

In ruling that could affect thousands, Israeli judge says Eritrean draft dodgers may get refugee status

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Ilan Lior | Feb. 15, 2018 | 6:39 PM

Being a deserter from the Eritrean army may be sufficient grounds for Eritreans in Israel to be granted refugee status, an immigration appeal panel in Jerusalem ruled on Thursday.

Judge Elad Azar ruled that an asylum request from an Eritrean cannot be rejected out of hand by the Interior Ministry's Population, Immigration and Border Authority if the request is based on the assertion that the applicant is a deserter from the Eritrean army who fears persecution by authorities there as a result.

The Justice Ministry's immigration tribunal made the ruling on a appeal filed by an Eritrean in Israel whose request for asylum had been rejected. In ruling on the appeal, Judge Azar ruled that the Eritrean was entitled to refugee status in Israel, having proved a "very well-founded basis for persecution" in Eritrea after he deserted the military there.

The ruling is expected to shift legal precedent, making it more favorable to Eritreans who have deserted their army. It could influence the asylum requests of thousands of Eritrean citizens whose requests were rejected based on a legal opinion from the Interior Ministry's Population Authority stating that such desertion does not automatically qualify a person for refugee status. The appeal tribunal made it clear that every request must be examined on its own merits and in some cases such desertion meets the criteria of the international convention on the status of refugees, which requires asylum to be given to those who have proven well-founded fear of persecution in their home countries. At the same time, Azar stated clearly that this does not necessary mean that "anyone who states a claim that they are a deserter or draft dodger from military or national service in Eritrea is entitled to refugee status."

Anat Ben-Dor, a lawyer and director of the law clinic for refugees at Tel Aviv University, who filed the appeal in the case along with an other lawyer, Elad

Kahana, praised the ruling. “We are pleased that the tribunal, after long deliberations in which a large amount of evidence was presented, put justice back where it should be.” During the many years that the case was pending, thousands of similar requests were rejected from asylum seekers who deserted the Eritrean army, she said.

She and Kahana now hope the Population Authority will reconsider these requests. Knesset member Michal Rozin (Meretz), who visited Rwanda and Uganda last week to examine the situation of African migrants who have left Israel for those countries, said the new ruling is “further proof that the system for considering asylum requests in Israel is a failure and biased.” She claimed that the government’s deportation process must be halted and all the asylum requests from Eritreans that were rejected must be re-examined because, she said, the rejections do not meet the standards set out in the international refugee convention.