



Australian Government
Migration Review Tribunal

Country Advice

Ethiopia

Ethiopia – ETH40518 – Ethiopian
passports and nationality – Eritrean
nationality – Eritreans in Ethiopia

19 July 2012

- 1. Does the possession of a passport suffice to establish that a person has a legally enforceable right to enter and reside in Ethiopia? If a person obtained a genuine passport through the payment of a bribe, is there any country information to indicate that they might experience problems in re-entering Ethiopia?**

Information from an Ethiopian consulate official in 2003 states that an Ethiopian passport is sufficient proof of identity for a person entering Ethiopia. No information was located on whether a passport is sufficient grounds for residing in Ethiopia. The following information relates to the laws in place for an individual to claim Ethiopian nationality. This information indicates that Ethiopian citizenship is a prerequisite for obtaining an Ethiopian passport. No information was found in reference to problems a person who has obtained a passport through bribery may or may not face.

Ethiopian passport

According to 2003 advice to the Immigration and Refugee Board of Canada (IRB) from a consular official at the Embassy of Ethiopia in Ottawa, a passport is sufficient as proof of identity for an Ethiopian re-entering Ethiopia.¹ The official qualified the statement by adding that if Ethiopian officials have doubts about the identity of the passport holder, they may be asked for additional identification. The IRB was not able to locate additional information to corroborate this advice.

The website of the Ethiopian embassy in Washington DC provides information on obtaining a new passport to replace an expired passport. An applicant must provide the expired passport and passport photos. The procedure is the same for replacing a lost passport.² In the case of first time passport applications, the applicant must provide copies of their parent's³ passport and/or a birth certificate authenticated by the Ethiopian Ministry of Foreign Affairs and/or an ID card.⁴

The website of the Ethiopian embassy in the United Kingdom indicates that an applicant for a new or renewed passport must also provide documents that “certify their citizenship” and a

¹ Immigration and Refugee Board of Canada 2003, *Ethiopia: Whether a passport will suffice as proof of identity for an Ethiopian citizen to re-enter Ethiopia or whether additional identity documents are required by immigration officials at the Addis Ababa airport*, ETH42082.E, 3 October

<http://www.unhcr.org/refworld/country,,IRBC,,ETH,,403dd1f24,0.html> Accessed 19 June 2012

² Embassy of Ethiopia Washington DC n.d., *Passport Services*,

<http://www.ethiopianembassy.org/ConsularServices/ConsularService.php> Accessed 19 June 2012

³ The website is unclear if one or both parent's passports are needed.

⁴ Embassy of Ethiopia Washington DC n.d., *Passport Services*,

<http://www.ethiopianembassy.org/ConsularServices/ConsularService.php> Accessed 19 June 2012

letter stating they are not citizens of another country.⁵ Examples of accepted documents to prove Ethiopian citizenship are given as “ID Cards, Birth Certificates, Driving Licence, etc.”

Neither of these websites specifically detail the rights afforded by an Ethiopian passport in terms of residing in Ethiopia. No information could be located outlining procedures for passport applications in Ethiopia itself. Passports remain valid for five years.⁶

Acquiring Ethiopian Nationality

Rules concerning the eligibility and process for acquiring Ethiopian citizenship are set out in the *Proclamation on Ethiopian Nationality* (in force from 22 December 2003) which states:

3. Acquisition by Descent

1/ Any person shall be an Ethiopian national by descent where both or either of his parent is Ethiopian.⁷

The meaning of the term “Ethiopian” is not defined in the legislation, particularly where the persons involved were born prior to the declaration of independence of Eritrea (1991). Section 5 sets out the requirements for “foreigners”⁸ to obtain Ethiopian nationality.

5. Conditions to be fulfilled.

A foreigner who applies to acquire Ethiopian nationality by law shall:

- 1/ have attained the age of majority and be legally capable under the Ethiopian law;
- 2/ have established his domicile in Ethiopia and have lived in Ethiopia for a total of at least four years preceding the submission of his application;
- 3/ be able to communicate in any one of the languages of the nation/nationalities of the country;
- 4/ have sufficient and lawful source of income to maintain himself and his family;
- 5/ be a person of good character;
- 6/ have no record of criminal convictions;
- 7/ be able to show that he has been released from his previous nationality or the possibility of obtaining such a release upon the acquisition of Ethiopian nationality or that he is a stateless person; and
- 8/ be required to take the oath of allegiance stated under Article 12 of this Proclamation.⁹

⁵ Embassy of the Federal Democratic Republic of Ethiopia (UK) n.d., *The New or Replacement Passport Application Form*, http://www.ethioembassy.org.uk/consular_services/new_replacement_passport.htm Accessed 19 June 2012

⁶ Embassy of Ethiopia Washington DC n.d., *Passport Services*, <http://www.ethiopianembassy.org/ConsularServices/ConsularService.php> Accessed 19 June 2012

⁷ Proclamation on Ethiopian Nationality, No. 378 of 2003 (Ethiopia), published 23 December <http://www.unhcr.org/refworld/country,,,LEGISLATION,ETH,,409100414,0.html> Accessed 14 June 2012

⁸ The word “foreigner” is defined in the legislation as someone who is not Ethiopian.

⁹ Proclamation on Ethiopian Nationality, No. 378 of 2003 (Ethiopia), published 23 December <http://www.unhcr.org/refworld/country,,,LEGISLATION,ETH,,409100414,0.html> Accessed 14 June 2012

The situation whereby former Ethiopian citizens who acquired Eritrean nationality appears to be covered in Article 22 of the proclamation which sets out the process for regaining Ethiopian citizenship for former nationals who have gained the citizenship of another country:

22. Re-admission to Ethiopian Nationality

1. A person who was an Ethiopian national and who has acquired foreign nationality by law shall be re-admitted to Ethiopian nationality if he:

- a) returns to domicile in Ethiopia;
- b) renounces his foreign nationality; and
- c) applies to the authority for re-admission.

2. The provisions of Sub-Article (1) of this Article shall also apply to a person who has lost his Ethiopian nationality pursuant to Article 20(2) of this Proclamation.¹⁰

Article 20 of the Proclamation refers to the loss of Ethiopian citizenship upon the acquisition of another nationality:

20. Loss of Ethiopian Nationality upon Acquisition of Other Nationality

1/ Without prejudice the provisions of Article 19(4) of this Proclamation, any Ethiopian who voluntarily acquires another nationality shall be deemed to have voluntarily renounced his Ethiopian nationality

...

An Ethiopian who acquires, in the absence of his own initiative, another nationality... shall be deemed to have voluntarily renounced his Ethiopian nationality, if he:

1. starts exercising the rights conferred to such acquired nationality or
2. fails to declare his option to the authority to retain his Ethiopian nationality by renouncing his other nationality within a period of one year.¹¹

Although the Proclamation repealed the previous *Ethiopian Nationality Law of 1930*, Article 22 of the 2003 legislation contained a provision stating that:

[a]ny person who has retained, until the coming into force of this Proclamation, his Ethiopian nationality pursuant to the former Nationality Law shall continue to be an Ethiopian national.¹²

Ethiopian passports for Eritreans

In June 2004, the Immigration and Refugee Board of Canada (IRB) conducted a phone interview with a visa officer at the Embassy of Ethiopia in Ottawa. The officer told the IRB

¹⁰ Proclamation on Ethiopian Nationality, No. 378 of 2003 (Ethiopia), published 23 December <http://www.unhcr.org/refworld/country...LEGISLATION,ETH,,409100414,0.html> Accessed 14 June 2012

¹¹ Proclamation on Ethiopian Nationality, No. 378 of 2003 (Ethiopia), published 23 December <http://www.unhcr.org/refworld/country...LEGISLATION,ETH,,409100414,0.html> Accessed 14 June 2012

¹² Proclamation on Ethiopian Nationality, No. 378 of 2003 (Ethiopia), published 23 December <http://www.unhcr.org/refworld/country...LEGISLATION,ETH,,409100414,0.html> Accessed 14 June 2012

that, in general, Ethiopia does not issue passports to Eritreans, however, new regulations allowed Ethiopians of Eritrean descent to be issued Ethiopian passports if:

[T]hey have lived for some time in Ethiopia, but outside Eritrea (i.e. that they have not lived all their life in Eritrea), and if they have never held citizenship in any other country.¹³

To prove that they were Ethiopian, a passport applicant required “acceptable identification” (including birth and school certificates); an applicant lacking acceptable identification could provide the embassy with details that included “the complete addresses and contact information of relatives in Ethiopia who would be able to verify the identity of the applicant.”¹⁴ A different officer interviewed by the IRB on the same date advised that at least two witnesses were needed to verify a passport applicant’s identification and to confirm that they were Ethiopian.

A 2008 article from *Refugees International* quotes claims from unnamed sources that “many, perhaps most, Eritreans living in Ethiopia reacquired citizenship under a nationality proclamation enacted in 2003.”¹⁵

Ethiopian Government directive on residency status of Eritreans in Ethiopia

On 23 January 2004 the Ethiopian government issued the *Directive Issued to Determine the Residence Status of Eritrean Nationals Residing in Ethiopia*. The directive noted that on the formal achievement of independence by Eritrea in 1993¹⁶, persons of Eritrean origin became Eritrean nationals, however, many of these people remained in Ethiopia. Section 2 of the directives notes that:

The objective of this Directive is to provide the means to any person of Eritrean origin who was a resident in Ethiopia when Eritrea became an independent State and has continued maintaining permanent residence in Ethiopia up until this Directive is issued to confirm whether he or she has acquired Eritrean nationality, and to determine his or her status of residence in Ethiopia.¹⁷

Part 2 Section 4 reads:

¹³ Immigration and Refugee Board of Canada 2004, *Ethiopia: Whether the Ethiopian Embassy issues passports to Ethiopians of Eritrean descent, including those who were deported from Ethiopia to Eritrea, and to those who have no identification documents; whether applicants are denied identification documents because of their Eritrean descent*, ETH42741.E, 2 June <http://www.unhcr.org/refworld/country,,IRBC,,ETH,,41501c072a,0.html> Accessed 14 June 2012

¹⁴ Immigration and Refugee Board of Canada 2004, *Ethiopia: Whether the Ethiopian Embassy issues passports to Ethiopians of Eritrean descent, including those who were deported from Ethiopia to Eritrea, and to those who have no identification documents; whether applicants are denied identification documents because of their Eritrean descent*, ETH42741.E, 2 June <http://www.unhcr.org/refworld/country,,IRBC,,ETH,,41501c072a,0.html> Accessed 14 June 2012

¹⁵ Refugees International 2008, *Ethiopia-Eritrea: Stalemate Takes Toll on Eritreans and Ethiopians of Eritrean Origin*, 30May <http://www.refugeesinternational.org/policy/field-report/ethiopia-eritrea-stalemate-takes-toll-eritreans-and-ethiopians-eritrean-origin> Accessed 14 June 2012

¹⁶ Following the end of the Ethiopian Civil War (resulting in victory for the then allies of the Eritrean independence forces) Eritrea declared their independence in 1991. This independence was formally recognised by Ethiopia and the international community in 1993 following a referendum.

¹⁷ *Directive Issued to Determine the Residence Status of Eritrean Nationals Residing in Ethiopia* 2004 (Ethiopia), Published 23 January <http://www.unhcr.org/refworld/country,,LEGISLATION,ETH,,48abd56c0,0.html> Accessed 14 June 2012

4.1. A person having an Eritrean passport or any document conferring Eritrean nationality or a person serving the Eritrean Government in a sector reserved exclusively for Eritrean nationals is considered as having Eritrean nationality.

4.2. A person of Eritrean origin who has not opted for Eritrean nationality shall be deemed as having decided to maintain his or her Ethiopian nationality and his or her Ethiopian nationality shall be guaranteed.¹⁸

The above would appear to indicate that persons of Eritrean origin who did not take up Eritrean nationality are deemed to have maintained their Ethiopian nationality; however, the directive in section 3.4 states that:

[A]ccording to international custom when a State secedes from another under any circumstance, in order to resolve conflicts regarding nationality between the new and the existing country, individuals are given a limited period to [choose] their nationality.¹⁹

The document appears to be written on the basis of persons who remained in Ethiopia after 1993. There is no information in the directive dealing with Eritreans who subsequently moved to Ethiopia after Eritrean independence. Furthermore, a 2008 *Refugees International* report quotes Eritreans as expressing doubts that the rights expressed in the legislation are obtainable in reality, particularly in the context of ongoing military tension between Ethiopia and Eritrea. One Eritrean interviewed by *Refugees International* commented “the gap between law and implementation is like the space between the sun and the moon, and no one knows how to close it.”²⁰ The nationality legislation referred to above also contains a provision allowing for the removal of a residency permit “where the bearer . . . is found to be an undesirable foreigner.”²¹

2. Does a person who was born in Eritrea and resided there until 1997 have a right to enter and reside in Eritrea?

No information was found on what rights, if any, native-born former residents of Eritrea have to enter and reside in that country if they have not obtained Eritrean nationality. The below information deals with the process involved for Eritrean-born individuals to obtain Eritrean nationality.

Obtaining Eritrean Nationality

The process for obtaining citizenship is set out in the Eritrean Nationality Proclamation (No. 21/1992). This legislation states in Section 2 (Nationality by Birth):

¹⁸ *Directive Issued to Determine the Residence Status of Eritrean Nationals Residing in Ethiopia* 2004 (Ethiopia), Published 23 January <http://www.unhcr.org/refworld/country,...LEGISLATION.ETH.,48abd56c0.0.html> Accessed 14 June 2012

¹⁹ *Directive Issued to Determine the Residence Status of Eritrean Nationals Residing in Ethiopia* 2004 (Ethiopia), Published 23 January <http://www.unhcr.org/refworld/country,...LEGISLATION.ETH.,48abd56c0.0.html> Accessed 14 June 2012

²⁰ Refugees International 2008, *Ethiopia-Eritrea: Stalemate Takes Toll on Eritreans and Ethiopians of Eritrean Origin*, 30 May <http://www.refugeesinternational.org/policy/field-report/ethiopia-eritrea-stalemate-takes-toll-eritreans-and-ethiopians-eritrea-origin> Accessed 14 June 2012

²¹ Refugees International 2008, *Ethiopia-Eritrea: Stalemate Takes Toll on Eritreans and Ethiopians of Eritrean Origin*, 30 May <http://www.refugeesinternational.org/policy/field-report/ethiopia-eritrea-stalemate-takes-toll-eritreans-and-ethiopians-eritrea-origin> Accessed 14 June 2012

- 1 Any person born to a father or a mother of Eritrean origin in Eritrea or abroad is an Eritrean national by birth.
- 2 A person who has “Eritrean origin” is any person who was resident in Eritrea in 1933.
- 3 A person born in Eritrea of unknown parents shall be considered an Eritrean national by birth until proven otherwise.
- 4 Any person who is an Eritrean by origin or by birth shall, upon application, be given a certificate of nationality by the Department of Internal Affairs.
- 5 Any person who is Eritrean by birth, resides abroad and possesses foreign nationality shall apply to the Department of Internal Affairs if he wishes to officially renounce his foreign nationality and acquire Eritrean nationality or wishes, after providing adequate justification, to have his Eritrean nationality accepted while maintaining his foreign nationality.²²

The above appears to indicate a presumption of citizenship for any person born in Eritrea unless proven otherwise. Further, Paragraph 5 establishes that Eritreans by birth who reside overseas are able to remain as Eritrean citizens even if they have acquired foreign nationality. This is in contrast to the law for individuals seeking to become naturalised Eritreans (Section 4(e) which requires applicants to have “renounced the nationality of another country, pursuant to the legislation of that country.”²³

Section 8 sets out reasons for the removal of Eritrean citizenship:

- 1 A committee composed of the Secretaries of Justice, Internal Affairs and Public Administration may deprive of his nationality an Eritrean national by birth or an Eritrean granted Nationality by Naturalization pursuant to Article 4 hereof, who has attained the age of eighteen and has capacity under the law where such a person:
 - a voluntarily acquires a foreign nationality after the publication of this Proclamation; or
 - b officially renounces his Eritrean nationality; or
 - c signs an oath of allegiance of another country after the publication of this Proclamation; or
 - d in violation of an explicit provision of Eritrean law, serves or continues to serve another country; or
 - e is condemned for treason by a court of law.
- 2 A committee composed of the Secretaries of Justice, Internal Affairs and Public Administration may deprive of his Nationality a person who has been granted Eritrean Nationality by Naturalization (articles 4 to 6) where such a person:

²² *Eritrean Nationality Proclamation (No. 21/1992)* (Eritrea), Published 6 April, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b4e026> Accessed 14 June 2012

²³ *Eritrean Nationality Proclamation (No. 21/1992)* (Eritrea), Published 6 April, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b4e026> Accessed 14 June 2012

- a acquires Eritrean nationality or a certificate of nationality by fraud, deceit or concealment of decisive facts; or
 - b is confirmed, that he has, by illegally contacting external powers, committed acts which aided and abetted an enemy;
 - c has committed treason outside Eritrea;
 - d has been indicted for a crime and sentenced to more than five years imprisonment;
 - e has committed any one of the acts enumerated in sub article(1) hereof.
- 3 A person shall be deprived of his nationality pursuant to sub-articles (1) and (2) hereof only after the necessary investigation has been conducted and after such a person has been given an opportunity to defend himself.²⁴

The UK Border Agency's 2011 *Guidance Note: Ethiopia* states that:

The Ethiopian government has stopped its policy of forced deportation of those of Eritrean descent from Ethiopia to Eritrea and there is now no real risk for persons of Eritrean descent of deportation from Ethiopia to Eritrea on return. Any claimant who cites a risk of forced deportation on account of their Eritrean descent will not be able to demonstrate treatment amounting to persecution with the terms of the 1951 Convention.

The grant of asylum in such cases is therefore not appropriate. However, case owners should still consider whether an applicant is at risk of treatment amounting to persecution in Ethiopia on account of their Eritrean ethnicity and each case should be considered on its individual merits. Any assessment must also include consideration of any wider claim relating to deprivation of citizenship in Ethiopia on account of Eritrean descent.²⁵

²⁴ *Eritrean Nationality Proclamation (No. 21/1992)* (Eritrea), Published 6 April, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b4e026> Accessed 14 June 2012

²⁵ UK Border Agency 2011, *Operational Guidance Note Ethiopia*, May, <http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogns/ethiopia.pdf?view=Binary> Accessed 14 June 2012

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Refugees International 2008, *Ethiopia-Eritrea: Stalemate Takes Toll on Eritreans and Ethiopians of Eritrean Origin*, 30May
<http://www.refugeesinternational.org/policy/field-report/ethiopia-eritrea-stalemate-takes-toll-eritreans-and-ethiopians-eritrean-origin> Accessed 14 June 2012

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