

**Unofficial translation of documents filed at the Court in Amsterdam**

**DEED WITH WITHDRAWAL OF CLAIMS**

- 1.1. With this deed, the Human Rights for Eritreans Foundation (The “**Foundation**”) withdraws its claims in the aforementioned case immediately, on the following grounds.
- 1.2. After this procedure started, the position of the EU on its financial support for the road construction projects in Eritrea, which involves forced labour, has fundamentally changed.
- 1.3. Despite the criticism on the road construction projects, the EU planned to provide even further funding to the Eritrean regime. However, as a result of strong criticism from the European Parliament, several EU member states and stakeholders such as the Foundation, the EU has decided to abstain further support towards the road construction project in Eritrea.
- 1.4. The EU has announced that it will remove itself from this support going forwards and has chosen for the so-called ‘**no more roads**’ approach. Therefore, no more funding will be provided in favour of the road construction project in which forced labour is used.
- 1.5. The EU has stated that this has been prompted by ‘common concerns’ about the human rights situation in Eritrea. A significant amount of EU funds that were designated for the road construction project have now been reallocated (i.e. to projects in Sudan). The ‘no more roads’ policy is permanent and unconditional, as far as the Foundation can assess.
- 1.6. Last week, European Commissioner Jutta Urpilainen informed the European Parliament that funds that have already been approved for the road construction project “*following the ‘no more roads’ approach*” will not be used for this project. An amount of approximately 20 million euros has been deflected to new EU programs that are related to the Universal Periodic Review (see answers to Parliamentary questions; ref. E-003753/2020, September 15, 2020).
- 1.7. In addition, the EU has communicated that a thorough evaluation will take place of the so-called ‘dual-track’ approach, the policy for diplomatic engagement between the EU and Eritrea of which the road construction project was a part.
- 1.8. As a result, the demands of the Foundation in this lawsuit have been met. Under the ‘no more roads’ approach, the EU will no longer support road construction projects that use forced labour. **The Foundation hereby irrevocably and unconditionally withdraws its claims in the present lawsuit.** The Foundation will continue to critically monitor the EU’s engagement with Eritrea, and the evaluation of the ‘dual-track’ approach, and will carry on its investigation into the emergence and impact of the (plainly) illegal support for forced labour. The Foundation reserves all rights in that regard.
- 1.9. This does not change the fact that serious concerns remain within the Foundation and the Eritrean diaspora about the way the EU has provided funding to the Eritrean regime. By providing this funding through a special instrument called the ‘EUTF’, the EU has clearly sought to achieve policy goals without having to give political or legal accountability. This is especially true because forced labour was used as part of this project, which is a violation of the EU Charter, among others.



- 1.10. It was known to the EU from the beginning that forced labour would be used in this project. Various EU member states, including the Netherlands, have in principal expressed objections. The EU has chosen to ignore these criticisms and has nevertheless pursued the project. Several stakeholders have tried to hold the EU accountable on this issue. As explained above, the road construction projects have been called to a halt through political channels. Unfortunately, the EU has taken the position that the national court cannot review its actions in the context of the EUTF and that there is in fact no possibility to have this action reviewed before the EU court (in the form of a collective action). The EU appears to be of the opinion that only the individual forced labourers employed in the context of the EU project could potentially have a sufficient interest in bringing the EU before the court.
- 1.11. It goes without saying that this is not feasible. Firstly, there is no access to Eritrea, one of the most closed-off dictatorships in the world. Secondly, the Eritrean regime is known for its brutal retaliation against Eritreans who criticize the regime. In addition, the regime does not shy away from detention and torture of family members of those involved. It is unlikely to find someone who would be willing to run these risks in order to have EU policy reviewed in court.
- 1.12. If the EU position in this would be followed to its logical conclusion, there would be a legal vacuum as regards to the examination of EU policies under the EUTF against fundamental rights in the Charter. The EU can then use the EUTF as an instrument to start projects that (within a different context) could never have started because of the obvious conflict with the most fundamental norms of the European legal order. The Foundation will continue to raise the consequences of this issue, including at the Dutch Ministry of Foreign Affairs. The Foundation will also note that the EU indicates in its latest responses that EU funds will end up directly with the Red Sea Trading Corporation (a controversial company of the Eritrean regime). Given the lack of transparency of the Eritrean state's public finances, it is not possible to see how the EU can control the use of these funds.

## **IN CONCLUSION:**

The Foundation hereby withdraws its claims in the above case fully.

In witness whereof this deed is executed!