the authorities apprehended deserters from the military, they transferred them back to their units, which usually punished them. Most interlocutors stated that the detention of deserters for a period of several months in harsh conditions was a common occurrence, and also mentioned detainees being moved to remote areas and the length of their service being extended. It is unclear under what circumstances the punishment is determined and whether there are possible means of appeal. One interlocutor assumed that senior military officers continue to determine the punishments applied independently. None of the interlocutors was aware of any guidelines for the punishment of deserters, any specific judgments or any related statistics.'[130]

12.3.3 The same report, in the section detailing the position of the Eritrean government, noted 'The PFDJ representative, Yemane Gebreab, stated that a lot of young people refuse to perform the national service and that, in most cases, this has no consequences. He mainly referred to young women who are pregnant, have a child or are married. There have, however, also been cases of young men who simply were not conscripted, for example because they did not attend the 12th grade classes in Sawa.'[131]

12.3.4 The USSD report 2017 stated 'According to NGO and UN reports, security forces tortured and beat army deserters, national service evaders, persons

[128] Amnesty International, Eritrea: Submission to the UN Human Rights Committee, 119 session 6-29 March 2017 (section 6.1.1), 2017, url
[129] EASO, EASO report 2016 (executive summary), November 2016, url
[130] EASO, EASO report 2016 (para 1.1.3), November 2016, url
[131] EASO, EASO report 2016 (para 1.2.2), November 2016, url

attempting to flee the country without travel documents, and members of certain religious groups.'[132]

12.3.5 The DFAT report 2017 stated 'DFAT assesses that those without having completed national service may face a risk of punishment on return, which may include imprisonment or being re-assigned to duty.'[133]

12.3.6 The OHCHR Special Rapporteur noted in her report of 24 July 2017 to the Human Rights Council Thirty-fifth session 6-23 June 2017, on the situation of human rights in Eritrea, that:

'The Special Rapporteur also received reports of people being arrested for allegedly trying to avoid military service…'[134]

12.3.7 The Amnesty report to the UNHRC 2017 stated 'The Eritrean authorities carry out arbitrary arrest and detention for attempted evasion of national service or desertion from the same…None of the people formerly in arbitrary detention interviewed by Amnesty International had fair trials, access to a lawyer and family members or judicial review of their detention by a competent court.' [135]

12.3.8 The same report added:

'Desertion from national service also appears to be common. Conscripts attempt to run away from their posts or do not return to their assigned posts after a period of leave. None of those arbitrarily arrested and detained that Amnesty International spoke to had access to a lawyer, their family or a court during their detention. The duration of their arbitrary detention depended on the whim of commanding officers of the unit that arrested the evader or the deserter.'[136]

12.3.9 HRW report 2018 stated 'President Isaias, freed from all institutional restraints, uses well-documented tactics of repression, showing little signs of easing up in 2017. The populace is closely monitored. Offenses include seeming to question authority attempting to avoid national service or to flee the country…'[137]

12.3.10 In relation to teachers, the Dutch Country of Origin Report – Eritrea published 6 February 2017 noted 'Teachers who turn themselves in after deserting from the Ministry of Education can return to work at the ministry without being penalised.'[138]

There is a section on treatment of draft evaders and absconders in the report of a Home Office fact finding mission to Eritrea of February 2016.

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[132] USSD, USSD report 2017 (section 1.c), 20 April 2018, url
[133] DFAT, DFAT report 2017 (para 5.30), 8 February 2017, url
[134] OHCHR, SR report July 2017 (para 40), 24 July 2017, url
[135] Amnesty International, Eritrea: Submission to the UN Human Rights Committee, 119 session 6-29 March 2017 (section 6), 2017, url
[136] Amnesty International, Eritrea: Submission to the UN Human Rights Committee, 119 session 6-29 March 2017 (section 6.1.1), 2017, url
[137] HRW, HRW report 2018, 18 January 2018, url
[138] Dutch Ministry of Foreign Affairs, Country of Origin Report, 6 February 2017 (para 3.7.5) url

### 12.4 Treatment of family

12.4.1 The EASO report 2015, citing various sources, concluded that:

> 'In 2005, the Eritrean authorities began to impose a fine of 50,000 nakfa on the family members of deserters and draft evaders who had left the country illegally. Those who were unable to pay may have been imprisoned for a period and/or conscripted for national service in the place of the deserter. Business licences were also revoked and property seized. These punishments are not imposed consistently, however, and depend on the region (most instances have been reported in the city of Asmara and zoba Debub), the current situation and possibly also whether the deserter dropped out of civilian or military national service.
>
> 'Reports about the persecution of family members have become much less common in recent years, probably in part because the Eritrean army no longer has sufficient capacities given the high numbers of deserters. There is no more systematic persecution of family members. But, according to observers, it can still happen for a variety of reasons, particularly in rural areas, especially in the regions of zoba Debub which are close to the border.'[139]

12.4.2 The Freedom House report 2016 stated '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.'[140]

12.4.3 The USSD report 2017 noted 'Reports, particularly from rural areas, stated that security forces detained and interrogated the parents, spouses, or siblings of individuals who evaded national service or fled the country.'[141]

12.4.4 The OHCHR Special Rapporteur noted in her report of 24 July 2017 that she had received information that people had been arrested for allegedly assisting their own children to avoid military service[142].

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## 13. People's Army/Militia

13.1.1 The DFAT report 2017 noted that:

> 'In March 2012, the government established a civil militia known as the 'People's Army', which operates in parallel to the national service troops. The move was apparently prompted by Ethiopian incursion into Eritrean territory. The militia is composed of citizens released from national service and conscripts assigned to civil assignments. Militia members reportedly carry out tasks such as patrolling, guarding, or working on national development projects. Recruitment for the militia has reportedly taken place primarily in Asmara and Keren, with conscription taking place through the hanging of posters on house walls and street lamps. In January 2015, local administrations in Eritrea issued notices warning those who had not reported for militia duty of serious consequences. The European Asylum Support

[139] EASO, 'Eritrea Country Focus' (section 3.8.3), May 2015, url
[140] Freedom House, Freedom House report 2016, 14 June 2016, url
[141] USSD, USSD report 2017 (section 1.f), 20 April 2018, url
[142] OHCHR, SR report July 2017 (para 40), 24 July 2017, url

Office reported in May 2015 that there had been some round-ups and detentions of such evaders.'[143]

13.1.2 The UN Commission of Inquiry reported in June 2015 that:

'The most frequent tasks that members of the People's Army are requested to perform are security and police duties, such as patrolling the streets, guarding buildings, neighbourhoods or the border. These assignments are imposed on conscripts in civil service in addition to their official work. The members of the People's Army do not receive any remuneration for their work, let alone compensation for the work they are prevented from doing on their own fields.

'…There is no doubt for the Commission that the enrolment in the People's Army and the work and service done are not provided voluntarily by the members but under the threat of a penalty. People who do not respond to the call are picked up individually and forced to join. Those who resist risk being sent to prison. Those who refuse to join are punished by being imprisoned, or through the cancellation of their coupons or the withdrawal of their business licences.'[144]

13.1.3 The USSD report 2017 stated

'The government required those not already in the military to attend civilian militia training and carry firearms, including many who were demobilized, the elderly, or persons otherwise exempted from military service in the past. Failure to participate in the militia or national service could result in detention. Militia duties mostly involved security-related activities, such as airport or neighborhood patrolling. Militia training involved occasional marches and listening to patriotic lectures.'[145]

13.1.4 The USSD Trafficking report 2017 noted that 'The government continued to subject its nationals to forced labor in its citizen militia…'[146]

13.1.5 The Amnesty report 2017/2018 stated 'Men of up to 67 years of age were conscripted into the "People's Army", where they were given a weapon and assigned duties under threat of punitive repercussions, such as detention, fines or hard labour.'[147]

See also the UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016, section 10, https://www.gov.uk/government/publications/eritrea-country-information-and-guidance

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# 14. Lawful and illegal exit

## 14.1 Requirements for leaving legally

14.1.1 The EASO report 2016, citing a number of sources, stated:

[143] DFAT, DFAT report 2017 (section 5.5), 8 February 2017, url
[144] OHCHR, 'Advance Version of the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea' (para 1460, 1463, 1465), 5 June 2015, url
[145] USSD, USSD report 2017 (section 7.b), 20 April 2018, url
[146] USSD, Annual report on trafficking in persons – Eritrea, (section 'Eritrea') 27 June 2017, url
[147] Amnesty International, Eritrea 2017/ 2018 (Forced labour and slavery), 22 February 2018 url

'It is difficult for Eritreans to leave their country legally. In accordance with Article 11 of Proclamation 24/1992, a valid travel document (passport), a valid exit visa and a valid international health certificate are required in order to leave legally. In addition, individuals must also cross the border at a designated border control point.

'In order to obtain the exit visa, Eritreans must be able to prove that they have completed the national service or that they have been granted an official exemption from it. They must also provide a reason for leaving the country. For example, travelling abroad for medical treatment not available in Eritrea, overseas studies and, in some cases, attending sporting events or conferences, are permissible reasons, according to the authorities. Staff at the Eritrean Department for Immigration and Nationality, the department responsible for issuing visas, told the SEM (Swiss Secretariat for Migration) that they have also increasingly issued visas to women aged over 30 whose husbands have left the country. The US Department of State mentioned in its 2015 report on human rights practices that 'women younger than 30' are usually denied exit visas, which may suggest that women above that age receive them.'[148]

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## 14.2 Denial of exit visas

14.2.1 The USSD report 2017 noted that those most commonly denied exit visas were '…men under age 54, regardless of whether they had completed the military portion of national service, and women younger than 30, unless they had children. The government did not generally grant exit permits to members of the citizen militia, although some whom authorities demobilized from national service or who had permission from their zone commanders were able to obtain them.'[149]

14.2.2 The Dutch Country of Origin Report – Eritrea published 6 February 2017, based on information from a confidential source stated 'People with specific skills (such as teachers or doctors) were also apparently unable to obtain an exit visa.'[150]

14.2.3 The USSD International Religious Freedom Report for 2017 noted 'Jehovah's Witnesses continued to report members were unable to obtain official identification documents, which meant they were generally unable to …obtain an exit visa to leave the country.'[151]

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## 14.3 Reasons for illegal exit

14.3.1 The EASO report 2016 noted 'Since there are still no time limits on national service… few Eritreans have the discharge papers required to leave the country. As such, a large percentage of migrants leave the country illegally.'[152]

[148] EASO, EASO report 2016 (Introduction), November 2016, url
[149] USSD, USSD report 2017 (section 2.d), 20 April 2018, url
[150] Dutch Ministry of Foreign Affairs, Country of Origin Report – Eritrea, 6 February 2017, url
[151] USSD, International Religious Freedom Report for 2017 (section 2), 29 May 2017, url
[152] EASO, EASO report 2016 (Introduction), November 2016, url

14.3.2 The Amnesty report 2017 stated 'People seeking to leave to avoid indefinite national service and other human rights violations, or for family reunion with relatives abroad, had to travel by foot and use unofficial border crossings in order to take flights from other countries.'[153]

14.3.3 The USSD Trafficking report 2017 noted 'The government's strict exit control procedures and limited issuance of passports and departure visas prevent most Eritreans who wish to travel abroad from doing so legally…'[154]

14.3.4 The report on the Eritrean Ministry of Information's Shabait website on 22 January 2018, reported by BBC Monitoring on 23 January 2018, gave its stance on youth illegal exit:

'President Isayas underlined that the illicit migration of Eritrean youth was linked to the subversive agenda of "regime change" pursued by certain quarters. Murky networks, intelligence agencies of certain countries and even some UN institutions have been working in a concerted manner and are implicated in this racket of organised crime.

'The government of Eritrea has been urging the UN to undertake an independent investigation of this abominable crime since 2013; and this plea was reiterated last month to the current UN secretary-general, President Isayas stated. The youth, who are victims of this crime, as well as parents and society at large need to be sensitised to the underlying motives and objectives of this subversive campaign, President Isayas stressed.'[155]

14.3.5 The Special Rapporteur, in her final report to the Human Right's Council on 11 June 2018, noted:

'It has been the Special Rapporteur's considered opinion since 2012 that widespread violations of human rights, some of which amount to crimes against humanity, including those experienced in the context of forced conscription, remain the primary cause of peoples' fateful decisions to cross international borders and become refugees. They brave the ominous dangers along escape routes because their tolerance levels in the face of human rights violations have peaked. The clear majority leave in response to severe breaches of their human rights.'[156]

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# 15. Punishment for leaving illegally

15.1.1 The OHCHR Special Rapporteur noted in her report on the situation of human rights in Eritrea, 24 July 2017 that:

'The Federal Administrative Court of Switzerland assessed the situation of Eritreans returning to their home country... Early in 2017, the Court decided, in its decision D-7898/2015, that Switzerland would no longer grant refugee status to Eritreans who had left their home country illegally, barring the

[153] Amnesty International, Eritrea 2017/ 2018 (Freedom of movement) 22 February 2018 url
[154] USSD, USSD Trafficking Report 2017, 27 June 2017, url
[155] BBC monitoring, Eritrean leader accuses UN agencies of 'subversive' campaign.
Text of report in English by Eritrean Ministry of Information's Shabait website on 22 January, reported 23 January 2018, available on subscription, url
[156] HRC, Report of the Special Rapporteur, (para 30) 11 June 2018, url

existence of any additional factors. The Court ruled that refugee status would only be granted if applicants could substantiate additional factors that might result in the Eritrean authorities regarding them as undesirable…

'In that context, the Special Rapporteur reiterates her previous findings, also reflected in the reports of the commission of inquiry, that the Eritrean authorities consider those who leave Eritrea without an exit visa to be "illegal". Those who cannot obtain exit visas are seen as draft evaders or military deserters, as well as political opponents akin to traitors. If they returning, such individuals risk being detained in inhumane conditions and are most likely to be assigned or re-assigned to military training and service, which continues to amount to enslavement and forced labour.'[157]

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## 15.2 Shoot-to-kill policy

15.2.1 The UN CoI report of June 2016 observed: 'The Commission obtained reliable evidence that a shoot-to-kill policy at Eritrean borders targeting Eritreans attempting to flee the country still exists, but that it is not implemented as rigorously as it was in the past.' [158]

15.2.2 The EASO report 2016 stated 'The alleged 'shoot-to-kill order' at the border is not followed strictly, according to most consulted sources. However, shootings may occur.'[159]

15.2.3 The same report noted, based on a range of interviews in March 2016 from both diplomatic sources and international organisations:

'The interlocutors either believed that the shoot-to-kill-order on people attempting to leave the country illegally was not applied in practice or that there was no such policy. At the border – in particular on the frontline with Ethiopia – shots may be fired, and there are also isolated incidences of fatalities. The border troops attempt to stop people leaving the country. However, considering the thousands of illegal migrants who leave the country each month, these sources consider a systematic practice of killing such migrants to be unlikely.'[160]

15.2.4 The Freedom House report, Freedom in the World 2016 (Freedom House report 2016) published on 14 July 2016 noted 'The authorities have adopted a shoot-on-sight policy toward people found in locations deemed off-limits, such as mining facilities and areas close to the border.'[161]

15.2.5 The Amnesty report 2017/2018 stated 'A "shoot-to-kill" policy remained in place for anyone evading capture and attempting to cross the border into Ethiopia.'[162]

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[157] OHCHR, SR report July 2017 (para 40), 24 July 2017, url
[158] UN Commission of Inquiry on Human Rights in Eritrea, Detailed findings of the commission of inquiry on human rights in Eritrea (para 131), June 2016, url
[159] EASO, EASO report 2016 (executive summary), November 2016, url
[160] EASO, EASO report 2016 (para 2.3), November 2016, url
[161] Freedom House, Freedom House report 2016 (section .G), 14 July 2016, url
[162] Amnesty International, Eritrea 2017/ 2018 (Freedom of movement) 22 February 2018 url

15.2.6 The USSD report 2017 stated 'Doctors without Borders reported during the year it was common for Eritreans crossing the border to Ethiopia to be shot at or to witness others being targeted.'[163]

15.2.7 The DFAT report 2017 noted 'In 2004, the Eritrean government publicly announced the implementation of a shoot-to-kill policy in border areas to prevent people from fleeing Eritrea. Amnesty International's 2015/16 report on Eritrea stated that the policy remained in place for anyone attempting to evade capture and attempting to cross the border into Ethiopia. In its preliminary response to the UN Commission of Inquiry report, the Eritrean government denied that there had ever been a shoot-to-kill policy. DFAT assesses that the sheer weight of numbers of people reportedly departing Eritrea each month suggests that the policy may not presently be actively enforced.'[164]

15.2.8 The Special Rapporteur, in her final report to the Human Right's Council on 11 June 2018 noted '[i]nstances of extrajudicial killings at the border continue. In July 2017, a young man was shot dead as he tried to cross the border near a frontier town.'[165]

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## 15.3 Penalties for leaving illegally

15.3.1 The USSD report 2017 noted 'There were reports of citizens who left the country without exit visas being denied reentry. Many other citizens who fled the country remained in self-imposed exile due to their religious and political views and fear they would be conscripted into national service if they returned. Others reported there were no consequences for returning citizens who had residency or citizenship in other countries.'[166]

15.3.2 The same report added that 'Authorities arrested persons who tried to cross the border and leave without exit visas'[167]

15.3.3 The EASO report 2016 stated

'According to almost all sources, individuals who leave Eritrea illegally are also subjected to extrajudicial punishment. It is unclear who is in charge of imposing penalties. No judgments are made public and there is no possibility of appeal. However, the policy currently applied by the authorities appears to allow for shorter prison sentences than those enshrined in the law. According to most reports, the detention period now commonly lasts a few months up to two years, depending on the circumstances. After being released, deserters have to resume their national service, while draft evaders are conscripted for military training.'[168]

15.3.4 The same report added

'As was the case in previous years, more recent reports show that the penalties for leaving Eritrea illegally are not imposed by the courts and are therefore arbitrary. In 2015, Amnesty International reported that the term of

[163] USSD, USSD report 2017 (section 1.a), 20 April 2018, url
[164] DFAT, DFAT report 2017 (para 4.2), 8 February 2017, url
[165] HRC, Report of the Special Rapporteur, (para 61) 11 June 2018, url
[166] USSD, USSD Report 2017 (Section 2.d), 20 April 2018, url
[167] USSD, USSD Report 2016 (Section 2.d), 3 March 2017, url
[168] EASO, EASO report 2016 (executive summary), November 2016, url

detention was usually between six months and one year; in some cases, detention for up to 18 months was reported. In the past few years, the punishments imposed have tended to get shorter. According to the UN Commission of Inquiry, since 2010 the detention imposed has been between six months and two years. The detention period is longer in the case of repeat offenders and [people] smugglers. In previous years, the reports pointed to considerably longer detention periods of up to seven years.'[169]

15.3.5 The Amnesty report 2017 stated in relation to those persons using unofficial border crossings: 'If caught by the military, they were detained without charge until they paid exorbitant fines. The amount payable depended on factors such as the commanding officer making the arrest and the time of the year. People caught during national holidays to commemorate independence were subject to higher fines. The amount was greater for those attempting to cross the border with Ethiopia'[170]

15.3.6 The Dutch Country of Origin Report 2017 stated 'Prison sentences are handed out in Eritrea … on criminal grounds (for ordinary crimes, and for attempts to leave the country illegally)[171]

See also the UK FFM report, section 11.10 which provides information on sources consulted in February 2016, about the treatment towards those leaving Eritrea illegally.

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## 15.4 Reasons for detention / ill treatment

15.4.1 The Landinfo response, 'Eritrea: Exit visas and illegal exit,' published 15 April 2015 (English translation December 2015) noted that their impression is that:

'…the authorities assess Eritreans returning home based on: the circumstances surrounding their departure, national service status, any political activity in exile, their network in Eritrea and the payment of the above-mentioned two percent tax. It is probably the reasons behind the illegal departure that can lead to reprisals on returning home and not the illegal departure in itself.

'Persons who avoid national service and depart Eritrea illegally, but who later restore their relationship with the authorities by signing the retraction letter, pay the two percent tax in exile, and who do not participate in activities critical of the government, according to several international representatives in Asmara, are likely to be less vulnerable to reprisals from the authorities than those who do not restore their relationship with the authorities. A good network and contacts in the government apparatus and the party are probably also useful (conversations with a diplomat (C) January 2013; international representative (B) in Asmara in January 2013; international representative (C) January 2015).'[172]

15.4.2 The May 2015 EASO Report noted: 'In the reported cases of punishment, it is generally unclear if the punishment was meted out for the illegal exit of the

[169] EASO, EASO report 2016 (para 2.4), November 2016, url
[170] Amnesty, Eritrea 2017/2018, 22 February 2018 url
[171] Dutch Ministry of Foreign Affairs, Country of Origin Report – Eritrea, 6 February 2017, url
[172] Landinfo, Eritrea: Exit visas and illegal exit [English translation] (page 7), 15 April 2015,url

person or due to other circumstances. There are no reports on the treatment of people who merely have left the country illegally without having deserted or evaded conscription.'[173]

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### 15.5 Eritrea / Ethiopia travel

15.5.1 In relation to the meetings between Eritrea's President Isaias Afewerki and Ethiopia's Prime Minister Abiy Ahmed, in July 2018, the BBC noted that:

'The two leaders said the countries would improve political, economic and diplomatic ties.

'Transport and telephone links will also be re-established. Flights could resume as early as next week, Ethiopian state-affiliated outlet FBC reports.

'For the last 20 years, it has been impossible to travel directly from one nation to the other. There have been no flights, the land border was closed, and telephone lines did not work.'[174]

15.5.2 Although the Eritrean government have confirmed that transport links between the two countries will resume, there is not yet information on the impact of this on Eritrean exit criteria.

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## 16. Returning to Eritrea

### 16.1 Voluntary returns

16.1.1 The EASO report 2016 noted:

'For voluntary returnees from abroad who had previously evaded draft, deserted or left the country illegally, the draconian laws are reportedly not applied at the moment, provided they have regularised their relationship with the Eritrean authorities prior to their return. According to a new, unpublished directive, such returnees are exempt from punishment. It is understood that the majority of the individuals who have returned according to this directive have effectively not been persecuted. Nonetheless, concerns remain. There is no legal certainty, because the directive has never been made public. Furthermore prospective returnees are obliged to pay a diaspora tax (2% tax) to an Eritrean representation abroad and to sign a "letter of regret" in case they have not yet fulfilled their national service duty. It should also be noted that not all Eritreans are able to return this way. For example, persons who were critical of the Eritrean government during their time abroad are either denied return or would risk detention upon their return. So far, the majority of Eritreans who returned did so voluntarily and only temporarily. The long-term consequences of returns on a permanent base are still unknown.'[175]

16.1.2 In correspondence with the Canadian Immigration and Refugee Board Research Directorate in May 2017, the Eritrean Canadian Community Centre (ECCC) noted that:

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[173] EASO, Eritrea Country Focus (section 6.4.4), May 2015,url
[174] BBC, Ethiopia's Abiy and Eritrea's Afewerki declare end of war, 9 July 2018 url
[175] EASO, EASO report 2016 (executive summary), November 2016, url

'Depending on age, activities before and post existing Eritrea, affiliation or association…, returnees could be facing challenges, such as interrogations, arrest and harsh punishments upon return to their home country if they left Eritrea illegally (if that is the case), political activities outside of Eritrea, and even for making refugee claims against the state. Also, younger returnees risk the possibility of being recruited to indefinite military services…

'Also, dual citizens of Eritrea and Canada, and Canadian citizens of an Eritrean background were able to go back and forth between Eritrea and Canada, as long as they are on good terms with the Eritrean government or are not considered as against the current government.

'Having said that, the arbitrary nature of various [measures] taken by the Eritrean government and lack of legal protective mechanisms demonstrate the risk that returnees can face, especially if they are seen as harboring anti Eritrean government's feelings or political opinions.'[176]

16.1.3 The DFAT report 2017 noted 'A range of sources in Asmara told DFAT that a significant and increasing number of diaspora Eritreans have returned to visit Eritrea on a short-term basis for a range of purposes, including to attend weddings or other family events, conduct business, or to participate in national events such as the May 2016 independence war anniversary celebrations.' [177]

16.1.4 The same report also stated 'DFAT is not aware of any evidence to suggest that any of those returning to Eritrea have been subjected to ill-treatment or prevented from departing at the end of their visit.'[178]

See the UK FFM report of June 2016 for further information on numbers of returns – largely anecdotal – based on discussions with various sources in Eritrea, including individuals identified by the government who had returned from Sudan and Israel.

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## 16.2 Forced returns

16.2.1 The UN Commission of Inquiry report of June 2015 provided information on treatment of forced returns, however because the report has removed detail to avoid identifying individuals it is unclear from which period all the information relates. There appears to be only one uncorroborated testimony relating to an incident after 2011, in 2014:

'The Commission received information on forced repatriation of about 200 Eritreans from [country A] in 2002. They included women and under-age children.

'The Commission also documented two cases of repatriation from [country B]. In the first case, the repatriation decision was reportedly made by the [country B] court. The witness was handed over to the Eritrean authorities with other deportees. In the other case, the victim was transferred to the Eritrean authorities by the [country B] security officers.

[176] Immigration and Refugee Board of Canada, Eritrea, 14 June 2017, url
[177] DFAT, DFAT report 2017 (para 5.29), 8 February 2017, url
[178] DFAT, DFAT report 2017 (para 5.29), 8 February 2017, url

‘The cases of deportation from [country C] brought to the attention of the Commission took place in 2004 and 2008. Several hundreds of individuals, including pregnant women, were refouled in 2008, after being arrested while trying to enter into [country D]. They were flown to Massawa.

‘More recently, the forced repatriation in 2014 of Eritreans from [country D] was reported by a witness. The latter had been held in prison for several years before his deportation. Another 40 Eritreans were also allegedly forced to return from [country E] in 2014.

‘Individuals forcefully repatriated are inevitably considered as having left the country unlawfully, and are consequently regarded as serious offenders, but also as “traitors.” A common pattern of treatment of returnees is their arrest upon arrival in Eritrea. They are questioned about the circumstances of their escape, whether they received help to leave the country, how the flight was funded, whether they contact with opposition groups based abroad, etc. Returnees are systematically ill-treated to the point of torture during the interrogation phase.

‘After interrogation, they are detained in particularly harsh conditions, often to ensure that they will not escape again. Returnees who spoke to the Commission were held in prison between eight months to three years. Male returnees from [country A] were held on Dhalak Island after a few months of detention at Adi Abeito. Deportees from other countries were held in prisons such as Prima Country and Wi’a.

‘Witnesses who spoke to the Commission noted the severe conditions during their detention. They were made to undertake forced labour and were frequently punished by prison guards for inconsequential matters. [Country A] returnees recounted that, on one occasion, they had been reportedly even denied drinking water where they were detained at Dhalak Island where temperatures often soared to 50 degrees Celsius. As a consequence, many fell sick after drinking unsafe water.

‘Women and accompanied children are also held in detention centres, though they are reportedly treated less harshly. However, the Commission found that unaccompanied children are subjected to treatment and conditions of detention comparable to those of adults. For instance, under-age male returnees from [country A] were detained with the other adults at Adi Abeito and on Dhalak Island… At no point are returnees given opportunity to contact their families, nor are they informed of the length of their detention. Relatives find out about individuals who have been forcefully repatriated only when the latter manage to escape from the prison or the national service, or flee the country another time. After their release, women and accompanied children are usually allowed to go home. Male unaccompanied minors and those of draft age are sent to military training.

‘The Commission found however two exceptions to the rule that returnees are arrested, detained and forced to enlist in the national service upon their arrival in Eritrea. A group of Eritreans was returned from [country D] with a letter certifying that they had paid the 2 per cent Rehabilitation Tax and had already been detained several years in [country D]. The witness had himself been imprisoned for three years in [country D]. He was given a permit to return to

his hometown, but which had to be renewed every two months. He left Eritrea again shortly after being deported. The other case concerned forced repatriations to Eritrea in 2014, where seven older men were reportedly freed while the younger men who were returned in Eritrea at the same time were not released.' [179]

16.2.2 The EASO report 2016 noted

'There is hardly any information available regarding the treatment of forcibly returned persons. In the last few years, only Sudan (and possibly Egypt) forcibly repatriated Eritreans. As opposed to voluntary returnees, those forcibly returned are not able to regularise their relation with the Eritrean authorities prior to returning. The few available reports indicate that the authorities treat them similarly as persons apprehended within Eritrea or while leaving illegally. For deserters and draft evaders, this means being sent back to national service after several months of detention. Regularisation is not necessary for persons who have not reached conscription age yet or who have fulfilled their national service duty already. Nevertheless, it cannot be excluded that adults are punished for nonpayment of the diaspora tax or for illegal exit.'[180]

16.2.3 In correspondence with the Canadian Immigration and Refugee Board Research Directorate in May 2017, an Associate Fellow at the German Institute for Global Affairs' (GIGA) Institute of African Affairs, who currently carries out research on diasporas and sanctions, as well as on Eritrea, explained that 'Any Eritrean who is forced to return to their homeland against his or her will can face inhuman treatment including torture, imprisonment for unspecified periods and being forced to stay in a military training camp under very harsh conditions as a punishment.'[181]

16.2.4 The HRW report 2018 stated 'In 2016, Sudan had repatriated 400 Eritreans who were promptly arrested upon their return, according to a UN Commission of Inquiry report. Whether any have been released since is speculative because of government secrecy and the absence of independent monitors.'[182]

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## 16.3 Failed asylum seekers

16.3.1 Landinfo in a response dated 27 April 2016, which reviewed a range of information sources on the return and treatment of failed asylum seekers, noted in its summary that:

'In Landinfo's experience, it is difficult to retrieve reliable and verifiable information about what has actually happened and how Eritrea has reacted when asylum seekers are sent back or return home to Eritrea. We do not have empirical basis to say that an application for asylum in itself will lead to reactions from Eritrean authorities. On the contrary sources Landinfo talked to in Eritrea in January/February 2016, who had never met any returnees,

[179] UN Human Rights Council, 'Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea' (paras 427–436), June 2015, url
[180] EASO, EASO report 2016 (executive summary), November 2016, url
[181] Immigration and Refugee Board of Canada, Eritrea, 14 June 2017, url
[182] HRW, HRW report 2018, 18 January 2018, url

claimed that they did not know of specific reactions or that an application for asylum in itself had led to reactions from the Eritrean authorities.' [183]

16.3.2 The UK Home Office fact finding mission to Eritrea in February 2016 asked sources about the treatment of returnees generally and two sources – immigration officials and diplomatic source A – specifically about failed asylum seekers. However, no source had specific information about the ill-treatment of failed asylum seekers[184].

16.3.3 The USSD report 2017 repeated its findings from the 2015[185] and 2016[186] reports:

'In general citizens had the right to return, but citizens residing abroad had to show proof they paid the 2 percent tax on foreign earned income to be eligible for some government services and documents, including exit permits, birth or marriage certificates, passport renewals, and real estate transactions. The government enforced this requirement inconsistently. Persons known to have broken laws abroad, contracted serious contagious diseases, or been declared ineligible for political asylum by other governments had their entry visas and visa requests considered with greater scrutiny.'[187]

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# 17. Diaspora tax

## 17.1 Requirement

17.1.1 Eritreans living abroad are required to pay 'income tax on [their] earnings working abroad'. This is set at a flat 2% rate. This was set into law under Proclamation No 17/1991 & 67/1995 [188]and described as a "Rehabilitation and Recovery Tax" (Mehwey Gibri).[189]

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## 17.2 Payment / non payment

17.2.1 The EASO report 2016 stated

'… returnees are obliged to pay a diaspora tax (2 % tax) to an Eritrean representation abroad and to sign a 'letter of regret' in case they have not yet fulfilled their national service duty. It should also be noted that not all Eritreans are able to return this way. For example, persons who were critical of the Eritrean government during their time abroad are either denied return or would risk detention upon their return. So far, the majority of Eritreans who returned did so voluntarily and only temporarily. The long-term consequences of returns on a permanent base are still unknown.'[190]

17.2.2 The DFAT report 2017 noted:

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[183] Landinfo, 'Reactions to returning asylum seekers' (Summary), 27 April 2016, url
[184] UK Home Office's Fact Finding Mission to Eritrea, 7-20 February 2016, section 11.10, url
[185] USSD, USSD report 2015 (section 2.d), April 2016, url
[186] USSD, USSD report 2016 (section 2.d), March 2017, url
[187] USSD, USSD report 2017 (section 2.d), 20 April 2018, url
[188] Embassy of the State of Eritrea in the US, 2% tax form, undated, url
[189] Ministry of Foreign Affairs of the State of Eritrea, 'Eritrea's Response to the Report of the Somalia Eritrea Monitoring Group Report'(para 59), 17 October 2011, url
[190] EASO, EASO report 2016 (executive summary), November 2016, url

'Eritrean citizens seeking consular or other government services from Eritrean diplomatic missions abroad are required to pay a 2 per cent "Recovery and Reconstruction Tax" (RRT, also known as the "diaspora tax"). The RRT was introduced through Proclamations 17 of 1991 and 63 of 1995 to encourage Eritreans in the diaspora to contribute to the reconstruction of their country following the long independence struggle. According to the government, the RRT was envisaged as a time-bound provision that would be phased out as Eritrea's economy developed. However, subsequent developments, most notably the 1998-2000 border war with Ethiopia, have delayed this indefinitely. The government maintains that Eritreans living abroad pay the diaspora tax voluntarily.

'…several countries have raised concerns with Eritrea that Eritrean diplomatic missions have used coercion or illicit means, including the threat of harm to family members in Eritrea, to extort payment of the tax…In June 2015, the London Metropolitan Police announced that they would investigate claims that the Eritrean Embassy in London was using the tax to "punish and control" Eritreans living in the UK. The government has denied these allegations.'[191]

12.5.2 The Special Rapporteur, in her final report to the Human Right's Council on 11 June 2018 noted that the in January 2018, the Government of the Netherlands requested that the Eritrean Chargé d'Affaires left the country. This was due to concerns about the 'mandatory and coercive "recovery and rehabilitation tax" representing a two-percent levy on the income of Eritreans in the diaspora and Eritrean refugees in the Netherlands. Those who refused to pay were subjected to threats, harassment and intimidation.'[192]

12.5.3 The DFAT report 2017 'DFAT observes that international observers generally agree that those who have left Eritrea without having completed national service will be required to regularise their relationship with Eritrean authorities through paying the 2 per cent RRT and signing a letter of repentance before being permitted to return. However, it is uncertain what punishment, if any, these people may face on return.'[193]

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[191] DFAT, DFAT report 2017 (para 5.19), 8 February 2017, url.
[192] HRC, Report of the Special Rapporteur, (1D) 11 June 2018, url
[193] DFAT, DFAT report 2017 (para 5.21), 8 February 2017, url.

# Terms of reference

A ‘Terms of Reference’ (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the country information section. The Home Office’s Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- National service - definition
    - Aim
    - Eligibility
- Exemption to national service
    - General
    - Medical
    - Women
    - Religious
    - Time limited groups
    - Additional groups
- Military training
    - Location of training camps
    - Recruitment
    - Sawa – size / capacity / conditions
    - Non attendance at Sawa
    - Treatment at military training
    - Women
    - Children
    - National service postings (post military training)
- National service

    Physical conditions
    - Detention
    - Redress
    - Pay
    - Duration
    - Discharge / demobilisation
    - Recall
- Desertion and evasion

    - Law
    - Desertion and evasion in practice
    - Treatment of evaders - round ups / deserters / family
    - Children
- People's militia
- Exiting Eritrea
    - Legal exit - eligibilty
    - Passports / visa
    - Numbers / demographic for legal exit
    - Illegal exit – numbers / demographic
    - 'Shoot to kill' policy
- Returnees
    - Number
    - State treatment / punishment
    - Failed asylum seekers
    - Diaspora tax

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# Version control

## Clearance

Below is information on when this note was cleared:

- version **5.0**
- valid from **17 July 2018**

## Changes from last version of this note

Updated country information and analysis.

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