

KONTEKST:

Potrebno utvrditi kažnjavanje lica u slučaju izbegavanja vojsne službe u Eritreji, u cilju analize i donošenja odluke u konkretnom slučaju, a povodom zahteva za azil lica poreklom iz Eritreje, prema izjavi iznetoj na zahtevu za azil i usmenoj raspravi;

PITANJE: Kazne za izbegavanje vojne službe u Eritreji

ODGOVOR:

Za izbegavanje vršenja vojne službe zakonom su propisani kazne od dve godine zatvora i/ili određena novčana nadoknada.^{1 2} Međutim u praksi dobijaju mnogo veće kazne jer im sude lokalni komandanti, bez zvaničnog podizanja optužnice i mogućnosti da podnesu žalbu.³

Vojni dezerteri se pritvaraju najčešće bez javnog suđenja, i zadržavaju se u pritvoru na neograničeno vreme.^{4 5 6} Vojni dezerteri su podvrgnuti torturi i primorani na prisilan rad.^{7 8} Takođe pripadnici bezbednosnih snaga maltretiraju i tuku vojne dezertere.^{9 10 11}

Pritvorski centri u kojima se nalaze oni koji su izbegli vršenje vojne službe su neadekvatni i opasni po život.^{12 13 14}

Tokom 2011.godine, na stotine zatvorenika se našlo u pritvoru zbog izbegavanja vršenja vojne službe.^{15 16 17 18} Oni se većinom smeštaju u vojni kamp Wia, gde najčešće trpe maltretiranje i batinanje.^{19 20 21}

¹ IRB - Immigration and Refugee Board of Canada: Eritrea: Military service, including age of recruitment, length of service, grounds for exemption, penalties for desertion from and evasion of military service, and availability of alternative service/exemptions, 4 septembar 2012.- http://www.ecoi.net/local_link/227753/335672_en.html

² UK Border Agency-Home Office:COI report, 17. avgust 2012. http://www.ecoi.net/file_upload/1226_1345467488_report-08-112.pdf, str 43

³ UK Border Agency-Home Office:COI report, 17. avgust 2012. http://www.ecoi.net/file_upload/1226_1345467488_report-08-112.pdf, str 43

⁴ IRB - Immigration and Refugee Board of Canada: Eritrea: Military service, including age of recruitment, length of service, grounds for exemption, penalties for desertion from and evasion of military service, and availability of alternative service/exemptions, 4 septembar 2012.- http://www.ecoi.net/local_link/227753/335672_en.html

⁵ Amnesty international: Annual report 2012/military conscription. - <http://www.amnesty.org/en/region/eritrea/report-2012>

⁶ Al Jazeera: Eritrea and its refugee crisis, 17 oktobar 2012.- <http://www.aljazeera.com/indepth/opinion/2012/10/20121013164211672211.html>

⁷ UK Border Agency-Home Office:COI report, 17. avgust 2012. http://www.ecoi.net/file_upload/1226_1345467488_report-08-112.pdf, str 43

⁸ Al Jazeera: Eritrea and its refugee crisis, 17 oktobar 2012.- <http://www.aljazeera.com/indepth/opinion/2012/10/20121013164211672211.html>

⁹ US Department of State: Country Report on Human Rights Practices for 2011 - Eritrea/ torture and other cruel, inhuman, or degrading treatment or punishment, 24. maj 2012.- http://www.ecoi.net/local_link/217698/324328_en.html

¹⁰ ACCORD - Austrian Centre for Country of Origin and Asylum Research and Documentation: Anfragebeantwortung zu Eritrea: Informationen zur Militärdienstpflicht, 14 jun 2012. http://www.ecoi.net/local_link/220599/327818_en.html

¹¹ UK Border Agency-Home Office:COI report, 17. avgust 2012. http://www.ecoi.net/file_upload/1226_1345467488_report-08-112.pdf, str 33

¹² ACCORD - Austrian Centre for Country of Origin and Asylum Research and Documentation: Anfragebeantwortung zu Eritrea: Informationen zur Militärdienstpflicht, 14 jun 2012. http://www.ecoi.net/local_link/220599/327818_en.html

¹³ IRB - Immigration and Refugee Board of Canada: Eritrea: Military service, including age of recruitment, length of service, grounds for exemption, penalties for desertion from and evasion of military service, and availability of alternative service/exemptions, 4 septembar 2012.- http://www.ecoi.net/local_link/227753/335672_en.html

¹⁴ UK Border Agency-Home Office:COI report, 17. avgust 2012. http://www.ecoi.net/file_upload/1226_1345467488_report-08-112.pdf, str 50

Pripadnici bezbednosnih snaga imaju ovlašćenje da ubiju svakoga za koga postoji sumnja da pokušava ilegalno da napusti zemlju, sa ciljem izbegavanja vojne službe.^{22 23 24 25 26}

Rounds-ups su iznenadna masovna hapšenja vojnih dezertera i onih koji su izbegli vršenje državne službe. Svako ko je uhvaćen bez validnih papira koji dokazuju da je obavio državnu službu, odvodi se u neki od vojnih kampova SAWA ili Wia.²⁷ U policijskim akcijama hvatanja vojnih dezertera (round-ups) neki od dezertera su ubijeni.²⁸

Pojedinci koji napuste vršenje vojne službe bez dozvole smatraju se za dezertere i sudi im se po vojnom zakonu.²⁹

U slučaju da se vojni dezertjer vrati Eritreju do 50-te godine života suočava se sa zakonom propisanom kaznom zatvora od 5 godina i gubi pravo na poslovnu licencu, izlaznu vizu, lični posed i pravo na rad.^{30 31}

Brojni izvori potvrđuju da se i članovi porodica vojnih dezertera kažnjavaju, većinom kroz obavezu plaćanja određenog iznosa u novcu, a postoji i mogućnost da budu zatvoreni,³²

¹⁵ US Department of State: Country Report on Human Rights Practices for 2011 - Eritrea/prison and detention center conditions, 24. maj 2012.- http://www.ecoi.net/local_link/217698/324328_en.html

¹⁶ IRB - Immigration and Refugee Board of Canada: Eritrea: Military service, including age of recruitment, length of service, grounds for exemption, penalties for desertion from and evasion of military service, and availability of alternative service/exemptions, 4 septembar 2012.- http://www.ecoi.net/local_link/227753/335672_en.html

¹⁷ ACCORD - Austrian Centre for Country of Origin and Asylum Research and Documentation: Anfragebeantwortung zu Eritrea: Informationen zur Militärdienstpflicht, 14 jun 2012. http://www.ecoi.net/local_link/220599/327818_en.html

¹⁸ UK Border Agency-Home Office:COI report, 17. avgust 2012. http://www.ecoi.net/file_upload/1226_1345467488_report-08-112.pdf, str 50

¹⁹ US Department of State: Country Report on Human Rights Practices for 2011 - Eritrea/prison and detention center conditions, 24. maj 2012.- http://www.ecoi.net/local_link/217698/324328_en.html

²⁰ IRB - Immigration and Refugee Board of Canada: Eritrea: Military service, including age of recruitment, length of service, grounds for exemption, penalties for desertion from and evasion of military service, and availability of alternative service/exemptions, 4 septembar 2012.- http://www.ecoi.net/local_link/227753/335672_en.html

²¹ ACCORD - Austrian Centre for Country of Origin and Asylum Research and Documentation: Anfragebeantwortung zu Eritrea: Informationen zur Militärdienstpflicht, 14 jun 2012. http://www.ecoi.net/local_link/220599/327818_en.html

²² US Department of State: 2011 International Religious Freedom Report – Eritrea/government practices, 30. jul 2012. http://www.ecoi.net/local_link/223761/331304_en.html

²³ IRB - Immigration and Refugee Board of Canada: Eritrea: Military service, including age of recruitment, length of service, grounds for exemption, penalties for desertion from and evasion of military service, and availability of alternative service, 4 septembar 2012.- http://www.ecoi.net/local_link/227753/335672_en.html

²⁴ Amnesty international: Annual report 2012/refugees. <http://www.amnesty.org/en/region/eritrea/report-2012>

²⁵ HRW: UN Human rights council: Eritrea, Belarus told to end abuses, 6 jun 2012. <http://www.hrw.org/news/2012/07/06/un-human-rights-council-eritrea-belarus-told-end-abuses>

²⁶ Austrian Centre for Country of Origin and Asylum Research and Documentation: Anfragebeantwortung zu Eritrea: Informationen zur Militärdienstpflicht, 14. june 2012.- http://www.ecoi.net/local_link/220599/327818_en.html

²⁷ UK Border Agency-Home Office:COI report, 17. avgust 2012. http://www.ecoi.net/file_upload/1226_1345467488_report-08-112.pdf, str 45

²⁸ IRB - Immigration and Refugee Board of Canada: Eritrea: Military service, including age of recruitment, length of service, grounds for exemption, penalties for desertion from and evasion of military service, and availability of alternative service/conscription, 4 septembar 2012.- http://www.ecoi.net/local_link/227753/335672_en.html

²⁹ IRB - Immigration and Refugee Board of Canada: Eritrea: Military service, including age of recruitment, length of service, grounds for exemption, penalties for desertion from and evasion of military service, and availability of alternative service/military and civil service, 4 septembar 2012.- http://www.ecoi.net/local_link/227753/335672_en.html

³⁰ IRB - Immigration and Refugee Board of Canada: Eritrea: Military service, including age of recruitment, length of service, grounds for exemption, penalties for desertion from and evasion of military service, and availability of alternative service/penalties for desertation or draft evasion, 4 septembar 2012.- http://www.ecoi.net/local_link/227753/335672_en.html

³¹ UK Border Agency-Home Office:COI report, 17. avgust 2012. http://www.ecoi.net/file_upload/1226_1345467488_report-08-112.pdf, str 43

³² Federal Office for Migration: Agreed Minutes presentation by DR.David Bozzini, 2012./ National Service and State Structures in Eritrea, 28.jun 2012.-

ili da im imovina bude konfiskovana.³³ Prema izveštaju Human Rights Watcha u nekim slučajevima porodice vojnih dezertera mogu biti primorane da pohađaju vojnu službu umesto njih.³⁴

KOMENTAR/ZAKLJUČAK:

Prema prethodno iznetim činjenicama jasno je da su kazne za izbegavanje vojne službe u Eritreji odluke koje proizvoljno donose pripadnici vojnog vrha. Vojni dezerteri trpe razne oblike torture i mučenja u vojnim kampovima i u zatvorima, a ukoliko napuste zemlju članovi njihovih porodica postaju žrtve maltretiranja. Vojni dezerteri mogu biti lišeni života, jer pripadnici bezbednosnih snaga imaju ovlašćenje da ubiju svakoga za koga se sumnja da pokušava da napusti zemlju sa ciljem izbegavanja vojne službe.

<http://www.bfm.admin.ch/content/dam/data/migration/laenderinformationen/herkunftslanderinformationen/afrika/eri/ERI-agreed-minutes-bozzini-e.pdf> , str 11

³³ IRB - Immigration and Refugee Board of Canada: Eritrea: Military service, including age of recruitment, length of service, grounds for exemption, penalties for desertion from and evasion of military service, and availability of alternative service/punishment of family members, 4 septembar 2012.- http://www.ecoi.net/local_link/227753/335672_en.html

³⁴ IRB - Immigration and Refugee Board of Canada: Eritrea: Military service, including age of recruitment, length of service, grounds for exemption, penalties for desertion from and evasion of military service, and availability of alternative service/punishment of family members, 4 septembar 2012.- http://www.ecoi.net/local_link/227753/335672_en.html