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THE SUPREME COURT OF ERITREA
ASMARA, ERITREA

In the Matter of: Saba Yakob Gde, plaintiff Vs Government of Eritrea, defendant	Case No.: SC260726SAB00002 *(The taking case)*

COMPLAINT

PROOF OF SERVICE: Executed via CAAM on all parties.

COMPLAINT FOR DECLARATORY, CONSTITUTIONAL, INJUNCTIVE, RESTITUTIONARY, AND MONETARY RELIEF

1. INTRODUCTION

1. This action is brought under Articles 2, 8, 19, 21, 23, 24, 26, 28, and 49 of the Constitution of Eritrea 1997. The plaintiff seeks review of the Government of Eritrea's compulsory foreign-exchange regime and related restrictions on construction, trade, and access to essential building materials.
2. The plaintiff, Saba Yakob Gde, made US$40,000 available in Asmara to help her sister, a single mother of four young children, build a modest three-bedroom home. The Government required foreign currency to be exchanged only through government-authorized channels at an official rate of ERN 15.5 to US$1, pursuant to the exchange controls enforced under Legal Notice No. 44/2000 and Legal Notice No. 101/2005. The plaintiff received ERN 620,000 and then encountered cement prices of approximately ERN 1,600 to ERN 2,000 per 100 kilograms. Under the parties' stipulated Statement of Agreed Facts, those cement prices were approximately seven to nearly ten times modeled competitive retail prices under peaceful and open regional trade conditions.
3. The plaintiff does not ask this Court to constitutionalize a particular price of cement, guarantee inexpensive imports, or itself set Eritrea's exchange rate. She asks the Court to decide whether the State may compel the conversion of private foreign currency at a government-fixed rate, materially deprive that property of domestic value, and maintain severe economic restrictions without clear constitutional justification, adequate reasons, due process, or just compensation.
4. While the Bank of Eritrea Proclamation No. 93/1997 grants the central bank the authority to determine the exchange rate system in consultation with the government, it does not place monetary policy beyond constitutional review. Article 2(3) of the Constitution of Eritrea 1997 declares the Constitution supreme and dictates that all laws, orders, and acts contrary to its letter and spirit shall be null and void. The same Constitution protects property, lawful trade, free participation in economic activity, administrative redress, and the sustainable improvement of citizens' livelihoods. The plaintiff recognizes that constitutional rights are not absolute, as Article 26 of the Constitution permits lawful limitations for the economic well-being of the country. However, under Article 26(2), such limitations must be established by law, be consistent with democracy and justice, be generally applicable, specify their ascertainable extent, and not negate the essential content of the right. The official exchange regime and related economic restrictions are governmental acts affecting constitutional rights and legal interests and are therefore subject to judicial review by this Court under its exclusive jurisdiction granted by Article 49(2)(a) of the Constitution.

2. THE PARTIES

5. The plaintiff, Saba Yakob Gde, is a native and citizen of Eritrea and a lawful permanent resident of the United States. Under Article 3(1) of the Constitution of Eritrea 1997, any person born of an Eritrean father or mother is an Eritrean by birth, and her residence abroad does not extinguish the constitutional rights attached to her citizenship or the protection owed to her property and transactions in Eritrea.
6. The defendant is the Government of Eritrea, acting through the Bank of Eritrea and through the public authorities responsible for currency, foreign exchange, trade, construction, customs, and access to building materials. The defendant appears through the Office of the Advocate General of Eritrea, established pursuant to Article 54 of the Constitution.

3. FACTUAL BACKGROUND

7. The plaintiff incorporates the Statement of Agreed Facts filed by the parties. The plaintiff's sister lives in or near Asmara and is a single mother of four children, all younger than twelve. The family occupies a one-bedroom dwelling approximately four meters by four meters and shares communal kitchen and bathroom facilities with three other families.
8. For several years, the plaintiff considered assisting her sister to build a modest three-bedroom home on their parents' land in a village near Asmara because the existing living arrangement was overcrowded and inadequate. However, the Government of Eritrea has materially restricted residential and other construction activity, and requires foreign currency to be exchanged only through government-authorized channels at the official rate of ERN 15.5 to US$1. The Bank of Eritrea enforces these controls under Legal Notice No. 44/2000, which strictly prohibits any person from engaging in foreign exchange transactions except with a bank or authorized dealer, and Legal Notice No. 101/2005, which mandates that transactions must be settled in Nakfa unless specially authorized. The plaintiff brought US$40,000 to Eritrea and, complying with the requirement, exchanged the funds through an authorized channel, receiving ERN 620,000.
9. The plaintiff then determined that she could not build the home because cement in Eritrea cost approximately ERN 1,600 to ERN 2,000 per 100 kilograms, rendering the ERN 620,000 insufficient to purchase necessary materials and complete the project. The plaintiff obtained assistance from persons with cement-market and logistics experience, resulting in a July 2026 report titled "Commercial Assessment: Importing OPC 42.5 Cement to Asmara, Eritrea—Peaceful Regional Trade Scenario". This assessment estimated that, under open regional trade, delivered cement in Asmara would cost significantly less, making the domestic prices approximately seven to nearly ten times the modeled competitive price. The parties agree that the Court may treat these commercial estimates as stipulated or assumed for deciding the legal questions.
10. Before commencing this action, the plaintiff met with the Director of the Bank of Eritrea (or an authorized senior official) and asked for an explanation of the official exchange rate. The plaintiff was informed that the central bank possesses authority to regulate Eritrea's currency and foreign-exchange rates. The plaintiff informed the Bank that compulsory conversion at

the official rate substantially reduced the domestic value of her US-dollar funds and could operate as a governmental taking or deprivation of value, a characterization the Bank rejected.

11. The plaintiff later presented the Director of the Bank and the Advocate General with her exchange comparisons, the Cement Assessment, and her analysis of restrictions on exchange, construction, trade, and access to essential goods. She asserted that those restrictions suppressed economic activity and produced prices unsupported by a sufficient public interest, violating provisions of the Constitution.

4. LEGAL FRAMEWORK

12. Under Article 8(1) and (2) of the Constitution of Eritrea 1997, the State is mandated to strive to create opportunities to ensure the fulfillment of citizens' rights to social justice and economic development, and to bring about balanced and sustainable development to enable citizens to improve their livelihood. To ensure these objectives, Article 21(3) guarantees every citizen the right to participate freely in any economic activity and to engage in any lawful business. Furthermore, Article 19(7) protects the right of every citizen to practice any lawful profession, or engage in any occupation or trade.
13. Article 23(1) of the Constitution establishes the right of any citizen to acquire and dispose of property. While all land belongs to the State, the Constitution strictly prohibits the deprivation of private property without due process: Article 23(3) explicitly dictates that the State may take property in the national or public interest only subject to the payment of just compensation and in accordance with due process of law. Furthermore, Article 24 guarantees that any person whose rights or interests are interfered with or threatened shall have the right to seek due administrative redress.
14. Currently, the central bank operates under Proclamation No. 93/1997, the Bank of Eritrea Proclamation. Article 18 of Proclamation No. 93/1997 grants the Bank the authority to determine the exchange rate system for the Eritrean currency in consultation with the government. Article 20(1) grants the Bank the power to formulate and enforce policies governing foreign exchange transactions. These powers are further executed through Legal Notice No. 44/2000, which empowers the Bank to set foreign exchange rates and criminalizes unauthorized exchange, and Legal Notice No. 101/2005, which heavily regulates foreign currency accounts and remittances.
15. However, the Bank's discretionary powers under Proclamation No. 93/1997 are strictly tethered to its statutory objectives. Article 4 of the Proclamation explicitly requires the Bank to manage money and credit with the purpose of pursuing price stability, maintaining a sound exchange rate policy, and crucially, fostering economic growth, employment, and overall development in the country.
16. The discretionary implementation of an artificial official rate of ERN 15.5 to US$1, combined with severe restrictions on construction and imports, actively undermines the Bank's statutory mandate to foster economic development. More importantly, regardless of the Bank's statutory authority under Proclamation No. 93/1997, all governmental actions must comply with the Constitution. Article 26 of the Constitution strictly dictates that

fundamental rights—including the right to property and free economic participation—may only be limited by laws that are consistent with the principles of democracy and justice, specify the ascertainable extent of such limitation, and are strictly necessary for the economic well-being of the country.

17. Eritrea's international human rights commitments provide further interpretive context. Eritrea has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC). These treaties recognize the right of everyone to an adequate standard of living, including adequate housing, and require States to assist those responsible for children with support concerning housing. These international obligations highlight the severe disproportionality of the Government's economic restrictions, which directly prevent the plaintiff from securing adequate housing for her sister's four young children.

5. CLAIMS FOR RELIEF

5.1. COUNT ONE: Unconstitutional Taking or Deprivation of Property Without Just Compensation

18. The plaintiff's foreign currency was lawfully acquired private property. The Government's compulsory requirement under Legal Notice No. 44/2000 and Legal Notice No. 101/2005 that the plaintiff exchange her US$40,000 exclusively through authorized channels at the fixed rate of ERN 15.5 to US$1 stripped that property of its domestic purchasing power and economic value.
19. Where the State compels the conversion of private property at a fraction of its competitive or actual economic value, the State effects a deprivation or taking of property. Under Article 23(3) of the Constitution of Eritrea 1997, such a taking must be accompanied by just compensation and due process of law. No process identified in the agreed facts valued the property taken, determined compensation, gave written reasons, or afforded the plaintiff a meaningful opportunity to challenge the conversion before an impartial authority. The plaintiff is entitled to a declaration of the governing constitutional standard and restitution or just compensation.

5.2. COUNT TWO: Unconstitutional Burden on Trade, Economic Participation, and Sustainable Livelihood

20. Article 19(7) of the Constitution guarantees the right to practice any lawful profession, engage in any occupation or trade, and Article 21(3) protects the right to participate freely in any economic activity. Article 8(1) mandates the State to strive to create opportunities to ensure economic development and the fulfillment of citizens' material needs.
21. The Government's compounding restrictions on foreign exchange, the importation of essential goods, and residential construction enforced under Proclamation No. 93/1997 have paralyzed the plaintiff's ability to engage in lawful economic activity (building a home) and participate in regional trade. The extreme inflation of cement prices—seven to ten times the

regional competitive rate—demonstrates that the State's restrictions have destroyed the essential content of these economic freedoms. The defendant has not identified the enacted law, evidence, standards, duration, exceptions, or least-restrictive analysis supporting these combined restrictions. The plaintiff is entitled to a declaration that the challenged restrictions are invalid to the extent they materially abridge lawful trade and free economic participation without satisfying the limitations framework of Article 26 of the Constitution.

5.3. COUNT THREE: Unconstitutional Limitation of Fundamental Rights

22. The constitutional rights to property, economic participation, and trade are subject only to the strict limitations framework of Article 26 of the Constitution of Eritrea 1997. The Government bears the burden of proving that its compulsory exchange regime and severe trade restrictions are established by a generally applicable law, are consistent with democracy and justice, specify their ascertainable extent, and are strictly necessary for the economic well-being of the country, as required by Article 26(2).
23. On the agreed record, the challenged regime fails Article 26. A permanently fixed exchange rate that confiscates the purchasing power of private citizens and effectively halts residential construction for impoverished families cannot be justified as democratic, just, or necessary for the economic well-being of the nation. The regime's legal basis, methodology, justification, safeguards, duration, and review remain unidentified or inadequate.

5.4. COUNT FOUR: Administrative Illegality, Failure to Give Reasons, and Action Beyond Lawful Authority

24. Article 24(2) of the Constitution requires that any administrative action affecting a person's rights be justifiable and subject to due administrative redress. Furthermore, under Article 4 of Proclamation No. 93/1997, the Bank of Eritrea is legally bound to exercise its powers to "foster economic growth, employment and overall development" and "maintain sound exchange rate policy".
25. The Bank of Eritrea failed to provide the plaintiff with a legally adequate, reasoned explanation for maintaining an exchange rate and trade regime that actively obstructs economic development and confiscates property value. The Bank's actions in enforcing the ERN 15.5 rate and related restrictions without transparent methodology, periodic review, or alignment with its statutory development mandate render the regime ultra vires and procedurally defective. The plaintiff is entitled to declaratory and injunctive relief under Article 28(2) of the Constitution requiring the Bank to disclose and comply with the governing law and to reconsider the application of the regime to her through a reasoned, reviewable decision.

6. PRAYER FOR RELIEF

26. WHEREFORE, the plaintiff respectfully asks this Honourable Court to enter judgment in her favour and grant the following relief:
27. Declare that lawfully owned foreign currency is property protected by Article 23(1) of the Constitution of Eritrea 1997.
28. Declare that a compulsory foreign-exchange transaction constitutes a taking within Article 23(3) of the Constitution when, in substance, the State or its authorized mechanism compels the transfer of identifiable private value for a national or public purpose without just compensation and due process.
29. Declare that the Government's authority over currency, foreign exchange, trade, and construction under Proclamation No. 93/1997 remains strictly subject to Articles 2, 8, 19(7), 21(3), 23, 24, 26, and 28 of the Constitution.
30. Declare that any limitation of those economic and property rights must satisfy each requirement of Article 26 of the Constitution, including valid legal authorization, an enumerated purpose, democratic and just character, general application, ascertainable scope, preservation of essential content, necessity, and proportionality.
31. Require the defendant to lodge with the Court every regulation, resolution, directive, or published decision by the Bank of Eritrea establishing the challenged exchange rate and related controls.
32. Declare the compulsory exchange regime, as applied to the plaintiff, unconstitutional and void if the defendant cannot establish valid legal authority and compliance with Article 26 of the Constitution.
33. Alternatively, declare that the Bank of Eritrea's application of the exchange regime violates its statutory mandate under Article 4 of Proclamation No. 93/1997 to foster economic growth and maintain a sound exchange rate policy.
34. Order the Bank of Eritrea to issue a reasoned and reviewable determination addressing the legal basis, methodology, public purpose, duration, safeguards, and application of the challenged exchange rate to the plaintiff.
35. Declare that construction, trade, import, or exchange restrictions that materially abridge Articles 19(7) and 21(3) of the Constitution are invalid unless established by law and justified under Article 26.
36. Enjoin continued application to the plaintiff of any unpublished, unauthorized, indefinite, or unreviewable restriction on lawful exchange, trade, purchase of construction materials, or residential construction.
37. Award the plaintiff restitution of the value taken or just compensation for the deprivation of her property, pursuant to the remedial powers granted under Article 28(2) of the Constitution.
38. If the present record is insufficient to determine quantum, establish a limited valuation proceeding or remand to a neutral and reviewable valuation process using objective evidence, while reserving this Court's jurisdiction to approve or determine just compensation.
39. Award costs and grant any further declaratory, injunctive, restitutionary, compensatory, or equitable relief necessary to secure the plaintiff's rights and preserve the supremacy of the Constitution.

Respectfully submitted,

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40. VERIFICATION Counsel for the plaintiff certifies that this Complaint is founded on the Statement of Agreed Facts. The commercial estimates are pleaded only as stipulated or assumed under paragraphs 42 and 43 of the Statement of Agreed Facts. The plaintiff seeks legal determinations, not judicial rate-setting or relief for nonparties, and accepts any further valuation process the Court deems necessary.