

Overall Score:

57 - Very Weak

Legal Framework Score:

83 - Strong

Actual Implementation Score:

33 - Very Weak

Category I. Civil Society, Public Information and Media

I-1. ⁴⁹Civil Society Organizations

1. Are anti-corruption/good governance CSOs legally protected?

100

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

YES | NO

Comments:

The article states that every person has the right to freedom of association for any cause or purpose.

References:

Constitution of The Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 31.

YES: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | NO

Comments:

So far, CSOs face no legal restrictions to raise or accept funds from any source, but the Ethiopian government is preparing to publish a new article that restricts local NGOs when raising funds from foreign sources.

References:

Anti-Corruption Special Procedure and Rules of Evidence Proclamation, Proclamation No. 239/2001.

YES: A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

NO: A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | NO

Comments:

The regulations state that CSOs must disclose their sources of funding.

References:

The Ministry of Justice and the Federal Democratic Republic of Ethiopia Regulations regarding the registration and administration of nongovernmental organizations.

YES: A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

NO: A NO score is earned if no such public disclosure requirement exists.

2. Are good governance/anti-corruption CSOs able to operate freely?

17

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

Comments:

CSOs working to promote good governance and anti-corruption are unofficially prohibited to organize and do their tasks effectively.

References:

Adiss Admass, Saturday, March 8, 2008, or Yekatit 29, 2000.

100: CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

75:

50: CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

Comments:

During the 2007/2008 (in April) local council elections, the Ethiopian government did not allow CSOs to monitor the election. As a result, it remains very difficult for the people to know whether the election was a fair or not, let alone participate in the political or policy-making process. CSOs have obstacles to overcome before they can influence governmental policies.

There are many forums and meetings that the government and NGO representatives participate in. But what is similar about them all is, according to critics, that they are undertaken just for the sake of participation, not for real results. A recent example is the case of the meeting the government intended to undertake with NGO and CSO representatives to discuss on the draft NGO law. NGO representative refused to attend since they felt that they could not make any real difference to the draft law because the government had already decided the issue.

References:

Reporter newspaper, October 5, 2008, by Getachew Negatu.

Anonymous, International Food and Policy Research Institute (IFPRI), senior researcher.

100: Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

YES | **NO**

Comments:

Per the Human Rights Watch report: The staff of Ethiopia's only nationwide human-rights organization, EHRCO, is regularly subjected to government harassment and intimidation. One investigator who fled the country in 2005 was charged in absentia in a treason trial. Three members of the Nekemte Executive Committee were arrested and imprisoned for 15 days.

The Oromo-focused Human Rights League was allowed to register in 2005 after years of litigation, but remains inactive. Leaders of the traditional Oromo self-help organization Mecha Tulama, arrested in 2004, were released without trial in early 2007.

References:

Human Rights Watch World Report 2008, Ethiopia, Ethiopia events of 2007.
<http://hrw.org/englishwr2k8/docs/2008/01/31/ethiop17755.htm>

YES: A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period. YES is a positive score.

NO: A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3. Are civil society activists safe when working on corruption issues?

67

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

YES | NO

Comments:

In the past year, there was no indication that any CSO activist was imprisoned.

References:

Reporter newspaper, Sunday, October, 05, 2008.

YES: A YES score is earned if there were no CSO activists imprisoned because of their work covering corruption. YES is a positive score.

NO: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | **NO**

Comments:

The document clearly states that several members and investigators of the Ethiopian Human Rights Council were arrested when they investigated violations by the government. Human rights defenders are constantly being watched and often trailed. In addition, several activists and organizations have been personally summoned and cautioned by the authorities, including the Minister of Justice, because of their work.

References:

East and Horn of Africa human rights defender. Presentation by Mr. Hassan Shire Sheikh, Chairperson of the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net), September 18, 2000, <http://www.wmd.org/documents>.

YES: A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

Comments:

In the past year, there were no documented cases of CSO activists being killed.

References:

Reporter newspaper, October 5, 2008, by Getachew Negatu, CSOs and NGOs," Addis Ababa.

YES: A YES score is earned if there were no documented cases of CSO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

4. Can citizens organize into trade unions?

63

4a. In law, citizens have a right to organize into trade unions.

YES | NO

Comments:

The article states the right for anyone to be a member of his own organization, labor union, trade organization, or employer or professional association if he or she meets the special and general requirements stipulated by such organization.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 38, Sub-Article 2.

YES: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

Comments:

Trade unions exist, but are totally non-relevant to politics; unless they respect the government's agenda, they may not get the license to organize.

References:

1. Ato Samson Tesfaye, a merchant and member of a trade union, Sept. 5, 2008, Addis Ababa.
2. Dr. Mintesenot Tsegaye, researcher, Institute of Health and Nutrition Research Center, Sept. 5, 2008, Addis Ababa.

100: Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

75:

50: Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

I-2. Media

5. Are media and free speech protected?

100

5a. In law, freedom of the media is guaranteed.

YES | NO

Comments:

The article states the right of anyone to hold opinions and have freedom of expression, without interference, including the freedom to seek, receive and impart information and ideas of all kinds, orally, in writing or in print in the form of art, or through any media of choice.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 29, Sub-Articles 1 and 2.

YES: A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

NO: A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

Comments:

The article states the right of anyone to hold opinions and have freedom of expression, without interference, including the freedom to seek, receive and impart information and ideas of all kinds, orally, in writing or in print in the form of art, or through any media of choice.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 29, Sub-Article 1 and 2.

YES: A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

NO: A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form print media entities?

44

6a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

Comments:

Formation of print media is somewhat possible, but there is a high burden on them, including highly complicated licensing requirements and other obstacles, such as harassment and intimidation of reporters and publishers (See IPI report).

According to the The IPI Watch List report, publisher Serkalem Fasil, columnist Eskinder Nega, and publisher Sisay Agena submitted applications for two Amharic-language weeklies. Publishers Dawit Kebede and Wosonseged Gebrekidan submitted applications to launch two other weeklies. Officials proffered no explanation for the rejection of the Fasil, Nega and Agena applications. At the same time, Kebede and Gebrekidan were informed that their applications were not acceptable and were instructed to describe their publications editorial policies. However, in early February, the government reversed itself with respect to Kebede and Gebrekidan, granting them accreditation. This paved the way for them to obtain a commercial license from the Ministry of Trade and Industry, the final requirement to launch a newspaper.

References:

International Press Institute (IPI) Watch List Report, Ethiopia, June 2008 update.

Reporters Without Borders, Annual Report 2008: Ethiopia.

http://www.rsf.org/article.php3?id_article=25387

Addis Neger, Fortune Newspaper.

100: Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

6b. In law, where a print media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

Comments:

The article states:

1. Everyone has the right to bring a justifiable matter to, and to obtain a decision or judgment by, a court of law or any other competent body with judicial power,
2. The decision or judgment referred to under Sub-Article 1 may also be sought by: (a) any association representing the collective or individual interest of its members, or (b) any group or person who is a member of or represents a group with similar interests.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 37, Sub-Article 1 and 2.

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

NO: A NO score is earned if there is no appeal process for print media licenses.

6c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Licensing is required, but it is very difficult to get; for some people the license may take more than six months (see IPI report).

Per the IPI report: Publisher Serkalem Fasil, columnist Eskinder Nega, and publisher Sisay Agena submitted applications for two Amharic-language weeklies. Publishers Dawit Kebede and Wosonseged Gebrekidan submitted applications to launch two other weeklies. Officials proffered no explanation for the rejection of the Fasil, Nega and Agena applications. At the same time, Kebede and Gebrekidan were informed that their applications were not acceptable, and were instructed to describe their publications editorial policies. However, in early February, the government reversed itself with respect to Kebede and Gebrekidan, granting them accreditation. This paved the way for them to obtain a commercial license from the Ministry of Trade and Industry, the final requirement to launch a newspaper.

References:

International Press Institute (IPI) Watch List Report, Ethiopia, June 2008 update.
Ato Ayele Tialhun, communication consultant, August 27, 2008, Addis Ababa.

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | **50** | 25 | 0

Comments:

Licenses may require a frequent visit to different government offices, costing time and money.

Per an IPI report: Publisher Serkalem Fasil, columnist Eskinder Nega, and publisher Sisay Agena submitted applications for two Amharic-language weeklies. Publishers Dawit Kebede and Wosonseged Gebrekidan submitted applications to launch two other weeklies. Officials proffered no explanation for the rejection of the Fasil, Nega and Agena applications. At the same time, Kebede and Gebrekidan were informed that their applications were not acceptable, and were instructed to describe their publications editorial policies. However, in early February, the government reversed itself with respect to Kebede and Gebrekidan, granting them accreditation. This paved the way for them to obtain a commercial license from the Ministry of Trade and Industry, the final requirement to launch a newspaper.

References:

The International Press Institute (IPI) Watch List Report, Ethiopia, June 2008 update.

Ato Ayele Tilahun, Private Communication Consultant, Aug 27, 2008, Addis Ababa.

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

7. Are citizens able to form broadcast (radio and TV) media entities?

7a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

Comments:

As evidenced during interviews with businessmen, it is extremely difficult to form private broadcast media in the country.

In the country, only two private commercial radio stations (i.e, Sherger Radio) were established during the last year. Otherwise, for the past many years there was only one government-controlled broadcast station.

References:

The International Press Institute (IPI) Watch List Report, Ethiopia, June 2008 update.

Interview with three businessmen who wish to be anonymous, Nov 18, 2008, Addis Ababa

100: Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

25:

0: Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

7b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

Comments:

1. The law states that any applicant who is denied a license may appeal to the board within 14 days from the date of the decision. The board shall give its decision within 20 days from receipt of the appeal.

2. The article states the right of access to justice: 1. Everyone has the right to bring a justifiable matter to and obtain a decision or judgment by a court of law or any other competent body with judicial power. 2. The decision or judgment referred to under Sub-Article 1 of this article may also be sought by: (a) Any association representing the collective or individual interest of its members, or (b) Any group or person who is a member of or represents a group with similar interests.

References:

1. Federal Negarit Gazeta, 13th year, No. 39, July 2007, Proclamation No. 533/2007, Broadcasting Service Proclamation, Page 3633, Article 22, Sub-Article 3.

2. The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 37, Sub-Article 1 and 2.

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

NO: A NO score is earned if there is no appeal process for broadcast media licenses.

7c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Private investors are discouraged from participating in the media. During the past years, many investors showed their interest in establishing broadcast media in the country (e.g., the American Broadcasting Company), but for some it took a very long time to get the license. Finally, most investors were discouraged and forced to change their business idea of participating in the broadcasting area. So far, only two private investors have obtained a license.

References:

Feteh newspaper, Wednesday, September 21, 2001, E.C, (October 1, 2008, G.C).

Interview with three businessmen who wish to be anonymous, November 18, 2008, Addis Ababa.

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

7d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

The International Press Institute (IPI) Watch List Report, Ethiopia, June 2008 update.

Reporters Without Borders, Annual Report 2008: Ethiopia.

http://www.rsf.org/article.php3?id_article=25387

Interview with a journalist who wishes to be anonymous, Oct 2, 2008, Addis Ababa.

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

8. Can citizens freely use the Internet?

13

8a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

Comments:

Internet users are prevented by the government from reaching online content, especially when it is politically sensitive .

Per the Human Rights Watch Report: The government blocks access to Internet sites critical of its policies. In October, the government began jamming the Deutsche Welle s and the Voice of America s Amharic- and Oromomifa-language broadcasts, the principal source of news for the rural population.

References:

Human Rights Watch World Report 2008, Ethiopia, Ethiopia events of 2007.

<http://hrw.org/englishwr2k8/docs/2008/01/31/ethiop17755.htm>

Mr. XX, marketing officer, Ethiopian Airlines, Sept. 13, 2008, Addis Ababa.

100: The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

75:

50: Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

25:

0: Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

8b. In practice, the government does not censor citizens creating content on-line.

Comments:

The Ethiopian government regularly blocks websites. Examples are online content from Ethiopians living in foreign countries, particularly content focusing on political issues, which may not last for week or two before being blocked. Although the government has claimed that such publications advocate for armed resistance against the government, this is often a red herring.

Per the Human Rights Watch Report: The government blocks access to Internet sites critical of its policies. In October, the government began jamming Deutsche Welle's and the Voice of America's Amharic- and Oromomifa-language broadcasts, the principal source of news for the rural population.

References:

Human Rights Watch World Report 2008, Ethiopia, Ethiopia Events of 2007. <http://hrw.org/englishwr2k8/docs/2008/01/31/ethiop17755.htm>

International Press Institute (IPI) Watch List Report, Ethiopia, June 2008 update.

Anonymous source, Addis Ababa University, September 3, 2008, Addis Ababa.

100: The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

75:

50: In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

25:

0: The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

9. Are the media able to report on corruption?

42

9a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | NO

Comments:

The article states: 1. Any program to be transmitted shall reflect different and balanced viewpoints to serve the public at large, and 2. The accuracy of the content and source of any program to be transmitted shall be ascertained.

References:

Negarit Gazeta, Federal Democratic Republic of Ethiopia, Broadcasting Service Proclamation, 13th Year, No. 39, 2007, Article 39.

YES: A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

NO: A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

9b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

Comments:

Authorities occasionally detain and harass journalists and as a result an increasing number of journalists practice self-censorship.

Some newspaper employees were arrested due to their news coverage on the legal case of the famous musician, Ted Afro. Some newspapers were also restricted when writing news on the Ginbot 7 political movement. One journalist was charged after he interviewed the lawyer of a famous pop star currently on trial and another on defamation charges for covering a labor dispute between employees and a brewery owned by the ruling party.

References:

Feteh newspaper, Wednesday, September 21, 2001 E.C (October 1,2008 G.C).

East and Horn of Africa Human Rights Defenders, September 18, 2008, presentation by Mr. Hassan Shire Sheikh, Chairperson of the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net).

100: The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

75:

50: The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

25:

0: The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

9c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

Comments:

Per an IPI report: Alemayehu Mahtemework, a magazine editor, and three others were arrested in a suspiciously-timed incident, after publishing a cover story on a famous singer and outspoken government critic. All 10,000 copies of the magazine were also seized.

The private press, in Ethiopia, is safe to report and have also disclosed corruption cases only when the government it self starts to acknowledge and wants to make the case public, otherwise, the press is not entitled to disclose corruption cases without a blessing from the ruling party top officials. Critics argue that many of the top officials are corrupted, but no private press dares to disclose those cases. The government allows corruption cases to be disclosed if the corrupted official or person is found to be unfaithful to the ruling party and its system.

References:

International Press Institute (IPI) Watch List Report, Ethiopia , June 2008 update.

Adiss Neger, Reporter, Fortune newspapers, Awreamba Times

100: The government never prevents publication of controversial corruption-related materials.

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

10. Are the media credible sources of information?

30

10a. In law, print media companies are required to publicly disclose their ownership.

YES | NO

Comments:

Article 100: 1. Any Ethiopian or foreign person or business organization carrying out commercial activities within the Empire of Ethiopia shall be registered, 2. The provisions of Sub-Article 1 shall apply in particular to (a) Any Ethiopian or foreign person who is a trader within the meaning of Article 5 of this Code; (b) Any Ethiopian or foreign business organization that is a commercial business organization within the meaning of Article 10 of this Code, (c) Any foreign public undertaking carrying out commercial action and any commercial representatives or agents of foreign states, public institutions or undertakings.

Article 108: 1. Any registered person shall, within two months from the occurrence of a fact making necessary an alteration in the particulars of registration, apply for the entry to be altered, 2. An application under Sub-Article 1 may be made by any legally interested person, 3. In particular, the dismissal of the manager shall be entered.

References:

Commercial Code of the Empire of Ethiopia, Proclamation No. 166, 1960, Section 2, Registration, Article 108 and 100.

YES: A YES score is earned if print media companies are required by law to publicly disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

YES | **NO**

Comments:

The commercial codes do not make such requirements for companies.

References:

www.law.ugent.be/pub/nwr/elw/Commercialmainpage.htm

YES: A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain type of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | **25** | 0

Comments:

Media Sustainability Index (MSI) Africa, 2006- 2007, Ethiopia, Page 117. http://www.irex.org/programs/MSI_Africa/ethiopia.asp

The index ranks Ethiopia among one of the worst countries in the world in which to be an independent-minded journalist. Journalists cannot report independently. International

NGOs observing press freedom have returned dismal ratings for Ethiopia. Freedom House s 2007 Freedom of the Press report rates it not free and tied Ethiopia for 170th out of 195. Ethiopia is on the International Press Institute s Watch List and Reporters Without Borders ranked Ethiopia 150th out of 169 in their 2007 Worldwide Press Freedom Index (source: MSI 2007).

References:

Media Sustainability Index (MSI) Africa, 2006- 2007, Ethiopia, Page 117. http://www.irex.org/programs/MSI_Africa/ethiopia.asp

100: Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

75:

50: Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

25:

0: Editors and journalists are widely known to sell” favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | **25** | 0

Comments:

VOA describes the fear that Assistant Secretary of State for Democracy and Human Rights, David Kramer, has for the Ethiopia media, relating it to the April election earlier this year and the media law that was passed.

The 2005 election was one of the successes the current government achieved on this issue up until the last day of the election. The political parties got relatively better media coverage (better than before). However, after the day of the election results being announced, the political situation got worse and coverage remained skewed. The 2005 election cycle is also beyond the study period for this assessment.

References:

Voice of America, by Peter Heinlein, Addis Ababa, October 21, 2008.

100: All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

75:

50: Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

25:

0: The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

Comments:

The VOA describes the fear that Assistant Secretary of State for Democracy and Human Rights, David Kramer, has for the Ethiopia media, relating it to the April election earlier this year and the media law that was passed.

The 2005 election was one of the successes the current government achieved on this issue up until the last day of the election. The political parties got relatively better media coverage (better than before). However, after the day of the election results being announced, the political situation got worse and coverage remained skewed. The 2005 election cycle is also beyond the study period for this assessment.

References:

Voice of America: US Says Draft Ethiopian NGO Law Would 'Close Political Space,' by Peter Heinlein, Addis Ababa, October 21, 2008.

Addis Neger newspaper, Saturday, July 19, 2007, Addis Ababa.

100: The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

75:

50: The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

11. Are journalists safe when investigating corruption?

33

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | **NO**

Comments:

According to the reports, two independent journalists have been arrested and temporarily incarcerated. One of them was charged after he interviewed the lawyer of a famous pop star currently on trial and the other on defamation charges for covering a labor dispute between employees and a brewery (Dashen Brewery), which is owned by the ruling party.

Reporters Without Borders in its 2008 report stated the case of Abraham Reta, a journalist on the privately-owned weekly Addis Admas. He was charged with defamation in May 2006 for an article published in 2002, when he was editor of the weekly Ruh. He was first arrested in April 2006 and served a three-month jail sentence before being released on bail while awaiting the outcome of his appeal. After several hearings at which Reta pleaded not guilty and was forced to reveal the source of his article, he was sent back to prison to serve the last nine months of his sentence.

References:

1. East and Horn of Africa Human Rights Defenders Project, presentation by Mr. Hassan Shire Sheikh, Chairperson of the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net), September 18, 2008, Draft NGO Law in Ethiopia: A Threat to Civil Society Action.
2. Addis Neger, Saturday, August 30, 2008, on the arrest of journalists covering pop star, Tedy Afro.
3. Reporters Without Borders, Annual Report 2008: Ethiopia. http://www.rsf.org/article.php3?id_article=25387

YES: A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

NO: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | **NO**

Comments:

1. A magazine journalist who was going to publish a report related to the case of the musician Tedy afro was assaulted, harmed, and taken to prison. The magazine was confiscated by the government policemen before it was distributed.
2. In this country to be a journalist is like moving through a war zone, reported Abebe Gelaw, owner of Addis Voice website.
3. The owner and editor of the Reporter newspaper was seriously harmed by unknown individuals. The case is still being investigated. However, it should be remembered that the incarceration and abuse comes after he reported the dispute between the Dashen Brewery, which is believed to be owned by the ruling party, and employees of the brewery.

References:

1. East and Horn of Africa Human Rights Defenders Project, Presentation by Mr. Hassan Shire Sheikh, Chairperson of the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net), September 18, 2008, Draft NGO Law in Ethiopia: a Threat to Civil Society Action.
2. Addis Neger, Saturday, August 30, 2008, on the arrest of a journalist covering the case of a pop star, Tedy Afro.
3. Reporter newspaper, Sunday November 2, 2008, and Wednesday, Nov 5, 2008, Page 1, on the attempted murder of the owner and editor of Reporter Newspaper.

YES: A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

NO: A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

Comments:

No documented cases of journalists being killed.

References:

Reporters Without Borders, Annual Report 2008: Ethiopia. http://www.rsf.org/article.php3?id_article=25387

Addis Neger, Saturday, August 30, 2008.

YES: A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

NO: A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

41 I-3. Public Access to Information

12. Do citizens have a legal right of access to information?

67

12a. In law, citizens have a right of access to government information and basic government records.

YES | NO

Comments:

The law guarantees freedom to seek, receive and impart information of all kinds, regardless of frontiers, orally, in writing, in print, in the form of art, or through any medium. For the press and mass media, the law grants access to information of public interest.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 29, Sub-Article 2, 3 and 4. <http://www.federalsupremecourt.gov.et/Negarit%20Gazeta/home22.htm>

YES: A YES score is earned if there is a formal right to access government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

NO: A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | NO

Comments:

Sub-Article 5 of Article 29 states that any citizen who violates any legal limitations on the exercise of the rights of thought, opinion and expression (which are listed in Sub- Article 1, 2, 3, and 4 of Article 29) may be held liable under the law. Article 37, on the other hand, guarantees everyone the right to bring a justifiable matter to, and to obtain a decision or judgment by a court of law or any other competent body with judicial power.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 29, Sub-Article 5 and Article 37 (right to justice).

<http://www.federalssupremecourt.gov.et/Negarit%20Gazeta/home22.htm>

YES: A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

NO: A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

YES | NO

Comments:

There is no mechanism through which citizens can request government records. Access to public information by private media is not easy as well. There is no access to public information and there are a number of laws in place to protect this information, like the Public Secrecy Act.

References:

Media Sustainability Index (MSI), Africa, Ethiopia 2006 and 2007.

http://www.irex.org/programs/MSI_Africa/ethiopia.asp

YES: A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

NO: A NO score is earned if there is no such formal mechanism or institution.

13. Is the right of access to information effective?

20

13a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Responses to access to information requests take a long time. Sometimes, a person may wait a long time and then discover that the information or the record requested does not exist. Records as well as responses to requests for records are mostly very difficult to get, especially when the information is politically sensitive.

References:

1. Anonymous, Ministry of Revenue expert, Planning and Research Department, October 2, 2008, Addis Ababa.
2. Sahr Kpundeh and Gilbert M. Khadiagala, 2008 Information Access, Governance, and Service Delivery in Key Sectors: Themes and Lessons from Kenya and Ethiopia, World Bank Public Sector Governance, No. 121.

100: Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

75:

50: Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

25:

0: Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The research document reported the following problems as the main ones for access to information: the absence of specific legislation governing public access to government information, a lack of institutionalization of government information access, a lack of awareness and training on the part of public relations/information officers about their duty to inform the public and a culture of secrecy.

References:

1. Mr. XXX, Ministry of Revenue expert, Planning and Research Department, October 2, 2008, Addis Ababa.
2. Amogne, G., 2005, Public Access to Government Information in Ethiopia: An Assessment of Public Information Practice in Selected Government Institutions, MA thesis (unpublished), School of Journalism and Communication, Addis Ababa University.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

13c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The research document reported the following problems as the main ones for access to information: the absence of specific legislation governing public access to government information, a lack of institutionalization of government information access, a lack of awareness and training on the part of public relations/information officers about their duty to inform the public and a culture of secrecy.

References:

1. Sahr Kpundeh and Gilbert M. Khadiagala, 2008, Information Access, Governance, and Service Delivery in Key Sectors: Themes and Lessons from Kenya and Ethiopia, World Bank Public Sector Governance, No. 121.
2. Amogne, G., 2005, Public Access to Government Information in Ethiopia: An Assessment of Public Information Practice in Selected Government Institutions, MA thesis (unpublished), School of Journalism and Communication, Addis Ababa University.

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The research document reported the following problems as the main ones for access to information: the absence of specific legislation governing public access to government information, a lack of institutionalization of government information access, a lack of awareness and training on the part of public relations/information officers about their duty to inform the public and a culture of secrecy.

References:

1. Mr. XXX, Ministry of Revenue expert, Planning and Research Department, October 2, 2008, Addis Ababa.
1. Sahr Kpundeh and Gilbert M. Khadiagala, 2008, Information Access, Governance, and Service Delivery in Key Sectors:

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

25:

0: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13e. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

Comments:

The government does not regularly give reasons for denying an information request.

References:

1. Mr. XXX, Ministry of Revenue expert, Planning and Research Department, October 2, 2008, Addis Ababa.
2. Amogne, G., 2005, Public Access to Government Information in Ethiopia: An Assessment of Public Information Practice in Selected Government Institutions, MA thesis (unpublished), School of Journalism and Communication, Addis Ababa University.

100: The government always discloses to the requestor the specific, formal reasons for denying information requests.

75:

50: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

25:

0: The government does not regularly give reasons for denying an information request to the requestor.

14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

Comments:

The proclamation states that any election shall be conducted on the basis of universal suffrage and by direct and a secret ballot through which the electors express their consent freely without discrimination and with equal participation.

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, Page 3754, Chapter One, Proc. No. 26/1.

YES: A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

NO: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

Comments:

The proc. puts clearly that general election to the house of peoples representatives or state councils conducted every five year .

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, Page 3754, Chapter One, Proc. No. 28/1.

YES: A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

NO: A NO score is earned if no such framework exists.

15. Can all citizens exercise their right to vote?

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

References:

Walta Information, April 15, 2008, Ethiopia, Another Election, Another Victory for Democracy, by Moges Bezabih. [http://www.waltainfo.com/CurrentIssues/2008/Apr/election\[1\].htm](http://www.waltainfo.com/CurrentIssues/2008/Apr/election[1].htm)

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:

0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

Comments:

During the April 2008 the Ethiopian government did not allow NGOs to monitor the election. VOA describes the fear that Assistant Secretary of State for Democracy and Human Rights David Kramer has on the April election earlier this year and the media law that was passed. Similarly, during the 2005 election The EU EOM expressed its disappointment on the decision of the National Election Board of Ethiopia to bar local election observers.

References:

1. Wondwosen Teshome B., Spring 2008, International Election Observers in Africa: The Case of Ethiopia, Turkish Journal of International Relations, Volume 7, Number 1.
2. Voice of America, US Says Draft Ethiopian NGO Law Would 'Close Political Space.' by Peter Heinlein, Addis Ababa, 21 October 2008.
3. East and Horn of Africa Human Rights Defenders Project, presentation by Mr. Hassan Shire Sheikh, Chairperson of the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net), September 18, 2008, Draft NGO Law in Ethiopia: A Threat to Civil Society Action.

100: Ballots are secret, or there is a functional equivalent protection, in all cases.

75:

50: Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

References:

Walta Information, April 15, 2008, Ethiopia, Another Election, Another Victory for Democracy, by Moges Bezabih. [http://www.waltainfo.com/CurrentIssues/2008/Apr/election\[1\].htm](http://www.waltainfo.com/CurrentIssues/2008/Apr/election[1].htm)

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:

50: Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

25:

0: Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

16. Are citizens able to participate equally in the political process?

50

16a. In law, all citizens have a right to form political parties.

YES | NO

Comments:

Article 38, The Right to Vote and to be Elected:

Every Ethiopian national, without any discrimination based on color, race, nationality, sex, language, religion, political or other opinion or other status, has the following rights: To take part in the conduct of public affairs, directly and through freely chosen representatives;

Elections to positions of responsibility within any of the organizations referred to under Sub-Article 2 of this article shall be conducted in a free and democratic manner

References:

1. Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, Page 3754, Chapter Three, Proc. No. 45/1.
2. Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Part Two, Democratic Rights, Article 38, The Right to Vote and to be Elected.

YES: A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

NO: A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

YES | NO

Comments:

The law states that any person has a right to run for political office if he is an Ethiopian.

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, Page 3754, Chapter Three, Proc. No. 45/1.

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

NO: A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

Comments:

Although all citizens have a right to form political parties, there are high barriers to their formation. The formation of one of the strongest opposition parties, Unity for Democracy and Justice, was not as smooth as it should have been. It took more than a year to form the party. If it had not been for the persistence of its leaders, the party may not have been formed. Some parties, such as Ginbot 7, formed outside Ethiopia because of fear of threats and arrest from the ruling party. Formation of parties is easy only for those parties that have some official or unofficial relationship with the ruling party, such as EPRDF.

References:

Anonymous researcher, International Food and Population Research Institute (IFPRI), MTID Division, October 29, 2008, Addis Ababa.

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

Comments:

The government-owned media, ENA, reported the withdrawal of two opposition parties, Oromo Federalist Democratic Movement (OFDM) and Hebrat, from the election process.

References:

1. The Ethiopian News Agency (ENA), April 16, 2008, statement by OFDM to boycott elections called shameful, per the NEBE (National Election Board of Ethiopia). <http://www.ena.gov.et/EnglishNews/2008/Apr/16Apr08/55600.htm>
2. Voice of America, US Says Draft Ethiopian NGO Law Would 'Close Political Space,' by Peter Heinlein, Addis Ababa, October 21, 2008.

100: While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

75:

50: Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

25:

0: Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

Comments:

Opposition parties are represented in the legislature. However, top officials, including, Dr. Brehanu Nega, elected Mayor of Addis; Eng. Hailu Shawel; Birtukan Mideksa and other top officials of the previous CUD or Kinijit party are not in the parliament. Even those who are in the parliament are like a lion without teeth for the simple reason that the parliament is totally controlled by the ruling party. For some opposition party participants, like Ato Bulcha Demeksa, Dr. Negso Gidada and others, it has become an annoying place since, chances are rarely given to them to express their ideas and arguments.

References:

1. Awramba Times, October 21, 2008, "Using the Legislating Power" by Dawit Kebede, main editor, Adiss Ababa.
2. Reporter newspaper, Oct 26, 2008.

100: The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

75:

50: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

25:

0: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

II-2. Election Integrity

18. Is the election monitoring agency effective?

45

18a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

Comments:

The article states the establishment of a National Election Board, independent of any influence, to conduct in an impartial manner free and fair elections in Federal and State Constituencies..

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 102

YES: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

Though the constitution states that members of the Board are appointed by the House of Peoples' Representatives upon recommendation of the Prime Minister, in practice they are appointed by the Prime minister and because of that they are loyal to the ruling party. This affects decisions in situations that would benefit from an independent body.

References:

Fortune, Vol. 9, No. 417, April 27, 2008, Page 23 and Page 31, Addis Abba.

Interview with three people who wish to be anonymous, Nov 22, 2008, Addis Ababa: 1) a researcher, International Livestock Research Institute, 2) an economist, independent consultant, and 3) a marketing officer, Ethiopian Airlines.

The Constitution of the Federal Democratic Republic of Ethiopia.

100: Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The agency has a full-time staff, but without necessary qualifications to fulfill its mandate.

References:

Anonymous, Ministry of Revenue expert, Planning and Research Department, Oct 2, 2008, Addis Ababa.

100: The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

75:

50: The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

Comments:

The agency reports issues of no value, as in the case of the 2008 local council election. However, there are delays in issues that have big value with the public. A good example is the case of the 2005 election. The 2008 elections were not contested heavily by opposition parties.

References:

Walta Information, April 15, 2008, Ethiopia, Another Election, Another Victory for Democracy, by Moges Bezabih. [http://www.waltainfo.com/CurrentIssues/2008/Apr/election\[1\].htm](http://www.waltainfo.com/CurrentIssues/2008/Apr/election[1].htm)

100: Reports are released to the public on a predictable schedule, without exceptions.

75:

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25:

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The two government-owned news agencies reported the boycott of two opposition parties that participated during the April local council elections. They declared that they were boycotted from the election due to harassment of candidates and unfavorable laws by the National Election Board (NEBE). However, NEBE did not take measures to rectify the situation, but instead attacked the opposition parties.

References:

1. The Ethiopian News Agency, April 16 2008, in a statement by the OFDM to boycott elections that were called shameful, per the NEBE. <http://www.ena.gov.et/EnglishNews/2008/Apr/16Apr08/55600.htm>
2. Walta Information Center, Addis Ababa, Ethiopia, April 18, 2008, EPRDF and Election 2008, by Mesfin Shferaw.

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

19. Are elections systems transparent and effective?

50

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

Comments:

Some cases of ghost voting could exist, especially due to a doubt about the number of voters in 2008 (26 million), which does not seem true for many people after the distaste from the 2005 election.

References:

1. Walta Information Center, Addis Ababa, Ethiopia, April 18, 2008, EPRDF and Election 2008, by Mesfin Shferaw.
2. The Ethiopian News Agency, April 16 2008, in a statement by the OFDM to boycott elections that were called shameful, per the NEBE. <http://www.ena.gov.et/EnglishNews/2008/Apr/16Apr08/55600.htm>
3. Dr. XX, lecturer, Addis Ababa University, Nov 3, 2008, Addis Ababa.
4. AU, EU, and Carter Center Report on the 2005 election.

100: There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

75:

50: There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

25:

0: The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost” voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

YES | NO

Comments:

In law, any political organization or private candidate or representative who has complaints on the vote counting or results may get his complaint recorded at the polling station s grievance hearing committee and may submit the same complaint to the constituents grievance hearing committee within 48 hours.

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754, Proc. No.96/1.

YES: A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

NO: A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

The report states that there is no independent judiciary system in Ethiopia that allows for litigation or a fair trial.

References:

East and Horn of Africa Human Rights Defenders Project, presentation by Mr. Hassan Shire Sheikh, Chairperson of the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net), September 18, 2008, Draft NGO Law in Ethiopia: A Threat to Civil Society Action.

100: The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

75:

50: The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

25:

0: The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

Comments:

The killings of 193 people in the 2005 election and harassment of the opposition party that was boycotted during the 2008 election are good examples of the military or other security forces overly supporting the ruling party.

References:

1. Human Rights Watch World Report 2008, Ethiopia, Ethiopia events of 2007.
<http://hrw.org/englishwr2k8/docs/2008/01/31/ethiop17755.htm>
2. Wondwosen Teshome B., Spring 2008, International Election Observers in Africa: The Case of Ethiopia, Turkish Journal of International Relations, Volume 7, Number 1.

100: The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

75:

50: The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

25:

0: The military or other security forces are an active and explicit player in politics and overly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

Comments:

The law states that interested domestic and foreign election observers may observe the election process up to the issuance of a license.

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754, Chapter 7, Proc. No. 78/1&2.

YES: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

NO: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

Comments:

During the 2007/08 local council elections, the Ethiopian government did not allow international observers to monitor the elections, reasoning that the election was only for local elections (see the interview of Ato Bereket Simon, advisor to the Prime Minister, with Fortune newspaper).

The government also did not allow NGOs to monitor the election.

References:

Fortune, Vol. 9, No. 417, April 27, 2008, Page 23 and Page 31, Addis Abba.

East and Horn of Africa Human Rights Defenders Project, presentation by Mr. Hassan Shire Sheikh, Chairperson of the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net), September 18, 2008, Draft NGO Law in Ethiopia: A Threat to Civil Society Action.

Wondwosen Teshome B., Spring 2008, International Election Observers in Africa: The Case of Ethiopia, Turkish Journal of International Relations, Volume 7, Number 1.

100: Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

75:

50: Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

25:

0: Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

17. Is there an election monitoring agency or set of election monitoring agencies/entities?

100

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

Comments:**Powers and Duties of the Board**

1. The Board shall have the following powers and duties:

- a) to conduct any election carried out in accordance with the supreme law of the country and this Proclamation;
- b) to issue regulations and directives necessary for conducting elections as under this Proclamation and ascertain the implementation thereof;
- c) to prepare and distribute documents and provisions necessary for conducting elections;
- d) to widely provide to the public civic education relating to elections;
- e) to organize electoral offices necessary for conducting election with independent professional manpower and trained its electoral officers;
- f) to analyze the conduct of elections held from time to time, cause studies to be carried out, collect and compile statistical data;
- g) to submit, to the House of People s Representatives or its successor, recommendations concerning improvements on electoral conduct where it finds it necessary;
- h) to investigate, cancel election results and order re-election and to create conducive environment for bringing perpetrators before the court of law, where it has received information about violation of implementing directives, fraudulent act or disturbance of peace and order of such magnitude and type which would create irregularities in the process of conducting election in accordance with the Proclamation from political organizations campaigning for election, observers or electoral officers and has verified its tangibility or has been convinced that an offence has been committed;
- i) to rectify electoral irregularities and decide on complaints submitted to it in accordance with stipulation made under this Proclamation;
- j) to confirm electoral results and officially announce same;
- k) to prepare and submit its budget and utilize same upon approval;
- l) to submit, to the House of People s Representatives or its successor, periodic reports on its activities;

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, Page 3754, Chapter One, Proc. No. 1; Chapter Seven, Proc. No. 78/1.

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

NO: A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

65
II-3. Political Financing

20. Are there regulations governing the financing of political parties?

43

20a. In law, there are regulations governing private contributions to political parties.

YES | NO

Comments:

Proclamation 46/1993 states that the source of finance of a political party shall be:

1. Membership dues collected from members
2. Subsidy and grants from the government
3. Donations from others

Prohibited Donations are acceptance by a political party of donations or grants from:

1. Foreign nationals
2. Foreign governments or foreign political parties
3. Welfare organizations
4. Religious organizations
5. Prisoners of laws

References:

Proclamation No. 46/1993, Political Parties Registration Proclamation, Part Five, Source of Income and Property Affairs of Political Parties, Article 27.

Proclamation No. 82/1994, Proclamation to Provide for the Amendment of the Political Parties Registration, Proclamation No. 46/1993.

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

YES: A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to political parties, including prohibitions against foreign donations.

NO: A NO score is earned if there is no regulation of private contributions to political parties.

20b. In law, there are limits on individual donations to political parties.

YES | NO

References:

Proclamation No. 46/1993, Political Parties Registration Proclamation, Part Five, Source of Income and Property Affairs of Political Parties, Article 27.

Proclamation No. 82/1994, Proclamation to Provide for the Amendment of the Political Parties Registration, Proclamation No. 46/1993.

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754, Chapter Three, Proc No. 45/1.

YES: A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20c. In law, there are limits on corporate donations to political parties.

YES | **NO**

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754, Chapter Three, Proc No. 45/1.

Consolidated version of the election laws of FDR of Ethiopia, Proclamation No. 111/1995, to ensure the conformity of the electoral laws of Ethiopia with the constitution of the Federal Democratic Republic of Ethiopia.

Amendments made by Proclamation No. 438/2005 to provide for the amendment of the proclamation to make electoral laws of Ethiopia conform with the constitution of the Federal Democratic Republic of Ethiopia.

YES: A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are limits on total political party expenditures.

YES | **NO**

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

YES: A YES score is earned if there are any limits in size on political party expenditures. A YES score is earned if all party expenditures are prohibited.

NO: A NO score is earned if there are no limits on political party expenditures. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20e. In law, there are requirements for the disclosure of donations to political parties.

YES | NO

Comments:

Articles 54, 52 and 19 of Proclamation No. 573/2000 state that political parties are required to disclose their source of income and donation.

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

Proclamation No. 46/1993, Political Parties Registration Proclamation, Part Five, Source of Income and Property Affairs of Political Parties, Article 27.

Proclamation No. 82/1994, Proclamation to Provide for the Amendment of the Political Parties Registration, Proclamation No. 46/1993.

Proclamation No. 573/2000 (Ethiopian calendar), Political party Registration

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

20f. In law, there are requirements for the independent auditing of the finances and expenditures of political parties.

YES | **NO**

Comments:

Part Seven, Accounts and Auditing

Books of Account:

1. Every political party shall establish accounting procedures relating to its revenues and expenditures.
2. The procedures of accounts of revenues and expenditures of every political party shall be in accordance with generally accepted practices of accounting.
3. Every member of a political party may inspect at any time the books of account of a political party of which he is a member without causing hindrance to its activities.
4. Every political party shall have the responsibility of proving to the government that its expenditures are applied to advance its political objectives.

Annual Financial Reports:

Every political party shall prepare and officially issue annual financial reports. Such annual financial reports shall be audited and accepted by auditors pursuant to the orders of the Office of Registration.

References:

Proclamation No. 46/1993, Political Parties Registration Proclamation, Part Five, Source of Income and Property Affairs of Political Parties, Article 27.

Proclamation No. 82/1994, Proclamation to Provide for the Amendment of the Political Parties Registration, Proclamation No. 46/1993.

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties' finances and expenditures or if such requirements exist but allow for parties to self-audit.

20g. In law, there is an agency or entity that monitors the financing of political parties.

YES | **NO**

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

Proclamation No. 46/1993, Political Parties Registration Proclamation, Part Five, Source of Income and Property Affairs of Political Parties, Article 27.

Proclamation No. 82/1994, Proclamation to Provide for the Amendment of the Political Parties Registration, Proclamation No. 46/1993.

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity.

21. Are there regulations governing the financing of individual political candidates?

0

21a. In law, there are regulations governing private contributions to individual political candidates.

YES | **NO**

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

Proclamation No. 46/1993, Political Parties Registration Proclamation, Part Five, Source of Income and Property Affairs of Political Parties, Article 27.

Proclamation No. 82/1994, Proclamation to Provide for the Amendment of the Political Parties Registration, Proclamation No. 46/1993.

YES: A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to individual political candidates, including prohibitions against foreign donations.

NO: A NO score is earned if there is no regulation of private contributions to individual political candidates.

21b. In law, there are limits on individual donations to political candidates.

YES | **NO**

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

Proclamation No. 46/1993, Political Parties Registration Proclamation, Part Five, Source of Income and Property Affairs of Political Parties, Article 27.

Proclamation No. 82/1994, Proclamation to Provide for the Amendment of the Political Parties Registration, Proclamation No. 46/1993.

YES: A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21c. In law, there are limits on corporate donations to individual political candidates.

YES | **NO**

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

Proclamation No. 46/1993, Political Parties Registration Proclamation, Part Five, Source of Income and Property Affairs of Political Parties, Article 27.

Proclamation No. 82/1994, Proclamation to Provide for the Amendment of the Political Parties Registration, Proclamation No. 46/1993.

YES: A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to individual political candidates. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21d. In law, there are requirements for the disclosure of donations to individual political candidates.

YES | **NO**

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

Proclamation No. 46/1993, Political Parties Registration Proclamation, Part Five, Source of Income and Property Affairs of Political Parties, Article 27.

Proclamation No. 82/1994, Proclamation to Provide for the Amendment of the Political Parties Registration, Proclamation No. 46/1993.

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to individual political candidates.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

21e. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates.

YES | **NO**

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

Proclamation No. 46/1993, Political Parties Registration Proclamation, Part Five, Source of Income and Property Affairs of Political Parties, Article 27.

Proclamation No. 82/1994, Proclamation to Provide for the Amendment of the Political Parties Registration, Proclamation No. 46/1993.

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate's campaign finances and expenditures or if such requirements exist but allow for candidates to self-audit.

21f. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

YES | **NO**

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

Proclamation No. 46/1993, Political Parties Registration Proclamation, Part Five, Source of Income and Property Affairs of Political Parties, Article 27.

Proclamation No. 82/1994, Proclamation to Provide for the Amendment of the Political Parties Registration, Proclamation No. 46/1993.

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity.

22. Are the regulations governing the political financing of parties effective?

4

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | **0**

Comments:

No limit to individual's ability to financially support political party.

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which individuals can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

Comments:

No limits to a company's ability to financially support a political party.

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which companies can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to political parties are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

100: Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | 50 | 25 | 0

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

Comments:

See the case of the audit report of the old Kinjit party.

References:

Fortune newspaper

Reporter newspaper

Adiss Admas newspaper

100: Political party finances are regularly audited using generally accepted auditing practices. This includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

23. Are the regulations governing the political financing of individual candidates effective?

0

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754

100: Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to individual candidates are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

23e. In practice, the finances of individual candidates' campaigns are audited.

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754

100: The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices.

75:

50: The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

25:

0: The finances of individual candidates' campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

24. Can citizens access records related to the financing of political parties?

25

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

Comments:

The newspapers reported the case of problem, which is related to the audit report of the old Kinijit party.

References:

Fortune newspaper,
Adiss Admas newspaper,
Reporter newspaper

100: Political parties disclose their sources of funding and expenditures at least every quarter.

75:

50: Political parties disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Political parties never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The newspapers reported the case of the problem related to the audit report of the old Kinijit political party.

References:

Fortune newsletter
Reporter newsletter
Adiss Admas newsletter

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The newspapers reported the case of the problem related to the audit report of the old Kinijit political party.

References:

Fortune newsletter
Reporter newsletter
Adiss Admas newsletter

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

25. Can citizens access records related to the financing of individual candidates' campaigns?

0

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Individual candidates never publish their sources of funding or expenditures.

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754.

100: Individual candidates disclose their sources of funding and expenditures at least every quarter.

75:

50: Individual candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Individual candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, Proclamation No.532/2007, Amended Electoral Law of Ethiopia, Page 3754

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category III. Government Accountability

III-1. ⁴¹Executive Accountability

27. Can the chief executive be held accountable for his/her actions?

44

27a. In practice, the chief executive gives reasons for his/her policy decisions.

Comments:

The chief executive gives reason for policies when those policies tend to be contentious or when the government thinks there will be a condemnation from the international community. This is certainly the case for the extensive (if not palatable) rationale provided by the government for the controversial NGO law.

References:

1. Voice of America: US Says Draft Ethiopian NGO Law Would 'Close Political Space,' by Peter Heinlein, Addis Ababa, October 21, 2008.
2. The Observatory for the Protection of Human Rights Defenders, International Mission of Judicial Observation, Dec. 2006, Ethiopia: The Situation of Human Rights Defender From Bad to Worse.
3. Interview with a member of the Ethiopian Parliament, who wished to remain anonymous (January 2009).

100: The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

75:

50: The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

25:

0: The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

27b. In law, the judiciary can review the actions of the executive.

YES | NO

Comments:

The law states that the Federal Supreme Court has the highest and final judicial power over federal matters and the State Supreme Courts have the highest and final judicial power over state matters.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, No. 1, 1995, Article 80.

YES: A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

Comments:

The judiciary has rarely reviewed the actions of the Executive; its autonomous status is only nominal. The judiciary is totally under the order of the ruling party (EPRDF) to initiate any review and the result is known beforehand.

References:

East and Horn of Africa Human right Defenders Project, Presentation by Mr Hassan Shire Sheikh Chairperson of the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net), 18th September 2008, Draft NGO law in Ethiopia: a threat to civil society action

The Observatory for the Protection of Human Rights Defenders, International Mission of Judicial Observation, Dec. 2006, Ethiopia: The Situation of Human Rights Defender From Bad to Worse.

Interview with three people who wish to be anonymous, Nov 22, 2008, Addis Ababa:

1) International Livestock Research Institute, researcher, 2) Independent consultant, economist and 3) Ethiopian Airlines, Marketing officer.

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

75:

50: The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

Comments:

In Ethiopia, the Legislature is a nominal part in the government structure. As it has been the case for the past many years, the Chief Executive routinely abuses executive orders in many instances of government practices. Sometimes new policies and government practices seem to pass through the Legislature, however, it is known that decisions are already taken by the Chief Executive. The case of the decision to interfere in Somalia is one good example, where the decision to intervene was taken before the matter was brought before Parliament.

Other notable cases include the case of former Defense Minister Seye Abreha, who was charged with corruption. After the court released Abreha on bail, the Prime Minister issued a law within 24 hours that denied Seye s right to bail. This action contravened provisions of the Constitution of Ethiopia and other international conventions.

References:

Awramba Times, Oct 21, 2008, Amharic on the legislature,” by Dawit Kebede.

Interview with three people who wish to remain anonymous, Nov 22, 2008, Addis Ababa:

1) International Livestock Research Institute, researcher, 2) Independent consultant, economist and 3) Ethiopian Airlines, Marketing officer.

Sudan Tribune, What is New in the Empire State of Ethiopia by Yaadasaa Dafa, November 30 2008

The Observatory for the Protection of Human Rights Defenders, International Mission of Judicial Observation, 2006, Ethiopia: The Situation of Human Rights Defender from Bad to Worse.

100: The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

75:

50: The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

25:

0: The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

28. Is the executive leadership subject to criminal proceedings?

100

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | NO

Comments:

These articles state the independence of the judiciary, the power of the judiciary and concurrent jurisdiction of the courts.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 78, 79, and 80.

YES: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

Comments:

These articles state the independence of the judiciary, the power of the judiciary and concurrent jurisdiction of the courts.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 78, 79, and 80.

YES: A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

29. Are there regulations governing conflicts of interest by the executive branch?

16

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

Comments:

There is no law that requires heads of state to file asset disclosure forms. An asset disclosure= bill has made its way through the first stages of Parliamentary debate, however.

References:

Tesfaye Ashamibo, Team Leader of the Research and Planning Department, Federal Ethiopia Ethics and Anti-Corruption Agency, Addis Ababa, Ethiopia, November, 03, 2008, Addis Ababa

YES: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government is not required to disclose assets.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | NO

Comments:

So far, there is no law that requires ministers to file asset disclosure forms.

References:

Tesfaye Ashamibo, Team Leader of the Research and Planning Department, Federal Ethiopia Ethics and Anti-Corruption Agency, Addis Ababa, Ethiopia, November, 03, 2008, Addis Ababa.

YES: A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

NO: A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO

Comments:

Article 417, Taking Things of Value With or Without Inadequate Consideration:

(1) Any public servant who without proper cause receives a thing of value with or without adequate consideration, is punishable with simple imprisonment exceeding five years.

(2) Where the declaration or registration of property, financial status or gifts is required by law or regulations, failure to do so shall be punishable as prescribed under Sub-Article 1 of this Article.

Receiving a valuable gift considered by national or local culture or custom as a common manifestation of affection, or obtaining a gift from a close relative by consanguinity or affinity or by a close friend, does not constitute a crime under this Article.

References:

The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004.

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | NO

Comments:

There is no law regarding the independent auditing of Executive branch asset disclosures.

References:

Tesfaye Ashamibo, Team Leader of the Research and Planning Department, Federal Ethiopia Ethics and Anti-Corruption Agency, Addis Ababa, Ethiopia, November, 03, 2008, Addis Ababa.

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | NO

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

YES: A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if no such restrictions exist.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

100: The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off” period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

Comments:

Most of the corruption, particularly at the Executive level, is done under the guise of gifts and hospitality. It becomes common among the big businessmen to take gifts to members of the Executive Office, seeking to get favorable decisions.

According to the interview with a businessman, sometimes there are also persons who take bundles of *quat*, an herbal stimulant [editor’s note: a mild narcotic commonly used in and around the Horn of Africa] to the Prime Minister’s office to get a positive response to their cases.

References:

Interview with coffee exporter, who wishes to remain anonymous, November 25, 2008, Addis Ababa.

World Bank: Corruption in Ethiopia Phase 1 studies: Corruption in Construction: Final Report (2008).

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

Comments:

So far, there is no law that requires the Executive branch to file asset disclosure forms.

References:

Tesfaye Ashamibo, Team Leader of the Research and Planning Department, Federal Ethiopia Ethics and Anti-Corruption Agency, Addis Ababa, Ethiopia, November, 03, 2008, Addis Ababa.

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

30. Can citizens access the asset disclosure records of the heads of state and government?

0

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | NO

Comments:

There is no requirement for asset disclosure for either the head of state or the government.

References:

Tesfaye Ashamibo, Team Leader of the Research and Planning Department, Federal Ethiopia Ethics and Anti-Corruption Agency, Addis Ababa, Ethiopia, November, 03, 2008, Addis Ababa

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

YES: A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There is no law regarding filing asset-disclosure forms.

References:

Tesfaye Ashamibo, Team Leader of the Research and Planning Department, Federal Ethiopia Ethics and Anti-Corruption Agency, Addis Ababa, Ethiopia, November, 03, 2008, Addis Ababa.

Adiss Neger newspaper, November 2008, The Audit Report," by Zerihun Tesfaye .

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some additional delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There is no law that requires assets of government officials to be disclosed.

References:

Tesfaye Ashamibo, Team Leader of the Research and Planning Department, Federal Ethiopia Ethics and Anti-Corruption Agency, Addis Ababa, Ethiopia, November, 03, 2008, Addis Ababa.

Adiss Neger newspaper, November, 2008 The Audit Report" by Zerihun Tesfaye.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

26. Can citizens sue the government for infringement of their civil rights?

100

26. In law, can citizens sue the government for infringement of their civil rights?

YES | NO

Comments:

Article 37 guarantees everyone the right to bring a justifiable matter to, and to obtain a decision or judgment by, a court of law or any other competent body with judicial power.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 37.

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

NO: A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

31. Official government functions are kept separate and distinct from the functions of the ruling political party.

0

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

Comments:

The government and the ruling party are one and the same, in many instances.

References:

Interview with a member of the ruling party (EPRDF) who wishes to remain anonymous, October 5, 2008, Addis ababa.

100: Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

III-2. Legislative Accountability

32. Can members of the legislature be held accountable for their actions?

0

32a. In law, the judiciary can review laws passed by the legislature.

YES | **NO**

Comments:

The Article states the powers and functions of the House of the Federation:

1. The House has the power to interpret the constitution.
2. It shall organize the Council of Constitutional Inquiry.
3. It shall, in accordance with the constitution, decide on issues relating to the rights of nations, nationalities and peoples to self-determination, including the right to secession.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 62.

YES: A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

Comments:

The constitution empowers the House of the Federation to pass decisions regarding all constitutional disputes, aided by the Council of Constitutional Inquiry (CCI), which investigates constitutional disputes submitted to it.

References:

The Ethiopian Reporter, November 01, 2008, Report Assesses Judicial Independence in Ethiopia, By Bruck Shewareged. http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 62.

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

32c. In law, are members of the national legislature subject to criminal proceedings?

YES | NO

Comments:

Article 54, sub article 6 – No member of the House of Peoples Representatives may be arrested or prosecuted without the permission of the House except in the case of flagrante delicto.

Article 63, sub article 2- Members of the House of the Federation may be arrested or prosecuted with the permission of the House, except in cases of flagrante delicto. Given that the House controls the lifting of immunity, this is scored NO (per the scoring criteria for this indicator).

At least three members of parliament have had their immunity lifted on charges of theft, rape, and fraud respectively. One was found to be innocent.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 54 and 63.

Interview with a member of the Ethiopian Parliament (who wished to remain anonymous), January 2009, Addis Ababa.

YES: A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

NO: A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

33. Are there regulations governing conflicts of interest by members of the national legislature?

0

33a. In law, members of the national legislature are required to file an asset disclosure form.

YES | **NO**

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

YES: A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the legislature is not required to disclose assets.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | **NO**

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

YES: A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

YES | NO

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | NO

Comments:

There are no legal or regulatory requirements for the independent auditing of the Legislative branch's asset disclosures.

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

Comments:

They are allowed to work in any sector.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

100: The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to national legislators are routinely ignored and unenforced. Legislators routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

33g. In practice, national legislative branch asset disclosures are audited.

Comments:

Legislative branch assets are not audited unless there is suspected corruption.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 63.

Interview with a researcher on the Federal Ethics and Anti-Corruption Commission, who wishes to remain anonymous, October 29, 2009, Addis Ababa.

100: Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Legislative branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

34. Can citizens access the asset disclosure records of members of the national legislature?

0

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | **NO**

Comments:

There is no asset disclosure for members of the national legislature.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

YES: A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There is no asset disclosure for members of the national legislature.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No.1/1995.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There are no asset-disclosure records. Even if there were, it would be very difficult to access this information.

Business Anti-Corruption Portal reported: The state controls all broadcast media. Access to the media is very unequal throughout the country. The privately-owned press continues to criticize the government, but is constrained by low circulation, financial struggles, and the fact that the government owns all printing presses in the country and occasionally refuses to print private publications.

References:

Business Anti-Corruption Portal, Ethiopia profile.

<http://www.business-anti-corruption.com/normal.asp?pageid=212>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

35. Can citizens access legislative processes and documents?

92

35a. In law, citizens can access records of legislative processes and documents.

YES | NO

Comments:

The article states that any citizen has a right to seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art, or through and media of his choice.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 29.

YES: A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

NO: A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The parliamentary process is transmitted through the Ethiopian television and radio, including FM 97.1. Documents could easily be accessed unless they are politically sensitive.

References:

Adiss Neger newspaper, October 18, 2008, Day-to-Day Activity of the Parliament," Page 2.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The parliamentary process is transmitted through the Ethiopian television and radio stations. Documents could easily be accessed unless they are politically sensitive.

References:

Adiss Neger newspaper, October 18, 2008, "Day-to-Day Activity of the Parliament," Page 2.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

23
III-3. Judicial Accountability

36. Are judges appointed fairly?

75

36a. In law, there is a transparent procedure for selecting national-level judges.

YES | NO

Comments:

Appointment of Judges:

The President and Vice-President of the Federal Supreme Court are appointed by the House of Peoples Representatives, upon recommendation by the Prime Minister. Regarding other federal judges, the Prime Minister submits to the House of Peoples' Representatives candidates selected by the Federal Judicial Administration Council.

The State Council appoints the President and Vice-President of the State Supreme Court upon recommendation by the Chief Executive of the state. State Supreme and High Court judges are appointed by the State Council, upon recommendation by the State Judicial Administration Council. The State Judicial Administration Council, before submitting nominations to the State Council, has the responsibility to solicit and obtain the views of the Federal Judicial Administration Council on the nominees and to forward those views along with its recommendations.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 81, Appointment of Judges.

YES: A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

NO: A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

100 | 75 | 50 | 25 | 0

Comments:

The Business Anti-Corruption Portal argues that Ethiopia's judiciary is hampered by the fact that the executive can appoint and dismiss court officials at will, while judges who voice opinions contrary to the Executive have been dismissed or passed over for promotion.

References:

Business Anti-Corruption Portal, Ethiopia Country profile.
<http://www.business-anti-corruption.com/normal.asp?pageid=212>

100: National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

75:

50: Most national-level judges selected meet these qualifications, with some exceptions.

25:

0: National-level judges are often unqualified due to lack of training or experience.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

Comments:

Article 74 states that the Prime minister selects and submits for approval to the House of Peoples' Representatives the nominations for posts of commissioners, the President and Vice-President of the Federal Supreme Court and the Auditor General.

Article 81 states the President and Vice-President of the Federal Supreme Court be appointed by the House of Peoples' Representatives, upon recommendation by the Prime Minister. Regarding other Federal judges, the Prime Minister submits to the House of Peoples' Representatives candidates selected by the Federal Judicial Administration Council.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 81 and 74.

YES: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency independent from the body appointing the judges.

NO: A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by a body directed by the body appointing the judges (such as review by the head of police if judges are appointed by the executive).

37. Can members of the judiciary be held accountable for their actions?

54

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 79.

YES: A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

NO: A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

Comments:

While judges may issue decisions regularly, the content of those decisions can leave much to be desired, especially in politically-linked cases.

The Ethiopian Reporter, citing the study by The National Judicial Institute for the Canadian International Development Agency on the Ethiopian judicial system, reported on the limited independence of the judges, which affects their decisions.

As the critical article in the Sudan Tribune argues, The judiciary is simply an appendage of the ruling party that exercises exclusive control over its budget to manipulate the administration of courts. The appointment, training, promotion, transfer, discipline, and tenure of judges and prosecutors are subject to heavy-handed manipulation by the regime to subvert the legal system to serve the political and economic interests of those in power.”

References:

The Ethiopian Reporter, November 1, 2008, Report Assesses Judicial Independence in Ethiopia, by Bruck Shewareged.
http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

Amnesty International Ethiopia Report 2008, 2007

Sudan Tribune What is New in the Empire State of Ethiopia by Yaadasaa Dafa on November 30 2008.

Negede Gobeze. The Constitution, Election and Democracy in Ethiopia, Amharic version. Research and Activity group for peace in Ethiopia and the horn of Africa, Washington DC. (2004).

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75:

50: Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

25:

0: Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

YES | NO

Comments:

Article 81, Sub-Article 6, states: Matters of the code of professional conduct and discipline as well as transfer of judges of any court shall be determined by the concerned Judicial Administration Council.

Article 79, Sub-Article 4, states: The Judicial Administration Council can decide to remove judges from duties for violation of disciplinary rules or gross incompetence or inefficiency.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 79, Sub-Article 4 and Article 81, Sub-Article 6.

YES: A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary.

NO: A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

YES | **NO**

Comments:

Though the objective of Proclamation No. 24/1996 is to establish the Judicial Administration Council in a way free from the influence of government organs, no article in the proclamation clearly states that the Judicial Administration Council is explicitly protected from political interference.

References:

The Constitution of the Federal Democratic Republic of Ethiopia

Proclamation No. 1/1995, Article 78.

Proclamation No. 24/1996

YES: A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

NO: A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an inherently subordinate organization, such as an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | **25** | 0

Comments:

The Judicial Administration Council, by itself, has rarely initiated investigations; investigations usually are initiated by the ruling party.

References:

The Ethiopian Reporter, November 1, 2008, Report Assesses Judicial Independence in Ethiopia, by Bruck Shewareged.
http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

Proclamation No. 24/1996 Federal Judicial Administration Commission Establishment proclamation 2nd year No. 12

Amnesty International Ethiopia Reports 2008, 2007

Interview with the Secretariat of the Judicial Administration Commission, January 2009, Addis Ababa.

Addis Neger: Appointment of Judges,” by Masresha Mamo, January 24, 2009

Sudan Tribune What is New in the Empire State of Ethiopia by Yaadasaa Dafa on November 30 2008.

Negede Gobeze. The Constitution, Election and Democracy in Ethiopia,” Amharic version. Research and Activity group for peace in Ethiopia and the horn of Africa, Washington DC (20004).

100: The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies’ investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

75:

50: The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

25:

0: The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies’ investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | **25** | 0

Comments:

The Judicial Administration Council, first of all, does not investigate cases independently. The government leads the investigation in a way that suits its politics. Second, penalties on offenders depend on how the government wants to handle the issue.

References:

Interview with three people who wish to be anonymous, Nov 22, 2008, Addis Ababa:

1) International Livestock Research Institute, researcher, 2) Independent consultant, economist and 3) Ethiopian Airlines, marketing officer.

The Ethiopian Reporter, November 1, 2008, Report Assesses Judicial Independence in Ethiopia, by Bruck Shewareged.

http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

Proclamation No. 24/1996 Federal Judicial Administration Commission Establishment proclamation 2nd year No. 12

Amnesty International Ethiopia Reports 2008, 2007

Interview with the Secretariat of the Judicial Administration Commission, January 2009, Addis Ababa.

Addis Neger: Appointment of Judges,” by Masresha Mamo, January 24, 2009

Negede Gobeze. "The Constitution, Election and Democracy in Ethiopia," Amharic version. Research and Activity group for peace in Ethiopia and the horn of Africa, Washington DC (20004).

100: When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

38. Are there regulations governing conflicts of interest for the national-level judiciary?

0

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

YES | **NO**

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

YES: A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | **NO**

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

YES | **NO**

Comments:

There are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures.

References:

The The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

YES | **NO**

Comments:

No restrictions exist for national-level judges entering any sector after leaving the government office.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

YES: A YES score is earned if there are regulations restricting national-level judges' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | 0

Comments:

There are no restrictions for national-level judges entering any sector after leaving the government offices.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

100: The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the national-level judiciary are routinely ignored and unenforced. Judges routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

38g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

100: National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: National-level judiciary asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

39. Can citizens access the asset disclosure records of members of the national-level judiciary?

0

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

YES | NO

Comments:

There is no asset disclosure required for members of the national-level judiciary.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

YES: A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

III-4. Budget Processes

40. Can the legislature provide input to the national budget?

50

40a. In law, the legislature can amend the budget.

YES | NO

Comments:

The article states the Legislature shall levy taxes and duties on revenue sources reserved for the Federal government and shall ratify the federal budget.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 55, Sub-Article 11.

YES: A YES score is earned if the legislature has the power to add or remove items to the national government budget.

NO: A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

Comments:

The Legislature in most cases is very ineffective.

Per the PEFA report, The Budget and Finance Standing Committee carries out a review of the recommended budget. There is no evidence of existing written procedures for the review. Overall the legislature has about one month to review the recommended

budget. Supplementary budgets (or in-year budget amendment) can be authorized by the House of Peoples Representatives on the recommendation of the Council of Ministers. The rules that allow such amendments are rudimentary.”

References:

Awramba Times, October 21, 2008, About the Legislature,” by Dawit Kebede.

Adiss Neger newspaper, October 18, 2008, The Activity of the Parliament” by Zerihun Tesfaye.

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

100: All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

75:

50: Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive’s personal budget, or other expenses.

25:

0: The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

Comments:

One-party dominance, along with lack of qualified staff, is the main problems that crippled the performance of the Legislature. Although the executive reports to the legislature, the latter lacks the capacity to follow up.

The PEFA report notes. The Budget and Finance Standing Committee carries out a review [of the government’s draft budget]. There is no evidence of existing written procedures for the review.”

References:

Awramba Times, October 21, 2008, The Role of the Legislators,” by Dawit Kebede.

Adiss Neger newspaper, October 18, 2008, The Activity of the Parliament” by Zerihun Tesfaye.

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

100: Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

75:

50: Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

25:

0: Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

41. Can citizens access the national budgetary process?

58

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

Comments:

Budget debates are transmitted through government media.

References:

Adiss Neger, November 8, 2008, by Masresha Mamo, Page 7.

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:

50: There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

25:

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

Comments:

Though parliamentary budget debates are open to the public, very little budget information is accessible to the public during the budget drafting phase for scrutiny ahead of time. In parliament, civil society participation during budget hearings is limited to giving feedback or raising questions which may or may not be incorporated.

References:

Adiss Neger, November 8, 2008, by Zerihun Tesfaye, Page 6, and by Maseresha Mamo, Page 7.

Interview with a Member of the Ethiopian Parliament who wished to remain anonymous.

Elizabeth Mekonnen, Does the Ethiopian Budget encourage participation? A Preliminary Assessment.” The African Child Policy Forum (2005). Website: www.africanchildforum.org

100: Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

75:

50: Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or CSOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | **50** | 25 | 0

Comments:

Citizens, journalists and CSOs can theoretically access itemized lists of budget allocations; the information could be transmitted through the state-owned television and radio stations during the parliamentary meeting on the budget. In addition to publications by the Ministry of Finance and Economy and the National Bank of Ethiopia, newspapers could also publish the itemized budgets.

But overall, as the PEFA report notes, The public has no access to key fiscal information although a culture of information sharing and downward accountability is currently under-developed in Ethiopia...The public cannot [also] not obtain a set of the annual budget document when it is submitted to the Legislature. The public has no access to the In-year budget execution reports. However the MOFED website (www.mofed.org) provides quarterly information on the executed budget. Although this information is useful, it is NOT made routinely available within one month of its completion.”

With regard to ongoing budgetary reporting, the PEFA report also notes that, “At the Federal level [ministries] report monthly on their executed budgets to the appropriate department at MOFED. Once every three months, the monthly reports are consolidated in a report covering the previous quarter. These reports are not available in English.”

References:

National Bank bulletin and report, 2008, of the Ministry of Finance and Economy.

Adiss Neger, Nov 8, 2008, by Zerihun Tesfaye, Page 6, and by Maseresha Mamo, Page 7

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain)..

100: Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

43. Is the legislative committee overseeing the expenditure of public funds effective?

50

43a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

Comments:

Departments submit reports to this committee; however, since the committee has limited qualified staff and capacity, the reports are not well received or acted upon.

References:

Interview with Ato Solomon, member of the Ethiopian parliament, November 25, 2008.

100: Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

75:

50: Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

25:

0: There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

Comments:

A member of the opposition has chaired the Public Accounts Committee (PAC). The Budget Committee is controlled by the ruling party.

References:

Adiss Neger, November 08, 2008, by Zerihun Tesfaye, Page 6, and by Maseresha Mamo, Page 7.

Awramba Times, October 21, 2008, "The Role of the Legislators," by Dawit Kebede.

Adiss Neger, October 18, 2008, "The Activity of the Parliament," by Zerihun Tesfaye.

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

100: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

75:

50: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

25:

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | **25** | 0

Comments:

The investigation on the General Auditor's report of excessive borrowing by the government has reported the case as a misinterpretation of the law, which, according to the newspapers, shows the ineffectiveness of the committee.

As the PEFA report notes, The Public Accounts Committee (PAC) of the House of Peoples' Representatives reviews [audit] report[s] in open session. Such sessions are widely reported in the media. The PAC, working through the OFAG, to a limited degree, sometimes follows up recommendations at a later date...[Such sessions] are not systematic due to limited capacity...the PAC looks at recommendations but in practice they are not acted upon by the executive."

References:

Adiss Neger, November 08, 2008, by Zerihun Tesfaye, Page 6, and by Maseresha Mamo, Page 7.

Awramba Times, Oct 21, 2008, "The Role of the Legislators," by Dawit Kebede.

Adiss Neger, October 18, 2008, "The activity of the Parliament," by Zerihun Tesfaye.

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

100: When irregularities are discovered, the committee is aggressive in investigating the government.

75:

50: The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

42. Is there a separate legislative committee which provides oversight of public funds?

100

42. In law, is there a separate legislative committee which provides oversight of public funds?

YES | NO

Comments:

Article 5, Standing Committees of the House include:

a) the Legal Affairs Committee, b) the Budgetary Affairs Committee, c) the Economic Affairs Committee, d) the Defense and Security Committee, e) the Foreign Affairs Committee, f) the Social Affairs Committee, g) the Committee for the Administrative Affairs of the House, h) the Mass Media and Cultural Affairs Committee and i) the Women's Affairs Committee.

The Budgetary Affairs Committee is responsible for initial budget review, while the Public Accounts Committee (PAC) is charged with reviewing budget execution and auditor reports. The Budget Committee is further divided into three sub-committees under its mandate: Public Accounts, Revenue, and Recurrent and Capital Budget sub-committees. It was established and began working in 1998 to authorize the collection of federal public funds (taxes and duties) and the expenditure of public funds, after due debate, consideration, and ratification of the federal budget, Article 55.

References:

Proclamation 14/1995, House of Peoples' Representatives Legislative Procedure, Article No. 5.

YES: A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

NO: A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

Category IV. Administration and Civil Service

IV-1. ~~69~~ Civil Service Regulations

44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

References:

Negarit Gazeta, Federal Civil Service Commission Establishment Proclamation No. 8/1995, Year 1, No. 8, pages. 67-69.

Negarit Gazeta, Federal Civil Service Proclamation No. 262/2002, Year 8, No. 8, pages 1658-1677.

YES: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

NO: A NO score is earned if there are no formal rules establishing an independent civil service.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

References:

Negarit Gazeta, Federal Civil Service Proclamation, No. 262/02, 2002-01-03, Year 8, No. 8, pages 1658-1677.

YES: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

NO: A NO score is earned if no such regulations exist.

44c. In law, there is an independent redress mechanism for the civil service.

YES | NO

Comments:

Article 70, The establishment of an Administrative Tribunal:

The Administrative Tribunal hears and decides appeals brought by civil servants. The Administrative Tribunal investigates grievances by civil servants when contracts of service are stopped unlawfully, when heavy disciplinary measures are taken, payments held unlawfully, or harm or injury happened while working.

References:

Federal Negarit Gazeta, Federal Civil Service Proclamation, No. 262/02, 2002-01-03, Year 8, No. 8, pages 1658-1677, Article 70.

Federal Civil Servants' Disciplinary and Grievance Procedures, Council of Ministers Regulations, No. 77/2002.

YES: A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

NO: A NO score is earned if no such mechanism exists.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

References:

Negarit Gazeta, Federal Civil Service Proclamation No. 262/02 2002-01-03, Year 8, No. 8, pages 1658-1677.

YES: A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

NO: A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

45. Is the law governing the administration and civil service effective?

53

45a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Civil servants are not protected from political interference. In fact, recent trends, particularly after the 2005 election, show that civil servants are forced to become members of one political party (EPRDF) to keep their jobs. There are many cases where people are fired from their jobs or demoted from their positions because they refuse to be party members. There is no mechanism to report their complaints if they are fired. This problem is particularly serious for civil servants serving outside of Addis Ababa and the big towns.

As the former District Development Agent describes the situation, currently most of his friends are party members so as to maintain their jobs and enjoy promotions, though they don't believe in the ideals of the ruling party. His friends mock the issue by calling the membership card an "identity card" with which people have to live.

References:

Interview with civil society expert who wishes to be anonymous, October 29, 2008, Addis Ababa.

Interview with a planning expert at the Ethiopian Revenue and Customs Authority

Interview with a civil servant (District Development Agent – Ministry of Agriculture and Rural Development) who quit his job dissatisfied with political interference (he was asked to be a member of the Ruling Party in order to receive a promotion).

100: Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

75:

50: Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

25:

0: Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | **50** | 25 | 0

Comments:

Appointments are based on openly advertised professional qualifications. However, political loyalty is also one of the criteria in the appointment process. Sometimes, promotion to higher position becomes difficult for those who are not members of a political party (i.e. ruling party). The problem is very serious for civil servants serving outside of the big towns.

References:

Interview with civil society expert who wishes to remain anonymous, October 29, 2008, Addis Ababa.

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | 25 | 0

Comments:

Though appointments are based on openly advertised professional qualifications, hiring is usually based on favoritism to relatives, friends or political considerations. Similarly, promotion and firing are mostly not based on merit, but rather political loyalty and patronage are factored as considerations.

References:

Interview with civil society expert who wishes to remain anonymous, October 29, 2008, Addis Ababa.

100: Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

75:

50: Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

25:

0: Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

45d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

Comments:

Civil servants often have formal job descriptions, except in a few cases. Reforms have been underway at the national level to better define job descriptions and staffing requirements.

References:

Merit, December 2007, Vol 13, No 1.

<http://www.fcsc.gov.et>

100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.

75:

50: Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some

cases.

25:

0: Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

References:

Merit, December 2007, Vol 13, No 1.

<http://www.fcsc.gov.et>

Interview with civil society expert who wishes to be anonymous, October 29, 2008, Addis Ababa.

100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

75:

50: Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

25:

0: Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | 25 | 0

Comments:

The government openly advertises and publishes positions, but what is sometimes mysterious is how and by whom those positions are filled because positions are usually published when there are already individuals assigned to the position. So it is very difficult to know which position is filled and by whom as nepotism, cronyism, and patronage play a significant role in the process.

References:

Interview with civil society expert who wishes to remain anonymous, October 29, 2008, Addis Ababa.

100: The government publishes such a list on a regular basis.

75:

50: The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

25:

0: The government rarely or never publishes such a list, or when it does it is wholly incomplete.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | **50** | 25 | 0

Comments:

The Administrative Tribunal investigates cases and gives decisions, but investigations and decisions are affected when the cases are politically sensitive.

References:

Interview with civil society expert who wishes to remain anonymous, October 29, 2008, Addis Ababa.

100: The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

75:

50: The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

25:

0: The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

Comments:

In the past year, no civil servants have been paid late.

References:

Interview with civil society expert who wishes to be anonymous, October 29, 2008, Addis Ababa.

100: In the past year, no civil servants have been paid late.

75:

50: In the past year, some civil servants have been paid late.

25:

0: In the past year, civil servants have frequently been denied due pay.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | **25** | 0

Comments:

In the country, many civil servants previously convicted of corruption have still maintained employment in their organization, some of them even promoted to higher positions. Some examples:

Several Government officials previously working at the Addis Ababa city administration who were charged of corruption are now working in different government offices.

An official previously working as an administrator/manager of the Asela district hospital was charged with corruption, and the case was featured on the Ethiopia television program Aynachen.” However, the official was soon given a post at the district office.

Nine judges fired over corruption charges are also working in different offices.

The Mayor of the town of Nazirit, who was charged with corruption, is soon to start working at the Housing Agency (Yebelech Guday).

References:

Public Sector Capacity Building Programme (PSCAP), Meritocracy Review of the Ethiopian Civil Service, Final Report, Addis Ababa, March 28, 2006.

Interview with three people who wish to be anonymous, Nov 22, 2008, Addis Ababa: 1) International Livestock Research Institute, researcher, 2) Independent consultant, economist and 3) Ethiopian Airlines, Marketing officer.

Ethiopian Television: the former Aynachen” program

Interview with a civil servant at the Tiyo Woreda Ministry of Agriculture and Rural Development office

Interview with a planning expert at the Ethiopian Revenue and Customs Authority

100: A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

46. Are there regulations addressing conflicts of interest for civil servants?

28

46a. In law, senior members of the civil service are required to file an asset disclosure form.

YES | **NO**

Comments:

No such requirement exists.

References:

Interview with civil society expert who wishes to be anonymous, October 29, 2008, Addis Ababa.

YES: A YES score is earned if senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

Comments:

Article 58:

- 1) Any civil servant shall report in writing to his superior every case in which a conflict between his private interest, or that of his relative or friend, and his duties has arisen.
- 2) Where the case stated in Sub-Article 1 of this article arises and if the superior to whom the same is reported finds it necessary, he may assign another civil servant to execute the duty.

References:

Negarit Gazeta, Federal Civil Service Proclamation No. 262/02
2002-01-03, Year 8, No. 8, pages 1658-1677, Article 58, Conflict of Interest.

YES: A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

NO: A NO score exists if no such requirements exist in regulation or law.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | **NO**

Comments:

No such regulations exist.

References:

Interview with civil society expert who wishes to be anonymous, October 29, 2008, Addis Ababa.

YES: A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

Comments:

No civil servant may demand or accept any gift in return for services rendered or expected.

References:

Negarit Gazeta, Federal Civil Service Proclamation No. 262/02, 2002-01-03, Year 8, No. 8, pages 1658-1677, Article 59.

YES: A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

NO: A NO score is earned if there are no such guidelines or regulations.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

YES | **NO**

Comments:

No such disclosure requirements exist.

References:

Interview with civil society expert who wishes to be anonymous, October 29, 2008, Addis Ababa.

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

No such cooling off" periods exist.

References:

Civil servants routinely take jobs in the private sector.

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

The regulations governing gifts and hospitality to the civil service are not enforced.

References:

Interview with civil society expert who wishes to be anonymous, October 29, 2008, Addis Ababa.

100: The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | **25** | 0

Comments:

With the high level of corruption in the country, it is difficult for civil servants to recuse themselves when they are presented with conflicts of interest situations.

References:

Interview with civil society expert who wishes to be anonymous, October 29, 2008, Addis Ababa.

Interview with a civil servant at the Tiyo Woreda Ministry of Agriculture and Rural Development office

Interview with a civil servant at the Ethiopian Revenue and Customs Authority

World Bank: Corruption in Ethiopia Phase 1 studies: Corruption in Construction: Final Report (2008).

100: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

75:

50: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

46i. In practice, civil service asset disclosures are audited.

100 | 75 | 50 | 25 | 0

References:

Civil service asset disclosures are not audited.

100: Civil service asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Civil service asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

47. Can citizens access the asset disclosure records of senior civil servants?

0

47a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | NO

References:

Senior civil servants do not file asset disclosures.

YES: A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

NO: A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Civil servants are not required to file their asset disclosure form.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Civil servants are not required to file an asset-disclosure form.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

IV-2. Whistle-blowing Measures

48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

48a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

Comments:

Articles 48 and 49 state the protection of whistle-blowers. Ethics officers are located in all government departments and report to the FEACC.

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013, Section 7, Article 48 and 49.

Interview with businessmen (owners of small businesses focused on ready made clothes, house furniture Importers, and grain exporters), January 2009, Addis Ababa.

Interview with FEACC staff, January 2009 Addis Ababa (Ato Nure, head of the public relations office, Ato Teshome, researcher/investigator, Ato Gezahang, education and information office).

YES: A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for public-sector whistleblowers.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments:

In practice, whistleblowers face three kinds of problems while reporting cases of abuses of power or corruption. First, they have to be very careful that what they report is not a politically sensitive case (e.g., reporting on corruption of a government official could even lead to murder of the whistle-blower). Second, it is not clear where to report a problem because there is no independent institution to investigate cases. Third, they have to be careful when to report a problem because unless it is reported when the government believes there is corruption or abuse, the whistle-blower may face negative consequences.

The FEACC has detailed information about the mechanisms for reporting corruption and for the protection of whistle blowers (on its website). FEACC's activity of training and awareness-raising workshops are encouraging. Staff of the FEACC are qualified and well-trained in concepts of corruption and are also good in explaining what is on paper. However, they are very suspicious and obscure in discussions related to politics and the independence of the FEACC. Unfortunately, most of the businessmen as well as civil servants interviewed say they would never attempt to report corruption cases through the FEACC mechanisms, saying they do not feel confident in the protections supposedly granted on paper.

References:

Interview with planning and research expert who wishes to remain anonymous, Ethiopian Ministry of Revenue, Nov 27, 2008.

The Federal Ethics and Anti-Corruption Commission, Annual Report, 2007/2008.

http://www.feac.gov.et/web_collection/Com_report

Interview with businessmen (owners of small businesses focused on ready made clothes, house furniture Importers, and grain exporters), January 2009, Addis Ababa.

Interview with FEACC staff, January 2009 Addis Ababa (Ato Nure, head of the public relations office, Ato Teshome, researcher/investigator, Ato Gezahang, education and information office).

100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

Comments:

Articles 48 and 49 state the protections for whistleblowers.

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013, Part 7, Article 48 and 49.

YES: A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for private-sector whistleblowers.

48d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments:

Whistleblowers are sometimes able to report abuse of power, but must be wary if the abuse they report is not politically favored. If the abuse is found to be politically favored (e.g., the case of tax advantages of companies owned by the ruling party), the whistleblowers may face negative consequences. For this reason, many prefer not to disclose power abuses, except when the abuse is life and death or extreme levels.

The FEACC has detailed information about the mechanisms for reporting corruption and for the protection of whistle blowers (on its website). FEACC's activity of training and awareness-raising workshops are encouraging. Staff of the FEACC are qualified and well-trained in concepts of corruption and are also good in explaining what is on paper. However, they are very suspicious and obscure in discussions related to politics and the independence of the FEACC. Unfortunately, most of the businessmen as well as civil servants interviewed say they would never attempt to report corruption cases through the FEACC mechanisms, saying they do not feel confident in the protections supposedly granted on paper.

References:

The Federal Ethics and Anti-Corruption Commission, Annual Report, 2007/2008.
http://www.feac.gov.et/web_collection/Com_report

Interview with businessmen (owners of small businesses focused on ready made clothes, house furniture Importers, and grain exporters), January 2009, Addis Ababa.

Interview with FEACC staff, January 2009 Addis Ababa (Ato Nure, head of the public relations office, Ato Teshome, researcher/investigator, Ato Gezahang, education and information office).

100: Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

63

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Ethics officers are also present in all government offices and report to the FEACC.

References:

The Federal Ethics and Anti-Corruption Commission, Annual Report, 2007/2008.
http://www.feac.gov.et/web_collection/Com_report_english.htm

100: The agency/entity has staff sufficient to fulfill its basic mandate.

75:

50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

25:

0: The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

References:

The Federal Ethics and Anti-Corruption Commission, Annual Report, 2007/2008

http://www.feac.gov.et/web_collection/Com_report_english.htm

100: The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Though some serious abuses are not investigated with urgency, FEAC reported last year that they received some 1,625 tips from whistleblowers and complainants on alleged corruption offenses, infringement of rights and reprisals. Of the above total, 1088 of them (67 percent) came within the Commission's jurisdiction, with 537 of them (33%) falling outside its jurisdiction. Out of 1,181 cases that fall within the Commission's jurisdiction (including some pending cases from the previous year), 267 of them have been under different levels of investigation with the investigation of the remaining 914 cases to still be undertaken.

References:

The Federal Ethics and Anti-Corruption Commission, Annual Report, 2007/2008

http://www.feac.gov.et/web_collection/Com_report_english.htm

100: The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | **25** | 0

Comments:

The politicization of many corruption cases restricts the agency's effectiveness to investigate alleged corruption.

While some observers feel that the FEACC's reputation is improving, the continued lack of investigations into politically-sensitive cases, or those involving senior officials, detracts from its effectiveness. FEACC reports show an encouraging increase in the number of reported cases, but the perceived lack of independence when it comes to politically-sensitive cases (a perception shared by the businessmen interviewed) drags down the score for this indicator (as defined by the scoring criteria).

References:

Business Anti-Corruption Portal, Ethiopia profile.
<http://www.business-anti-corruption.com/normal.asp>

The Federal Ethics and Anti-Corruption Commission, Annual Report, 2007/2008
http://www.feac.gov.et/web_collection/Com_report_english.htm

The Ethiopian Reporter, October 4, 2008, The perception of corruption and its unique features in Ethiopia, by Hayal Alemayehu.
http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

Interview with businessmen (owners of small businesses focused on ready made clothes, house furniture Importers, and grain exporters), January 2009, Addis Ababa.

Interview with FEACC staff, January 2009 Addis Ababa (Ato Nure, head of the public relations office, Ato Teshome, researcher/investigator, Ato Gezahang, education and information office).

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

49. Is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

YES | NO

Comments:

By law, any person can report corruption via phone or in person to the Office of Anti-Corruption. Article 49 and 51 state the following:

Making of Disclosure, Article 49

1. A disclosure of a corruption offense may be made with or without the name of the person who makes the disclosure.
2. If a disclosure is properly made to the appropriate department, the disclosure shall be deemed to have been received by such department.

Receiving Information, Article 51

1. The appropriate department has an obligation to receive any disclosure made by any person about a corruption offense.
2. The appropriate department to which the disclosure is made shall keep a record.
3. The appropriate department shall, with respect to the disclosure, have the responsibility:
 - a. To submit the report to the department to which it is accountable.
 - b. To give the necessary information to the person who made the disclosure.
4. No information may be given in accordance with Sub-Article 3-b of Article 51, if the information would be likely to adversely affect anyone's safety in the investigation of an offense.

References:

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013, Part 7, Article 49 , 51 and 52.

YES: A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

NO: A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

75
IV-3. Procurement

51. Is the public procurement process effective?

78

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

References:

Proclamation No. 430/2005, Determining Procedures of Public Procurement and Establishing its Supervisory Agency.

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

NO: A NO score is earned if no such rules exist.

51b. In law, there is mandatory professional training for public procurement officials.

YES | NO

References:

Proclamation No. 430/2005, Determining Procedures of Public Procurement and Establishing its Supervisory Agency.

Federal Public Procurement Directive (Ministry of Finance & Economic Development, July 2005).

YES: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

NO: A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

Comments:

As with most of the civil service, conflicts-of-interest regulations in procurement are not effectively enforced.

References:

Interview with a government expert who wishes to remain anonymous, Ministry of Agriculture, November 27, 2008.

100: Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict-of-interest regulations do not exist, or are consistently ineffective.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | **NO**

References:

Negarit Gazeta, Proclamation No. 430/2005, Determining Procedures of Public Procurement and Establishing its Supervisory Agency.

YES: A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

NO: A NO score is earned if no such mandate exists.

51e. In law, major procurements require competitive bidding.

YES | NO

Comments:

Chapter 5 – Open tendering

As the PEFA report notes, Technically speaking all contracts above the threshold at the Federal level are awarded on the basis of open competition. Despite this fact, private sector participants in public procurement judge the system of limited fairness and efficiency. Private sector participants emphasizes in this context&routine demands from officials for small payments for services rendered

References:

Negarit Gazeta, Proclamation No. 430/2005, Determining Procedures of Public Procurement and Establishing its Supervisory Agency, Chapter 5, Article 31-38.

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

YES: A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

NO: A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

51f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

Comments:

According to the PEFA report, The new procurement legislation contemplates the use of procedures other than open bidding. These are justified in accordance with regulatory requirements.”

References:

Negarit Gazeta, Proclamation No. 430/2005, Determining Procedures of Public Procurement and Establishing its Supervisory Agency.

Proclamation No. 57/1996, Federal Government of Ethiopia Financial Administration Proclamation, Part 11, Procurement and Contracts, Mode of Procurement.

Federal Public Procurement Directive (Ministry of Finance & Economic Development, July, 2005).

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

YES: A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

NO: A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

Comments:

Chapter 8, Proclamation Article No. 51, Submission of Complaints on Public Procurements.

As described in detail in the PEFA report, The new [procurement] legislation contemplates clear and detailed complaint mechanisms. Basically a complaint shall be submitted in the first instance to the head of the procuring entity. If the head of the procuring entity does not issue a decision within the time stated by law or if the candidate is not satisfied with the decision he is entitled to submit a complaint to the FPPA. As a third instance, a complaint can be presented in court. Overall the process for submitting and addressing procurement complaints is operative. However data on resolution of complaints although not confidential are not yet accessible to public scrutiny.”

References:

Negarit Gazeta, Proclamation No. 430/2005, Determining Procedures of Public Procurement and Establishing its Supervisory Agency.

Federal Public Procurement Directive (Ministry of Finance & Economic Development, July, 2005).

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

YES: A YES score is earned if there is a formal appeal process for unsuccessful bidders.

NO: A NO score is earned if no such process exists.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

Comments:

As described in detail in the PEFA report, The new [procurement] legislation contemplates clear and detailed complaint mechanisms. Basically a complaint shall be submitted in the first instance to the head of the procuring entity. If the head of the procuring entity does not issue a decision within the time stated by law or if the candidate is not satisfied with the decision he is entitled to submit a complaint to the FPPA. As a third instance, a complaint can be presented in court. Overall the process for submitting and addressing procurement complaints is operative. However data on resolution of complaints although not confidential are not yet accessible to public scrutiny.”

References:

Federal Public Procurement Directive (Ministry of Finance & Economic Development, July, 2005).

Negarit Gazeta, Proclamation No. 430/2005, Determining Procedures of Public Procurement and Establishing its Supervisory Agency.

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

YES: A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

NO: A NO score is earned if no such process exists.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

References:

Federal Public Procurement Directive (Ministry of Finance & Economic Development, July, 2005).

YES: A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

NO: A NO score is earned if no such process exists.

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | **25** | 0

Comments:

In practice, it is rare that companies found to be guilty of bribery are prohibited from future bids.

References:

Interview with businessman who wishes to remain anonymous, November 25, 2008, Addis Ababa.

100: A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

52. Can citizens access the public procurement process?

79

52a. In law, citizens can access public procurement regulations.

YES | NO

References:

Federal Public Procurement Directive (Ministry of Finance & Economic Development, July, 2005). <http://www.mofaed.org/Procurement>

YES: A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

NO: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

52b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

Comments:

Article 42, Notification of Award and Signing Contract:

Prior to the expiration of the time the bid is valid, the procuring entity shall notify the successful bidder. The notification of award shall specify the time within which the contract must be signed. The unsuccessful bidder shall also be informed why the bid was lost and who successful bidder is.

References:

Negarit Gazeta, Proclamation No. 430/2005, Determining Procedures of Public Procurement and Establishing its Supervisory Agency, Article 42.

YES: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Records could be accessed either through the web or by photocopying. But problems in this area remain when certain key regulations are not publicly available, as was the case in the corruption scandal surrounding the Ethiopian Telecommunication Corporation (ETC).

References:

Federal Public Procurement Directive (Ministry of Finance & Economic Development, July, 2005). <http://www.mofaed.org/Procurement>

World Bank: Corruption in Ethiopia Phase 1 studies: Corruption in Construction: Final Report (2008).

The World Bank, 2002, Ethiopia Country Procurement Assessment Report, Volume I Findings and Recommendations

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | **50** | 25 | 0

Comments:

General procurement regulations are obtained at little cost, but some revised directives are costly, requiring frequent travel and other costs to access them. This situation is perhaps to favor specific suppliers during the bidding process.

References:

Federal Public Procurement Directive (Ministry of Finance & Economic Development, July, 2005). <http://www.mofaed.org/Procurement>

Interview with businessman (coffee exporter) who wants to remain anonymous, November 25, 2008, Addis Ababa.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

All major procurements are advertised in the in the national newspaper, radio and television stations.

References:

Federal Public Procurement Directive (Ministry of Finance & Economic Development, July, 2005). <http://www.mofaed.org/Procurement>

100: There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | **50** | 25 | 0

Comments:

Article 42, Notification of Award and Signing Contract

Prior to the expiration of the period the bid is valid, the procuring entity shall notify the successful bidder. The notification of award shall specify the time within which the contract must be signed. The unsuccessful bidder shall also be informed why he has lost the bid and who the successful bidder is.

And there are also some cases that results of public bids were not accessed.

As the PEFA report notes, Contracts awarded are not published in the media.”

References:

Negarit Gazeta, Proclamation No. 430/2005, Determining Procedures of Public Procurement and Establishing its Supervisory Agency.

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.

IV-4. Privatization

53. Is the privatization process effective?

75

53a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

References:

Negarit Gazeta, Federal Government of Ethiopia, Proclamation No. 146/1998, Privatization of Public Enterprises Proclamation.

YES: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

NO: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

References:

The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004.

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

NO: A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

Comments:

Regulations regarding conflicts-of-interest for privatization officials are not enforced.

References:

The Ethiopian Reporter, October 4, 2008, The perception of corruption and its unique features in Ethiopia, by Hayal Alemayehu.
http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

100: Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

54. Can citizens access the terms and conditions of privatization bids?

80

54a. In law, citizens can access privatization regulations.

YES | NO

References:

Negarit Gazeta, Federal Government of Ethiopia, Proclamation No. 146/1998, Privatization of Public Enterprises Proclamation.

YES: A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

NO: A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

There is a formal process of advertising privatizations, including a government website, newspaper advertising and others. All major procurements are advertised in these ways.

References:

The Ethiopian Privatization Agency. <http://www.ethiomarket.com/epa/>

100: There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

References:

Negarit Gazeta, Federal Government of Ethiopia, Proclamation No. 146/1998, Privatization of Public Enterprises.

Negarit Gazeta, Proclamation No. 430/2005, Determining Procedures of Public Procurement and Establishing its Supervisory Agency.

YES: A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

Comments:

General records for public use are accessed easily within a reasonable time. The problem is with records (directives or regulations) that are revised to please the interests of specific groups.

References:

Interview with businessman (coffee exporter) who wishes to remain anonymous, November 25, 2008, Addis Ababa.

Ethiopia Privatization Agency market information. <http://www.ethiomarket.com/epa/>

100: Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

Comments:

General records for public use are accessed easily within a reasonable time. The problem is with records (directives or regulations) that are revised to please the interests of specific groups. There are cases when specific government-related private companies have purchased, with an ostensibly public bid, state owned enterprises at a very low price.

To access these kinds of records (directives and regulations) which are prepared for specific interest groups it may require several travel days and significant costs (which some times could also involve a gift to an insider).

References:

Interview with businessman who wishes to remain anonymous, November 25, 2008, Addis Ababa.

Ethiopia Privatization Agency market information. <http://www.ethiomarket.com/epa/>

100: Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category V. Oversight and Regulation

V-1. ⁷¹National Ombudsman

56. Is the national ombudsman effective?

39

56a. In law, the ombudsman is protected from political interference.

YES

NO

Comments:

The Institution of the Ombudsman is established as an autonomous branch of the federal government with its own juridical personality.

References:

Negarit Gazeta, Federal Democratic Republic of Ethiopia, Proclamation No. 211/2000, Providing for the Establishment of the Institution of the Ombudsman.

YES: A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the ombudsman is protected from political interference.

100

75

50

25

0

Comments:

By law the ombudsman is legally protected from political interference. In practice, however, the office is totally influenced by the

ruling party. From interviews with some individuals, it was noted that most people, in the first place, do not bother to know about the office. Even if they know, they do not dare take cases to the ombudsman if the case has political implications.

References:

Interview with an expert who wishes to be anonymous, Public Relations Department, Ethiopia Institute of the Ombudsman, November 27, 2008.

Ato Mademariam Hailu, Manager, Independent Consultant, November 27, 2008, Addis Ababa.

Interview with a planning and research expert who wishes to be anonymous, Ethiopian Ministry of Revenue, November 27, 2008.

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

The Ethiopian Ombudsman office is totally influenced by the government (ruling party). Interviews with experts from different institutions confirm this fact. In fact, no one among the people interviewed believes that the ombudsman institution is independent, implying that government can remove someone any time if they are thought to not be in favor of the ruling party agenda.

References:

Interview with an expert who wishes to be anonymous, Public Relations Department, Ethiopia Institute of the Ombudsman, November 27, 2008.

Ato Mademariam Hailu, Manager, Independent Consultant, November 27, 2008, Addis Ababa.

Interview with a planning and research expert who wishes to be anonymous, Ethiopian Ministry of Revenue, November 27, 2008.

100: The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Ethiopian Institute of the Ombudsman has a professional full-time staff, although the effectiveness of the staff is under question, given the limited output of the institution.

References:

Interview with an expert who wants to be anonymous, Public Relations Department, Ethiopia Institute of the Ombudsman, November 27, 2008.

Ethiopian Institution of the Ombudsman. http://ethombudsman.org/am_about_eio.php

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

The Ethiopian Ombudsman office is totally influenced by the government (ruling party). Interviews with experts from different institutions confirm this fact. Along with professional qualifications, appointments are also based on political considerations.

References:

Interview with an expert who wants to be anonymous, Public Relations Department, Ethiopia Institute of the Ombudsman, November 27, 2008.

Ato Mademariam Hailu, Manager, Independent Consultant, November 27, 2008, Addis Ababa.

Ethiopian Institution of the Ombudsman. <http://ethombudsman.org/>

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

References:

Ethiopian Institution of the Ombudsman.

http://ethombudsman.org/am_about_eio.php

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

Comments:

The institution produces quarterly and yearly reports, which are available at the institution, but the contents of the reports may be questionable due to the lack of independence of the institution.

References:

Interview with an expert who wants to be anonymous, Public Relations Office, The Ethiopia Institute of the Ombudsman, November 27, 2008.

100: The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | **25** | 0

Comments:

Because the institution is not free from political intervention, the institution rarely initiates investigations. Most high-priority investigations are initiated because of political factors.

References:

Interview with an expert who wants to be anonymous, Public Relations Department, Ethiopia Institute of the Ombudsman, November 27, 2008.

Ato Mademariam Hailu, Manager, Independent Consultant, November 27, 2008, Addis Ababa.

Interview with planning and research expert who wishes to remain anonymous, Ethiopian Ministry of Revenue, November 27, 2008.

Adiss Neger, November 08, 2008, by Zerihun Tesfaye, Page 6 and Maseresha Mamo, Page 7.

100: The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

75:

50: The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The Ombudsman rarely initiates investigations or penalizes offenders; when he does, such actions are mostly based on political considerations.

References:

Adiss Neger, November 08, 2008, by Zerihun Tesfaye, Page 6.

Interview with an expert who wants to be anonymous, Public Relations Department, Ethiopia Institute of the Ombudsman, November 27, 2008.

Ato Mademariam Hailu, Manager, Independent Consultant, November 27, 2008, Addis Ababa.

Interview with planning and research expert who wishes to remain anonymous, Ethiopian Ministry of Revenue, November 27, 2008.

100: When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

The Ombudsman's reports do not lead to policy changes.

References:

Adiss Neger newspaper, November 8, 2008, by Zerihun Tesfaye, Page 6.

100: Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | **25** | 0

Comments:

Most experts interviewed do not know about the existence of the office in the first place. Even those who know about the ombudsman do not believe that the institution undertakes independent investigations or acts on citizens' complaints.

References:

Ato Mademariam Hailu, Manager, Independent Consultant, November 27, 2008, Addis Ababa.

Interview with planning and research expert who wishes to remain anonymous, Ethiopian Ministry of Revenue, November 27, 2008.

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

57. Can citizens access the reports of the ombudsman?

50

57a. In law, citizens can access reports of the ombudsman(s).

YES | NO

Comments:

Article 39:

- 1) The Institution shall issue an official report, as may be necessary.
- 2) The Institution shall exercise transparency in respect to its mode of operation, including issuance of regular reports.
- 3) Notwithstanding the provisions of Sub-Article 2 of this Article, the Institution shall have the duty to exercise caution in respect to secret matters, with a view to not endanger national security and well-being and to protect individual lives.

References:

Negarit Gazeta, Federal Democratic Republic of Ethiopia, Proclamation No. 211/2000, Proclamation to Provide for the Establishment of the Institution of the Ombudsman, Article 39, Reporting.

YES: A YES score is earned if all ombudsman reports are publicly available.

NO: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

After reporting to Parliament, the Ombudsman has to make the reports available to the public. However, since reporting systems and procedures are not developed, reports are kept confidential from the public. Thus, reports of the institution take a long time to access because they have to pass through the bureaucratic process, which may involve a formal letter from the person or institution and many visits to the office.

References:

Interview with an expert from the Institution of the Ethiopian Ombudsman, November, 28, 2008, Addis Ababa.

Interview with a civil society expert who wishes to remain anonymous, October 29, 2008.

Interview with a planning and research expert who wishes to remain anonymous, Ethiopian Ministry of Revenue, November 27, 2008.

100: Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Retrieving reports may require a visit to a specific office.

References:

Interview with civil society activist who wishes not to reveal his name, October 29, 2008.

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

55. Is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

Comments:

The law states the establishment of the ombudsman, whose primary mandate is to investigate the actions of government on the behalf of common citizens.

References:

Negarit Gazeta, Federal Democratic Republic of Ethiopia, Proclamation No. 211/2000, Providing for the Establishment of the Institution of the Ombudsman.

YES: A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

NO: A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

59. Is the supreme audit institution effective?

59

59a. In law, the supreme audit institution is protected from political interference.

YES | NO

Comments:

Article 5, Appointment and Accountability of the Federal Auditor General:

1. The Federal Auditor General shall be appointed by the Council of Peoples' Representatives upon recommendation by the Prime Minister.
2. The Federal Auditor General shall be accountable to the Council of Peoples' Representatives and, between sessions, shall be accountable to the President of the Federal Republic.

References:

Proclamation No. 68/1997, Proclamation to Establish the Office of the Federal Auditor General.

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 101, General Auditor.

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

Business Anti-Corruption Portal: The appointments of staff do not always support the independence of the institution and it suffers from insufficient staff and inadequate funding. Moreover, the government does not always act on the findings of the office's reports. In 2006, the Auditor General was fired by the Prime Minister after releasing a report showing that ETB 4.8 billion were unaccounted for in the federal government's funding allocations to regional administrations.

References:

Addis Neger, November 8, 2008, The Audit Report," by Zerihun Tesfaye .

Business Anti-Corruption Portal, Ethiopia profile.

<http://www.business-anti-corruption.com/normal.asp?pageid=212>

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | **50** | 25 | 0

Comments:

Business Anti-Corruption Portal: The appointments of staff do not always support the independence of the institution and it suffers from insufficient staff and inadequate funding. Moreover, the government does not always act on the findings of the office's reports. In 2006, the Auditor General was fired by the Prime Minister after releasing a report showing that ETB 4.8 billion were unaccounted for in the federal government's funding allocations to regional administrations.

Of the 703 approved OFAG posts, 357 are currently filled, of which 203 are auditors and 154 support staff.

References:

Addis Neger, November 8, 2008, "The Audit Report," by Zerihun Tesfaye .

Business Anti-Corruption Portal, Ethiopia profile.

<http://www.business-anti-corruption.com/normal.asp?pageid=212>

World Bank. "Ethiopia Country Financial Accountability Assessment, Volume II: Report No. 26092-ET" (2003).

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | **50** | 25 | 0

Comments:

Business Anti-Corruption Portal: The appointments of staff do not always support the independence of the institution and it suffers from insufficient staff and inadequate funding. Moreover, the government does not always act on the findings of the office's reports. In 2006, the Auditor General was fired by the Prime Minister after releasing a report showing that ETB 4.8 billion were unaccounted for in the federal government's funding allocations to regional administrations.

References:

Addis Neger, November 8, 2008, The Audit Report," by Zerihun Tesfaye .

Business Anti-Corruption Portal, Ethiopia profile.

<http://www.business-anti-corruption.com/normal.asp?pageid=212>

100: Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

59e. In practice, the audit agency receives regular funding.

100 | 75 | **50** | 25 | 0

Comments:

The General Auditor gets regular budgets from the government, but the budget limits the office's ability to undertake all of its activities efficiently.

References:

Interview with an expert from the Federal General Auditor of Ethiopia, November 28, 2008.

The Federal Auditor General of Ethiopia Report, 2008.

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

The General Auditor makes regular publicly-available reports to the Ethiopian parliament and to the public, which can be accessed either from its website or from the library of the institution.

References:

Interview with an expert from the Federal General Auditor of Ethiopia, November 28, 2008.

The Federal Auditor General of Ethiopia Report, 2008.

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

25:

0: The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

Comments:

The audit-agency reports draw prompt attention, but it is very doubtful that the government takes the right corrective measures, as is seen from the recent controversy after the audit report.

As the PEFA report notes, Audits of the OFAG generally adhere to INTOSAI auditing standards and focus on significant issues. There is currently less than a one year lag in auditing the Federal Government accounts and this delay has been significantly reduced in the last five years. The OFAG forwards the audited accounts on time to the House of People s Representatives and these are reviewed by the Public Accounts Committee (PAC) which is now headed by a member of the opposition. The PAC carries out its review within two months of receipt of the reports. As a result in-depth hearings are conducted by the legislature but these are not systematic due to limited capacity and time constraints. The PAC looks at recommendations but in practice the executive does not act them upon. There is also follow up by the PAC through the OFAG but in practice this is limited."

References:

Addis Neger, November 8, 2008, The Audit Report," by Zerihun Tesfaye, Page 6, Addis Ababa.

Addis Fortune, Recent Audit Report Stirs Intra-Agency Controversy, by Yohannes Anberbir.

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

Comments:

According to the Constitution, Article 101: The Auditor General can usually decide what to investigate, and when, but is subject to pressure from the executive or legislative branches on politically-sensitive issues.

Per the PEFA report, Audits of the OFAG generally adhere to INTOSAI auditing standards and focus on significant issues. There is currently less than a one year lag in auditing the Federal Government accounts and this delay has been significantly reduced in the last five years. The OFAG forwards the audited accounts on time to the House of People s Representatives and these are reviewed by the Public Accounts Committee (PAC) which is now headed by a member of the opposition. The PAC carries out its review within two months of receipt of the reports. As a result in-depth hearings are conducted by the legislature but these are not systematic due to limited capacity and time constraints. The PAC looks at recommendations but in practice the executive does not act them upon. There is also follow up by the PAC through the OFAG but in practice this is limited.”

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 101, Auditor General.

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

60a. In law, citizens can access reports of the audit agency.

YES | NO

Comments:

Article 7, Sub-Article 5:

The Auditor General reports audit findings to the head of the audited federal government office or organization, as the case may be. The results of the audits performed in accordance with Sub-Articles 1 2, 3, and 4 of this article, shall also be immediately submitted to the Council of Peoples' Representatives, when it indicates the commission of a crime.

References:

Proclamation No. 68/199, Proclamation to Establish the Office of the Federal Auditor General , Article 7.

YES: A YES score is earned if all supreme auditor reports are available to the general public.

NO: A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

Per the PEFA report, "The audit reports from the OFAG are theoretically accessible and available to the public. In practice, though, public access appears limited;"

References:

Addis Fortune, Recent Audit Report Stirs Intra-Agency Controversy, by Yohannes Anberbir.

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

100: Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Recent reports of the General Auditor could be accessed with a minimum cost of travel to the office library or through their website. However, the website may not be updated regularly with recent reports.

As the PEFA report notes, The audit reports from the OFAG are theoretically accessible and available to the public. In practice, though, public access appears limited.”

References:

Addis Fortune, Recent Audit Report Stirs Intra-Agency Controversy, by Yohannes Anberbir.

Interview with an expert from the Federal General Auditor of Ethiopia, November 28, 2008.

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

58. Is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

Comments:

Article 101, Auditor General.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 101.

YES: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

NO: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

78
V-3. Taxes and Customs

62. Is the tax collection agency effective?

88

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Ministry of Revenue Report, 2007/2008.

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

References:

Ministry of Revenue Report, 2007/2008.

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

65. Is the customs and excise agency effective?

88

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Ministry of Revenue Report, 2007/2008.

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

References:

Ministry of Revenue Report, 2007/2008.

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

61. Is there a national tax collection agency?

100

61. In law, is there a national tax collection agency?

YES | NO

References:

Federal Inland Revenue Authority Establishment Proclamation, Proclamation No. 61/1997.

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

YES: A YES score is earned if there is a national agency formally mandated to collect taxes.

NO: A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

63. Are tax laws enforced uniformly and without discrimination?

50

63. In practice, are tax laws enforced uniformly and without discrimination?

Comments:

In Ethiopia, tax law is unequally applied. Some groups (mostly enterprises owned by the ruling party and owned by government officials) are consistently favored. This makes business almost impossible for independent companies or private individuals.

One bright spot, according to the PEFA report, is Legislation for most major taxes is comprehensive and clear with taxpayers having access to up-to-date information on tax liabilities¹. A tax appeal system also exists. Taxpayers have a Taxpayer Identification Number (TIN) and are registered in a database system. Penalties for non-compliance exist and tax audits are performed.”

Also according to the PEFA report: “Debt collection ratio for registered taxpayers is satisfactory in the Federal Democratic Republic of Ethiopia. In the last two years, it was at least 75%¹⁰⁴. The amount of tax arrears is under control¹⁰⁵. [This information]...is based on an interview at the FIRA but quantitative hard data has not been provided. Therefore the dimension could not be rated.”

References:

Mr. XXX, Ministry of Revenue expert, Planning and Research Department, October 2, 2008, Addis Ababa.

Interview with owner of small business who wishes to be anonymous, November 7, 2008, Addis Ababa.

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

100: Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

64. Is there a national customs and excise agency?

100

64. In law, is there a national customs and excise agency?

YES | NO

References:

Negarit Gazeta, Proclamation No. 125/1998, Customs Authority (Amendment) Proclamation.

YES: A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

NO: A NO score is earned if that function is spread over several agencies, or does not exist.

66. Are customs and excise laws enforced uniformly and without discrimination?

25

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

In Ethiopia, tax law is unequally applied. Some groups (mostly enterprises owned by the ruling party and owned by government officials) are consistently favored. This makes business almost impossible for independent companies or private individuals.

References:

Mr. XXX, Ministry of Revenue expert, Planning and Research Department, October 2, 2008, Addis Ababa.

Interview with small-business owner who wishes to be anonymous.

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

V-4. State-Owned Enterprises

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

60

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | NO

References:

Negarit Gazeta, Proclamation No. 412/2004.

Negarit Gazeta, Proclamation No. 2771/2002, Public Enterprises Supervising Authority and the Industrial Development Fund Establishment.

YES: A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Privatization and Public Enterprises Supervising Agency Report, 2007/2008.

100: The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

References:

Privatization and Public Enterprises Supervising Agency Report 2007/2008.

100: The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The agency rarely initiates investigations independently; rather, it relies on the interests of the government to initiate any investigation. Corruption within state-owned enterprises is high, according to experts familiar with their operation.

As noted in the PEFA report, There is no fiscal monitoring of the autonomous funds [as opposed to Public Enterprises] by the Federal Government. The Government does not monitor the Pension entity either. Both entities are autonomous by law and are exempt from Federal Government scrutiny.”

References:

Interview with an expert who wishes to remain anonymous, November 27, 2008, Addis Ababa.

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

100: When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | **25** | 0

Comments:

The agency does not effectively penalize offenders.

References:

Mr. XXX, Ministry of Revenue expert, Planning and Research Department, October 2, 2008 , Addis Ababa.

100: When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

69. Can citizens access the financial records of state-owned companies?

50

69a. In law, citizens can access the financial records of state-owned companies.

YES | NO

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.
Article 29, Right of Thought, Opinion and Expression, Access to Information of Public Interest.

YES: A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | **50** | 25 | 0

Comments:

The Office of the Federal Auditor General (OFAG) has powers and duties to audit the accounts of government offices and organizations and reports its findings and recommendations to the House of Peoples Representatives. OFAG audits Federal Government Ministries, Commissions, Agencies, and Development Projects, and Government-Owned Enterprises (such as the Telecommunications Corporation, Electric Corporation, Insurance, Factories, Banks, etc).

Internal audit functions of public bodies are carried out by Internal Audit Units in every public body. OFAG issued a detailed Internal Audit Manual to be followed by internal auditors in their day-to-day activities. However, the Internal Audit Unit in each public body is under staffed and the role of internal audit units does not meet the requirements laid down in the Ministry of Finance and Economic Development (MoFED) directive (WB 2003, OFAG website).

References:

Mr. XXX, Ministry of Revenue expert, Planning and Research Department, October 2, 2008, Addis Ababa.

Interview with staff at the Office of Federal Auditor General, January 2009, Addis Ababa

OFAG website: <http://oagethiopia.org>

World Bank. Ethiopia Country Financial Accountability Assessment (In Two Volumes) Volume II: Report No. 26092-ET” (2003).

100: State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

75:

50: State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

25:

0: Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | **50** | 25 | 0

Comments:

Financial records of all state-owned companies are regularly audited by OFAG, which abides by international auditing standards,

but there is high level of corruption that sometimes involves the auditors themselves. As in the case cited, some companies are made to appear to be operating at a loss so they can be forced to close.

The corruption cases of the telecom executive and the huge gold scandal (procurement of gilded iron instead of gold) at the National Bank of Ethiopia are examples.

References:

Capital newspaper, August 2008, "Government to Close Down Loss-Making Textile Factories," by Tedla Yeneakal.

Interview with staff at the Office of Federal Auditor General

Interview with an expert at the former Inland Revenue Authority (now the Ethiopian Revenue and custom Authority)

Office of the Federal Auditor General (OFAG) website: <http://oagethiopia.org>

World Bank. "Ethiopia Country Financial Accountability Assessment (In Two Volumes) Volume II: Report No. 26092-ET" (2003).

100: Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | **25** | 0

Comments:

Such access requires frequent travel to the office to access financial records of stated-owned companies. In some cases, it is difficult to access the information if the records are politically sensitive.

References:

Mr. XXX, Ministry of Revenue expert, Planning and Research Department, October 2, 2008, Addis Ababa.

Anonymous source, Ethiopian Telecommunication Corporation, Addis Ababa Dec 29 2008

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Mr. XXX, Ministry of Revenue expert, Planning and Research Department, October 2, 2008, Addis Ababa.

Interview with civil society activist who wishes to be anonymous, October 29, 2008, Addis Ababa.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

67. Is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

YES | NO

Comments:

As helpfully summarized by the PEFA report, The Privatization and Public Enterprise Supervising Agency (PPESA), an agency of the Federal Government, has the responsibility to monitor about 130 non-financial Public Enterprises. Line competent ministries do the monitoring for the remaining four non financial PE (not under PPESA). The PPESA ensures that the accounts are closed and audited within a specified period after the end of the FY. It receives detailed information on the financial situation of PE quarterly (non-audited accounts) and yearly (audited accounts). PPESA consolidates revenues, profits, assets and liabilities of the PE under its control. If there is a problem with the financial situations, PPESA intervenes. And in practice fiscal risk is monitored on a case by case basis when needed⁷⁴. The same is carried out by line ministries for the remaining four PE.”

References:

Negarit Gazeta, Proclamation No. 412/2004.

Negarit Gazeta, Proclamation No. 2771/2002, Public Enterprises Supervising Authority and the Industrial Development Fund Establishment.

The Federal Republic of Ethiopia Public Financial Management Report [PEFA Assessment], October 23, 2007 (DFC Group, Barcelona, Spain).

YES: A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

70 V-5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

81

70a. In law, anyone may apply for a business license.

YES | NO

References:

Negarit Gazeta, Proclamations to amend the commercial registration and business licensing proclamation: Proclamation No. 67/1997, Proclamation No. 376/2003.

YES: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

NO: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required

70b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

Comments:

Any person who is denied a business license can make his/her complaint first to the head of the licensing department of the Federal Ministry of Trade and Industry. If the complaint is not resolved by the licensing department, next, the person can take his/her complaint to the Civil Service and Complaint Hearing Department, which is also under the Ministry. To do this, the person fills out a form prepared by the department. The form asks about the case, the unsatisfactory services the person received, and the person/department responsible for the problems. Then, the department overseeing business licensing investigates the case, and if possible responds soon to the person, otherwise transferring the case to the Minister, if the case requires consultations from senior officials.

References:

Negarit Gazeta, Proclamations to amend the commercial registration and business licensing proclamation: Proclamation No. 67/1997, Proclamation No. 376/2003.

YES: A YES score is earned if there is a formal process for appealing a rejected license.

NO: A NO score is earned if no such mechanism exists.

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

The latest (2009) Doing Business rankings put Ethiopia in the middle of the pack (globally) for most Doing Business categories, including Starting a Business," which includes "Obtain[ing] a business license with the Ministry of Trade and Industry." Ethiopia ranks 116th globally in Starting a Business.

References:

Ministry of Trade and Industry Report, 2007/2008.

World Bank/IFC's latest Doing Business survey for Ethiopia: <http://www.doingbusiness.org/ExploreEconomies/?economyid=66>

100: Licenses are not required, or licenses can be obtained within roughly one week.

75:

50: Licensing is required and takes around one month. Some groups may be delayed up to a three months

25:

0: Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

Comments:

The latest (2009) Doing Business rankings put Ethiopia in the middle of the pack (globally) for most Doing Business categories, including Starting a Business," which includes "Obtain[ing] a business license with the Ministry of Trade and Industry." Ethiopia ranks 116th globally in Starting a Business.

References:

Ministry of Trade and Industry Report, 2007/2008.

World Bank/IFC's latest Doing Business survey for Ethiopia: <http://www.doingbusiness.org/ExploreEconomies/?economyid=66>

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

YES | NO

References:

Negarit Gazeta, Proclamations to amend the commercial registration and business licensing proclamation: Proclamation No. 67/1997, Proclamation No. 376/2003.

YES: A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

YES | NO

References:

Negarit Gazeta, Proclamations to amend the commercial registration and business licensing proclamation: Proclamation No. 67/1997, Proclamation No. 376/2003.

YES: A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

YES | NO

References:

Negarit Gazeta, Proclamations to amend the commercial registration and business licensing proclamation: Proclamation No. 67/1997, Proclamation No. 376/2003.

YES: A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

25

72a. In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.

Comments:

The inspections are rarely undertaken uniformly. As is the case in other sectors, when a businessman is a member of the ruling party, the inspection process favors him over how other businessmen are treated. Government officials sometimes may also use the inspection as a way to extract payments from businesses (sometimes also to get shares from the business) in exchange for favorable treatment. For big businessmen, it can be difficult to do business without involving at least one influential government official.

References:

Yeshi Gebeyehu, hotel owner, November 26, 2008, Addis Ababa.

Interview with an importer who wishes to remain anonymous, November 26, 2008, Addis Ababa.

100: Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

References:

The Ethiopian Reporter, October 4, 2008, The Perception of Corruption and its Unique Features in Ethiopia, by Hayal Alemayehu..

http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

Ministry of Trade and Industry

<http://www.moti.gov.et>

100: Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

The inspections are rarely undertaken uniformly. As is the case in other sectors, when a businessman is a member of the ruling party, the inspection process favors him compared to how other businessmen are treated. Government officials sometimes may also use the inspections as a way to extract payments from businesses (sometimes also to get shares from the business) in exchange for favorable treatment. For big businessmen, it becomes difficult to do businesses without involving at least one influential government official.

References:

The Ethiopian Reporter, October 4, 2008, The Perception of Corruption and its Unique Features in Ethiopia, by Hayal Alemayehu.

http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

Yeshe Gebeyehu, hotel owner, November 26, 2008, Addis Ababa.

Interview with an importer who wishes to remain anonymous, November 26, 2008, Addis Ababa.

Ministry of Trade and Industry.

<http://www.moti.gov.et/Publications.html>

100: Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category VI. Anti-Corruption and Rule of Law

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

YES | NO

References:

Article 27 of the Criminal Code

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

The Revised Federal Ethics and Anti-Corruption Commission Establishment Proclamation, No.433/2005.

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

YES | NO

Comments:

Criminal Code, Title III, Crimes Against Public Office.

References:

The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004, Article 402-404.

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

YES: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

NO: A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

References:

The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004, Article 402-404 .

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

Comments:

Article 409, Acceptance of Undue Advantages:

Any public servant who, for the performance of an act proper to his office, solicits or obtains an advantage or exacts a promise before or after the performance of such an act, is punishable, according to the circumstances of the case, with simple imprisonment for not less than one year, or with rigorous imprisonment not exceeding seven years and a fine not exceeding 10,000 Birr (US\$1,020).

References:

The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004, Article 409.

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

YES | NO

References:

The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004.

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

YES | NO

References:

The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004, Article 402-410.

YES: A YES score is earned if using public resources for private gain is illegal.

NO: A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

YES | NO

References:

The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004, Article 401-417.

YES: A YES score is earned if using confidential state information for private gain is illegal.

NO: A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

YES | NO

Comments:

Article 692, Fraudulent Misrepresentation:

(1) Whoever, with intent to obtain for himself or to procure for a third person an unlawful enrichment, fraudulently causing a person to act in a manner prejudicial to his rights in property, or those of a third person, whether such acts are of commission or omission, either by misleading statements, or by misrepresenting his status or situation or by concealing facts that he had a duty to reveal, or by taking advantage of the person's erroneous beliefs, is punishable with simple imprisonment, or, according to the gravity of the case, with rigorous imprisonment not exceeding five years and a fine.

(2) Petty deceit in order to obtain an unjustifiable enrichment, such as stealing and the fraudulent obtaining of benefits, is liable for punishment regarding petty offenses (Article 858 and 859).

References:

The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004, Article 692.

YES: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

NO: A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

Comments:

Article 38, Criminal Conspiracy:

(1) Where two or more persons enter into an agreement to commit a crime, the provisions regarding participation and aggravation of punishment due to the above-mentioned circumstances are applicable (Article 84, 1-d).

(2) The foregoing provision shall, however, not affect the provisions contained in the special part of this code relating to conspiracies against the essential interests of the state and its defense, the forming of unlawful associations and the participation therein, as well as to the organization of gangs or associations of wrongdoers (Articles 257, 274, 300 and 478).

References:

The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004, Article 38.

YES: A YES score is earned if organized crime is illegal.

NO: A NO score is earned if this is not illegal.

VI-2. Anti-Corruption Agency

75. Is the anti-corruption agency effective?

61

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | NO

Comments:

Article on establishment and power of the Commission: The Commission is established as an independent Federal Government body.

References:

Negarit Gazeta, Federal Democratic Republic of Ethiopia, 11th year, No. 18, Proclamation No. 433/2005, Revised Federal Ethics and Anti-Corruption Commission Establishment, Part 2, Article 3.

YES: A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Critics' arguments that the agency is controlled and influenced by ruling party politics appears to be substantiated in the case of the former defense minister, where political division within the party resulted in one group charged with corruption and the winning group maintaining power. Improvements at FEACC can be seen in the number of corruption cases investigated and the agency's awareness-raising and training campaigns. But the FEACC has shown no moves towards independence from ruling party politics, and that is one reason why whistle blowers hesitate to report politically-sensitive corruption cases to the FEACC.

References:

1. Mr. XXX, Ministry of Revenue expert, Planning and Research Department, October 2, 2008, Addis Ababa.

2. The Ethiopian Reporter, October 4, 2008, The Perception of Corruption and its Unique Features in Ethiopia, by Hayal Alemayehu.

http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

Sudan Tribune What is New in the Empire State of Ethiopia by Yaadasaa Dafa on November 30 2008.

Interview with businessmen (ready made clothes, house furniture importers, and grain exporters), January 2009, Addis Ababa.

Interview with FEACC staff (Ato Nure, head of the public relations office, Ato Teshome, researcher/investigator, Ato Gezahang, education and information office), January 2009, Addis Ababa.

100: This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information. .

75:

50: This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | **50** | 25 | 0

Comments:

As the institution is not independent of the executive, the head of the Federal Anti-Corruption Commission can be removed at any time from his post without any justification. His dismissal would require Parliamentary approval, but Parliament is controlled by the ruling party.

In law, the commissioner is on a six year contract unless he violates the provisions of the relevant code of conduct, shows incompetence or inefficiency. But it is highly probable that the commissioner would be removed from his position if he attempted to investigate corruption involving top officials. An example of this was the removal of the Auditor General in 2006 after he released a report that was unpleasant for the government.

References:

Interview with an anonymous source, Research and Planning Department, Federal Ethiopia Ethics and Anti-Corruption Commission, Addis Ababa, November 03, 2008.

Interview with FEACC staff (Ato Nure, head of the public relations office, Ato Teshome, researcher/investigator, Ato Gezahang, education and information office), January 2009, Addis Ababa.

Negarit Gazeta, Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 433/ 2005, Revised Federal Ethics and Anti-Corruption Commission Establishment.

100: The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director(s) can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

Appointments to the agency are not based solely on professional criteria because the agency is not independent of political interference.

Of the 234 staff positions, there are 127 vacancies, with 53 positions have been filled in the past year. The FEACC (and the ombudsman's office) has received capacity building support from the Democratic Institutions Program, a multi-donor program to strengthen its effectiveness.

References:

Interview with an anonymous source, Research and Planning Department, Federal Ethiopia Ethics and Anti-Corruption Commission, Addis Ababa, November 03, 2008.

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Some within FEACC report a problem with a lack of motivation on the part of some staffers to accomplish tasks according to plan and to seriously follow up pending cases and unfinished tasks. A lack of investigative skills on the part of some investigators is also mentioned, which in turn can give rise to improper handling of files.

Of the 234 staff positions, there are 127 vacancies, with 53 positions have been filled in the past year. The FEACC (and the ombudsman's office) has received capacity building support from the Democratic Institutions Program, a multi-donor program to strengthen its effectiveness,

References:

The Federal Ethics and Anti-Corruption Commission Annual Report, 2007/2008.
http://www.feac.gov.et/web_collection/Com_report_english.htm

Interview with an anonymous source, Research and Planning Department, Federal Ethiopia Ethics and Anti-Corruption Commission, Addis Ababa, November 03, 2008.

100: The agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

FEACC also receives support from external aid donors.

References:

The Federal Ethics and Anti-Corruption Commission Annual Report, 2007/2008.

http://www.feac.gov.et/web_collection/Com_report_english.htm

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

The agency/commission makes regular public reports, but the reports are not complete and detailed. Some people are not interested in the reports because they consider the agency a pawn of the ruling party (EPRDF).

Annual reports to Parliament are made, and there is an increasing trends towards FEACC opening up to the media.

References:

The Federal Ethics and Anti-Corruption Commission Annual Report, 2007/2008.

http://www.feac.gov.et/web_collection/Com_report_english.htm

Interview with three people who wish to be anonymous, Nov 22, 2008, Addis Ababa:

1) International Livestock Research Institute, researcher, 2) Independent consultant, economist and 3) Ethiopian Airlines, Marketing officer.

100: The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | **50** | 25 | 0

Comments:

Critics contend that the agency always moves according to politics and lacks significant independence, saying the agency is a pawn of the ruling party (EPRDF). That is, the government/ruling party uses the agency to punish party members when they lack loyalty to the party, or non-members when they become a concern to the administration of the ruling party.

In practice, the agency has very little power to independently prosecute big officials. If the agency had sufficient power we would have seen many more top officials in court, not just two or three people like the former Prime Minister and Defense Minister. The prosecution of the CEO of Ethiopian Telecommunications was a positive sign, however.

References:

The Ethiopian Reporter, October 4, 2008, The Perception of Corruption and its Unique Features in Ethiopia, by Hayal Alemayehu. http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

Comments:

This is an area of significant controversy.

A key question in this regard is how many of FEACC's investigations were independently initiated by the FEACC itself. Some staff from the FEACC claim that investigations were independently investigated after information was obtained from whistle blowers. But potential whistle blowers (businessmen, civil servants and others interviewed) indicate that they do not dare to report corruption for fear of losing their businesses and jobs. They instead believe that FEACC gets information from one faction within the ruling party structure to incriminate another faction.

Like all investigative authorities in any country, senior FEACC officials must determine which tips to follow and which to ignore. Whether or not those decisions are politically-motivated is difficult to determine.

References:

Anonymous, Ministry of Revenue expert, Planning and Research Department, October 2, 2008, Addis Ababa.

Interview with businessmen (ready made clothes, house furniture importers, and grain exporters), January 2009, Addis Ababa.

Interview with FEACC staff (Ato Nure, head of the public relations office, Ato Teshome, researcher/investigator, Ato Gezahang, education and information office), January 2009, Addis Ababa.

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

50: The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

76. Can citizens access the anti-corruption agency?

38

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

Comments:

Critics argue that the agency cannot resolve complaints quickly and that serious abuses are not investigated with any urgency.

As one observer notes, [There] is a matter of procedure that may not be known outside the FEACC. Complaints are received at the information desk, accessible to the public. Daily complaints are listed with the evidence available; and these are sorted by a Committee (target is 3 days) to see if the complaint lies in the mandate of the Commission (those outside the FEACC mandate

are handed to the police or to the regional commissions). After the sort a complaint will reach an investigator. Investigators, however, may not immediately investigate as they are on other cases. They are prioritized according to seriousness, available evidence, and size [and other factors].”

References:

Mr. XXX, Ministry of Revenue expert, Planning and Research Department, October 2, 2008, Addis Ababa.

The Federal Ethics and Anti-Corruption Commission Annual Report, 2007/2008.

http://www.feac.gov.et/web_collection/Com_report_english.htm

Interview with FEACC staff (Ato Nure, head of the public relations office, Ato Teshome, researcher/investigator, Ato Gezahang, education and information office), January 2009, Addis Ababa.

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | **25** | 0

Comments:

FEACC has a toll-free hotline through which it can accept anonymous tips and complaints.

In practice, whistleblowers face three kinds of problems while reporting cases of abuse of power or corruption. First, they have to be wary if what they report is a politically sensitive (e.g., corruption of government official could even lead to the murder of the whistleblower). Second, there is no independent institution to investigate the case. Third, they have to be careful when to report cases because unless it is reported when the government believes there is corruption or abuse, the whistleblower may face a negative consequence.

One specific example is the situation where many businessmen (specifically those engaged in the import and export businesses) do not dare report the issue of the unfair tax advantages enjoyed by companies which are owned by the ruling party. Businessmen also hesitate to report cases where, despite ostensible public bidding, projects are awarded unfairly to those companies which are owned by the ruling party.

See comments elsewhere in this section, as well as in the Whistleblower Protections section, for details on the concerns potential whistle blowers have, especially in the context of politically sensitive cases.

References:

Ato Mademariam Hailu, Manager, Independent Consultant, November 27, 2008, Addis Ababa.

Interview with planning and research expert who wishes to remain anonymous, The Ethiopian Ministry of Revenue, November 27, 2008.

Interview with FEACC staff (Ato Nure, head of the public relations office, Ato Teshome, researcher/investigator, Ato Gezahang, education and information office), January 2009, Addis Ababa.

100: Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

75:

50: Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

74. Is there an agency (or group of agencies) with a legal mandate to address corruption?

100

74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

References:

Negarit Gazeta, Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 433/ 2005, Revised Federal Ethics and Anti-Corruption Commission Establishment.

Negarit Gazeta of the Federal Democratic Republic of Ethiopia, 11th year, No. 19, Proclamation No. 434/2005, Revised Anti-Corruption Special Procedure and Rules of the Evidence Proclamation, Page 3013.

YES: A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

NO: A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

66
VI-3. Rule of Law

77. Is there an appeals mechanism for challenging criminal judgments?

77a. In law, there is a general right of appeal.

YES | NO

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

Negarit Gazeta, Federal Democratic Republic of Ethiopia, Proclamation No. 211/2000, To Provide for the Establishment of the Institution of the Ombudsman.

YES: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

NO: A NO score is earned if there is no such process.

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Most appeals are not resolved in a timely fashion.

References:

Human Rights Watch World Report, 2008: Ethiopia, Ethiopia Events of 2007
<http://hrw.org/englishwr2k8/docs/2008/01/31/ethiop17755.htm>

The Ethiopian Reporter, November 1, 2008, Report Assesses Judicial Independence in Ethiopia, by Bruck Shewareged.
http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Attorney fees greatly discourage the use of the appeals process, and tend to run at 5% of any damages awarded.

References:

Human Rights Watch World Report, 2008: Ethiopia, Ethiopia Events of 2007.
<http://hrw.org/englishwr2k8/docs/2008/01/31/ethiop17755.htm>

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorneys fees are not a barrier to appeals.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorneys fees present somewhat of a barrier to pursuing appeal.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorneys fees greatly discourage the use of the appeals process.

78. Do judgments in the criminal system follow written law?

25

78. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:

Judgments in the criminal system seem to follow written laws. However, other factors such as political consideration, bribery and corruption, highly affect decisions. There are many cases when political concerns force interpreting written laws in a very different way than the normal interpretation, which totally affects the judgment. One good example is the known case of many journalists and Oromo people being harassed and imprisoned without any good justification.

References:

Human Rights Watch World Report, 2008, Ethiopia, Ethiopia Events of 2007.
<http://hrw.org/englishwr2k8/docs/2008/01/31/ethiop17755.htm>

Interview with three people who wish to be anonymous, Nov 22, 2008, Addis Ababa: 1) International Livestock Research Institute, researcher, 2) Independent consultant, economist and 3) Ethiopian Airlines, Marketing officer.

100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

79. Are judicial decisions enforced by the state?

75

79. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

References:

Ethiopian Reporter, November 1, 2008, Report Assesses Judicial Independence in Ethiopia, by Bruck Shewareged.
http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

80. Is the judiciary able to act independently?

56

80a. In law, the independence of the judiciary is guaranteed.

YES | NO

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

YES: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation, and managing the budget of the courts).

NO: A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The Ethiopian Reporter, citing the study by The National Judicial Institute for the Canadian International Development Agency on the Ethiopian judicial system, reported the limited independence of the judges.

Human Rights Watch also reports that the judicial system remains unable to assert independence in prominent cases. In the treason trial, for example, the trial judges showed little concern for defendants' procedural and constitutional rights and ignored claims of serious mistreatment by prison authorities.

References:

The Ethiopian Reporter, November 1, 2008, Report Assesses Judicial Independence in Ethiopia, by Bruck Shewareged.

http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

Human Rights Watch World Report, 2008, Ethiopia, Ethiopia Events of 2007.

<http://hrw.org/englishwr2k8/docs/2008/01/31/ethiop17755.htm>

100: National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | **NO**

References:

Opinions differ on this matter. Some point to the fact that many cases are distributed to judges by the registrar of the Federal high court (which is in practice influenced by the executive). The Ministry of Justice is not involved in the distribution of cases to judges, but is responsible for assigning attorneys to cases. Others point to a more automatic/less discretionary procedure for certain criminal cases which go directly to pre-determined benches.

YES: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

NO: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

Comments:

No judges shall be removed from their duties before they reach the retirement age determined by the law except under the following conditions:

1. When the Justice Administration Council decides to remove a judge on grounds of gross incompetence.
2. When they no longer carry out their responsibilities.
3. By majority decision of the Judicial Administration Council.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 79, Sub-Article 4.

YES: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

NO: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

Comments:

The Ethiopian Reporter: Since 2005, many judges have left the country protesting government interference. There were also allegations that some judges were arrested, threatened, intimidated, pressured to resign, transferred to remote locations or somehow removed from active judicial duties.” The one judge who hears corruption cases specifically (the first criminal bench) remains on the bench today.

References:

Ethiopian Reporter, November 1, 2008, Report Assesses Judicial Independence in Ethiopia, by Bruck Shewareged.
http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

BBC News, November 6, 2006, Top Ethiopian Judge Flees Threats.”
<http://news.bbc.co.uk/2/hi/africa/6121854.stm>

YES: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

References:

There were no documented cases of judges being killed.

YES: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge’s involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

82. Do citizens have equal access to the justice system?

54

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

Some racial and ethnic biases are there, but it has little effect on judicial decisions.

References:

Interview with three people who wish to be anonymous, November 22, 2008, Addis Ababa: 1) International Livestock Research Institute, researcher, 2) Independent consultant, economist and 3) Ethiopian Airlines, Marketing officer.

100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

Women enjoy full and equal status in the eyes of the courts. But what needs more work is in the area of women economic and social empowerment and awareness of right. The Ethiopian Women Lawyer Association is working on assisting those who can not afford to hire lawyers, providing free advice and counseling to women and others which enhance the legal, social and economic empowerment of women.

This is one area where the current government has helped to promote significant improvements. The government has advocated for more equal rights and opportunities for women in Ethiopia. The government has made significant advances to protect female rights, which have included overhauling legislation on rape, female genital mutilation, and other offenses. Women are also more favored in employment opportunities and college and university level education. In addition to the Ministry of Women Affairs, various organizations (such as the Ethiopian Women Lawyers Association (EWLA), Network of Ethiopian Women Associations, the Ethiopia Media Women Association (MWA)) are also established and working to protect women rights.

References:

Reporter newspaper, interview with civil society activist who wished to remain anonymous.

Interview with the Ethiopian women Lawyers Association- legal case coordinator, January 2009, Addis Ababa

Selected cases, booklet prepared by the Ethiopian Women Lawyers association

Interview with the Secretariat of the Judicial Administration Commission

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that

confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | NO

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

YES: A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

NO: A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

Comments:

Though it is not adequate, the state does provide legal aid to poor people.

References:

Interview with a civil society expert who wishes to remain anonymous, October 29, 2008.

100: State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | **25** | 0

Comments:

In serious legal cases, middle-class citizens could manage to afford the legal system because the benefits from the legal case are probably much higher than the costs. However, in many average cases, the costs involved (i.e. money, time and energy) in the legal system are too high, so most people prefer not to bring cases to the legal system and rather prefer to settle cases in cultural ways (i.e. negotiation).

References:

Interview with a civil society expert who wishes to remain anonymous, October 29, 2008.

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorneys fees do not represent a major cost to citizens.

75:

50: In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive. Attorneys fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits. Attorneys fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | **25** | 0

Comments:

It is very difficult and expensive for small retail businesses to make legal cases. Thus, people prefer to settle cases in cultural ways (i.e. negotiation).

References:

Interview with a civil society expert who wishes to remain anonymous, October 29, 2008.

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

75:

50: In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorneys fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits. Attorneys fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | **25** | 0

Comments:

In some regions, people have to travel long distances (which implies high travel cost) to access a court of law. In some regions, people depend on traditional systems to resolve cases.

Beginning in 2006, the Ministry of Justice began to work with the social court system at the woreda/kebele level to relieve the backlog of cases. Informal justice remains the norm in remoter areas. There is an ongoing Justice Reform Initiative to help alleviate the problem.

References:

Interview with a civil society expert who wishes to remain anonymous, October 29, 2008.

100: Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

75:

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

VI-4. Law Enforcement

83. Is the law enforcement agency (i.e. the police) effective?

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

The report states that the appointment of law-enforcement officials is rarely carried out according to professional criteria and the police are considered to be highly politically influenced.

References:

Ethiopian Reporter, November 1, 2008, Report Assesses Judicial Independence in Ethiopia, by Bruck Shewareged http://en.ethiopianreporter.com/index.php?option=com_content&task=view&id=30&Itemid=1

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

Though law enforcement has a regular budget, it is not sufficient to undertake all its activities efficiently.

References:

Anonymous interview with a member of the Ethiopian parliament, November 24, 2008, Addis Ababa.

Report of the Parliament, 2008.

100: The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The law-enforcement agency is highly influenced by political considerations. Experts observe that most of its activities are seemingly designed to protect and keep the ruling party in power. For many citizens, it is hard to separate the two: the ruling party and the law-enforcement agency.

References:

Interview with a civil society expert who wishes to remain anonymous, October 29, 2008, Addis Ababa.

Anonymous interview with a member of the Ethiopian Parliament, November 24, 2008, Addis Ababa.

100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

75:

50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

84. Can law enforcement officials be held accountable for their actions?

63

84a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

Negarit Gazeta, Federal Democratic Republic of Ethiopia, Proclamation No, 211/2000, To Provide for the Establishment of the Institution of the Ombudsman.

YES: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

NO: A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Interview with civil society activist who wishes to be anonymous, October. 29, 2008.

100: The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

Comments:

The Federal Ethics and Anti-Corruption Commission has a mandate to investigate and prosecute or cause the investigation and the prosecution of any alleged or suspected corruption offenses specified in the criminal code, or in other laws, when they are committed by public officials or public employees or other persons in public offices or public enterprises.

References:

Negarit Gazeta, Federal Democratic Republic of Ethiopia, Proclamation No 433/2005, Revised Proclamation for the

YES: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

NO: A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | **25** | 0

Comments:

Since critics argue that the agency is not independent and is influenced by ruling party politics, they argue it is rare to see the agency independently investigate allegations of corruption by law enforcement officials.

The FEACC's challenges in aggressively pursuing politically-sensitive cases hinders progress on this front.

References:

Interview with a civil society expert who wishes to remain anonymous, October 29, 2008, Addis Ababa.

Anonymous interview with a member of the Ethiopian parliament, November 24, 2008, Addis Ababa.

Interview with a former police officer, January 2009, Addis Ababa

Interview with FEACC staff (Ato Nure, head of the public relations office, Ato Teshome, researcher/investigator, Ato Gezahang, education and information office), January 2009, Addis Ababa

The Observatory for the Protection of Human Rights Defenders, International Mission of Judicial Observation, 2006, Ethiopia: The Situation of Human Rights Defender from Bad to Worse.

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

References:

The criminal code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004.

YES: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

NO: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

Comments:

Law enforcement enjoys general protection from most criminal investigations. The FEACC is battling a backlog of police corruption cases at the moment.

References:

The Observatory for the Protection of Human Rights Defenders, International Mission of Judicial Observation, December 2006, Ethiopia: The Situation of Human Rights Defenders From Bad to Worse .”

East and Horn of Africa Human Rights Defenders Project, Presentation by Mr. Hassan Shire Sheikh, Chairperson of the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net), September 18, 2008, Draft NGO Law in Ethiopia: A Threat to Civil Society Action.

100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.