

Overall Score:

70 - Weak

Legal Framework Score:

94 - Very Strong

Actual Implementation Score:

49 - Very Weak

Category 1. Non-Governmental Organizations, Public Information and Media

1.1. ⁷¹Anti-Corruption Non-Governmental Organizations

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

67

01a. In law, citizens have a right to form NGOs focused on anti-corruption or good governance.

Yes | No

References:

Constitution of The Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Article 31, <http://www.ethiopar.net/type/English/genifo/conchp32.htm>

<http://www.ethiopar.net/>

However, according to the new Civil Societies and Charities law, only those organizations that receive at least 90 percent of their revenue or funds from a domestic source can engage in such activities.

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/621.ae_.pdf

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. Non-governmental organizations (NGOs) are defined here as any organized group that is separate from the state working on issues of governance, transparency, and/or anti-corruption.

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.

01b. In law, anti-corruption/good governance NGOs are free to accept funding from any foreign or domestic sources.

Yes | No

Comments:

The new Civil Societies and Charities Law restricts such nongovernmental organization (NGO) activities by requiring that their

source of funding be 90 percent local. As a consequence of this new law, numerous NGOs working on advocacy, especially those relating to human rights and governance, have closed because their major financial resources are foreign.

References:

Proclamation No. 621/2009, Charities and Societies Proclamation, Article 2 sub article 2
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/621.ae_.pdf

<http://www.ethiopar.net/>

Yes: A YES score is earned if anti-corruption/good governance NGOs 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 NGOs focused on anti-corruption or good governance.

01c. In law, anti-corruption/good governance NGOs are required to disclose their sources of funding.

Yes | No

References:

Proclamation No. 621/2009, Charities and Societies Proclamation, Article 2 sub article 2, Articles 77-83
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/621.ae_.pdf

<http://www.ethiopar.net/>

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

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

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

17

02a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance NGOs.

100 | 75 | 50 | 25 | 0

References:

Human Rights Watch, World Report 2010, Ethiopia Chapter: "The space for independent civil society activity in Ethiopia, already extremely narrow, shrank dramatically in 2009. In January the government passed a new civil society law whose provisions are among the most restrictive of any comparable law anywhere in the world. The law makes any work that touches on human rights or governance issues illegal if carried out by foreign non-governmental organizations, and labels any Ethiopian organization that receives more than 10 percent of its funding from sources outside of Ethiopia as "foreign." The law makes most independent human rights work virtually impossible, and human rights work deemed illegal under the law is punishable as a criminal offense."

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer. Interview on Dec. 29, 2010, Addis Ababa, Ethiopia: The new civil service organization (CSO) Law has seriously curtailed CSO and nongovernmental organization (NGO) activities related to advocacy, as it is required that these institutions raise 90 percent of their revenue from local sources. So, although there are no direct barriers, this financial regulation has significantly reduced the number of NGOs and CSOs engaged in anti-corruption and governance related activities.

100: NGOs 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: NGOs 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 NGO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

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

02b. In practice, anti-corruption/good governance NGOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

References:

European Union, Election Observation Mission, Ethiopia, Final Report, House of People's Representatives and State Council Elections, May 2010:

"The role of Ethiopian civil society organisations in the electoral process was severely curtailed by the enactment of the new Ethiopian Charities and Societies Proclamation.[...] The EU EOM believes that the conditions that the law imposes are contrary to the freedom of association and detrimental to the work of local civil society organisations in the fields of democratisation and human rights. Given that the NEBE, as mentioned above, decided to carry out all voter education activities itself, civil society played no role in voter education."

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, Interview on Dec. 29, 2010, Addis Ababa, Ethiopia: Anti-corruption/good governance nongovernmental organizations (NGOs) do not yet actively engage in the political and policymaking process. Poverty Action Network of Civil Society Organizations in Ethiopia (PANE) has started to become engaged.

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

75:

50: Anti-corruption/good governance NGOs are active, but may not be relevant to political decisions or the policymaking process. Those NGOs 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 NGOs are effectively prohibited from engaging in the political process. Those NGOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

02c. In practice, no anti-corruption/good governance NGOs have been shut down by the government for their work on corruption-related issues during the study period.

Yes | No

References:

The Reporter Newspaper, dated Saturday, Jan. 17, 2009, interviewed Eshetu Bekele, Poverty Action Network of Civil Society Organizations in Ethiopia (PANE) Executive Director on the Charities and Societies Proclamation: "In one of the panel discussions, the Minister of Justice predicted that around 148 organizations could be immediately affected. I say that others will also be immediately affected."

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, Interview on Dec. 29, 2010, Addis Ababa, Ethiopia: No anti-corruption and governance nongovernmental organizations (NGO) and civil service organizations (CSO) have been shut down directly by the government for their work. In reality, numerous NGOs/CSOs have not registered their organization after the application of the new CSO law as they were not able to raise 90 percent of their revenue from local sources.

Other groups have chosen to reorient their activities by shifting from advocacy to development and interventions related to capacity building. NGOs/CSOs have been indirectly affected.

Yes: A YES score is earned if there were no NGOs 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 NGO 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 NGO's work may not be explicit, however the burden of proof here is low. If it seems likely that the NGO 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 anti-corruption/good governance NGO activists safe when working on corruption issues?

100

03a. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been imprisoned.

Yes | No

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia

Yes: A YES score is earned if there were no NGO 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.

03b. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been physically harmed.

Yes | No

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia

Yes: A YES score is earned if there were no documented cases of NGO 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.

03c. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been killed.

Yes | No

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia

Yes: A YES score is earned if there were no documented cases of NGO 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?

75

04a. In law, citizens have a right to organize into trade unions.

Yes | No

Comments:

Article 38, sub-article 2: The right of everyone to be a member, by his own free will, in a political organization, labor union, trade organization, or employers' or professional association shall be respected if he or she meets the special and general requirements stipulated by such an organization.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 38 sub-article 2

<http://www.ethiobar.net/type/English/genifo/conchp32.htm>

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.

04b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

References:

Human Rights Watch, Ethiopia (2010), One Hundred Ways of Putting Pressure: Violations of Freedom of Expression and Association in Ethiopia:

"Even before the EPRDF came to power in 1991, there was little tradition of an active civil society in Ethiopia. Yet over the past two decades a few important organizations have managed to establish themselves. The Ethiopian Teachers' Association trade union brought together teachers across the country in one of the country's oldest independent associations, and was increasingly bold about challenging government policies and actions. [...] After 15 years of legal maneuvering, the government managed to dismantle the Ethiopian Teachers' Association and replace it with a government-controlled entity in 2008.

"A similar effort has rendered insignificant the Ethiopian Bar Association, replacing what was a largely independent association with a government-controlled group. [...] Some of the former members of the original ETA formed a new association, which they named the National Teachers' Association, and applied for registration. The application was denied by the Ministry of Justice."

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia: It is not limited by law and in practice it is the same. The problems within the trade unions are due to the private sector itself, which will gain from the division and inefficiency of trade unions.

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.

1.2. Media's Ability to Report on Corruption

5. Are media and free speech protected?

100

05a. In law, freedom of the media is guaranteed.

Yes | No

Comments:

Article 29 sub-article 3: Freedom of the press and other mass media and freedom of artistic creativity is guaranteed. Freedom of the press shall specifically include the following elements:

- (a) Prohibition of any form of censorship.
- (b) Access to information of public interest.

References:

The Constitution of The Federal Democratic Republic of Ethiopia, Article 29 sub-article 3

<http://www.ethiobar.net/type/English/genifo/conchp32.htm>

Proclamation No. 590/2008, Freedom of the Mass Media and Access to Information Proclamation, Article 4. Freedom of Mass Media

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/590.ae_.pdf

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.

05b. In law, freedom of speech is guaranteed.

Yes | No

Comments:

Article 29 sub-article 1: Everyone has the right to hold opinions without interference.

Article 29 sub-article 2: Everyone has the right to freedom of expression without any interference. This right shall include freedom 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 any media of his choice.

References:

The Constitution of the Democratic Republic of Ethiopia, Article 29 sub-article 1, Article 29 sub-article 2

<http://www.ethiopar.net/type/English/genifo/conchp32.htm>

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?

75

06a. In practice, the government does not create barriers to form a print media entity.

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

References:

Human Rights Watch, Ethiopia (2010), One Hundred Ways of Putting Pressure: Violations of Freedom of Expression and Association in Ethiopia: "Since 2008, almost every private newspaper has dealt with a barrage of lawsuits that keep many of their editors constantly in court."

International Press Institute, World Press Freedom Review, February 9, 2010:

"The Ethiopian government passed two repressive new laws in 2009: the Charities and Societies Proclamation in January, and the Anti-Terrorism Proclamation in July. [...] The new anti-terrorism law has more direct consequences for the press. Anyone who reports something deemed to support terrorism can be jailed for up to 20 years, and terrorism suspects can be detained for four months without charge. National security forces no longer need a warrant to tap phones or intercept communications, or to search and seize property." <http://www.freemedia.at/publications/world-press-freedom-review/africa/singleview/4737/>

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.

06b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

Comments:

Article 37 sub-article 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.

Article 37 sub-article 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, Article 37 sub-article 1

Article 37 sub-article 2

<http://www.ethiopar.net/type/English/genifo/conchp32.htm>

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.

06c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

International Freedom of Expression Exchange: The Global Network for Free Expression, 25 November 2009: "IPI expressed concern about an ongoing legal case in which several media owners are trying to secure publishing licenses for political newspapers shut down in 2005. According to IPI, the head of the OGCA said he was not willing to award the licenses on the basis of supporting a pluralistic media environment."

Committee to Protect Journalists, Ethiopia reinstates hefty fines against publishing houses, March 10, 2010, available at: <http://www.unhcr.org/refworld/docid/4bab6b298.html> [accessed Jan. 4, 2011]: The administration has used legal and administrative means to harass the owners of the four publishing companies ever since they were acquitted, according to CPJ research.

In 2007, government prosecutors asked the Supreme Court to reinstate genocide charges against principals in the companies, but the government eventually dropped the effort. The government later blocked two of the publishers, award-winning journalist Serkalem Fasil and editor Sisay Agena, from launching new publications.

"The government continues to use the courts and administrative means to settle political scores against journalists who were acquitted after the 2005 election," said CPJ Africa Program Coordinator Tom Rhodes. "We call on Prime Minister Meles Zenawi to end his administration's unrelenting harassment of these journalists, which contradicts his public statements in 2007 that the government did not harbor a 'sense of revenge' toward its critics in the press."

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.

06d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

International Freedom of Expression Exchange: The Global Network for Free Expression, 17 March 2010: "The Ethiopian government is settling political scores against journalists by slamming four newspaper publishing companies with crippling fines in reprisal for their coverage of the disputed 2005 elections, report the Committee to Protect Journalists (CPJ), the International Press Institute (IPI) and the International Federation of Journalists (IFJ). The state is threatening to freeze their assets if the fines are not paid.

"After being shut down in 2005, the four publishing houses and their newspapers were later banned by the state. In July 2007 amnesty was given to journalists and dissidents facing anti-state charges but the four media houses were still hit with fines. Last

year, the court ruled that the amnesty also extended to fines. But the Ethiopian Supreme Court is now reinstating the fines of between US\$1,100 and US\$8,800, which IPI says amount to more money than the average Ethiopian would earn in a century.

"Those facing fines are the owners of Serkalem publishing house, which owned 'Asqual', 'Menelik' and 'Satanaw' newspapers; Sisay Publishing and Advertising Enterprise, which produced 'Ethiop' and 'Abay'; Zekarias, publisher of 'Netsanet'; and officials of Fasil, publisher of 'Addis Zena.'"

Committee to Protect Journalists, Ethiopia reinstates hefty fines against publishing houses, March 10, 2010, available at: <http://www.unhcr.org/refworld/docid/4bab6b298.html> [accessed Jan. 4, 2011]: In its ruling on Monday, the Supreme Court ordered the principals in the publishing companies to pay the fines immediately or face the freezing of their assets, according to local journalists. Principals in the Serkalem publishing house, which owned Asqual, Menelik, and Satanaw newspapers, face a fine of 120,000 birr (US\$8,800); officials of Sisay Publishing and Advertising Enterprise, which produced Ethiop and Abay, face a fine of 100,000 birr (US\$7,400); principals in Zekarias, publisher of Netsanet, face a fine of 60,000 birr (US\$4,400), and officials of Fasil, publisher of Addis Zena, face a fine of 15,000 birr (US\$1,100). By Ethiopian economic standards, the fines are substantial.

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?

44

07a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

References:

Human Rights Watch, Ethiopia (2010), One Hundred Ways of Putting Pressure: Violations of Freedom of Expression and Association in Ethiopia: "While a few independent print media remain, domestically the government retains a monopoly over television and radio news broadcasts, which, with few exceptions, toe the government line."

The Broadcasting Authority, which is accountable to the prime minister, effectively became the government's censorship arm as it issued restrictions against independent media. It immediately barred any media executive with more than 2 percent ownership share from assuming any editorial position, according to local news reports.

In April, it denied licenses to three journalists imprisoned in 2005 — award-winning publisher Serkalem Fasil; her husband, columnist Eskinder Nega; and publisher Sisay Agena — because of convictions against their now-dissolved publishing companies, according to local journalists.

The same month, the authority briefly revoked the accreditations of VOA correspondents Eskinder Firew and Meleskachew Amaha, who had been jailed in May.

Finally, in June, it ordered private Sheger Radio to stop carrying programs from VOA.

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.

07b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

Comments:

Article 22 sub-article 3 of the Broadcasting Service Proclamation states 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.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 37 sub-article 1
Article 37 sub-article 2. <http://www.ethiopar.net/type/English/genifo/conchp32.htm>

Proclamation No.533/2007, Broadcasting Service Proclamation, Article 22 sub-article 3
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/533.ae_.pdf

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.

07c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Committee to Protect Journalists, Attacks on the Press 2009 – Ethiopia, Feb. 16, 2010, available at: <http://www.unhcr.org/refworld/docid/4b7bc2eac.html> [accessed Jan. 4, 2011]

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The same month, the authority briefly revoked the accreditations of VOA correspondents Eskinder Firew and Meleskachew Amaha, who had been jailed in May.

Finally, in June, it ordered private Sheger Radio to stop carrying programs from VOA.

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.

07d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Ethiopia Broadcasting Authority, Subscription Broadcasting Service Directive No. 04/2009, Part Two: Issuance of License and Part Four: Payment of application, license and annual fee, <http://www.eba.gov.et/web/data/LawsRegs/Subscription.html>

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?

25

08a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

References:

Human Rights Watch, Ethiopia (2010), One Hundred Ways of Putting Pressure: Violations of Freedom of Expression and Association in Ethiopia: "The government also controls the electronic media and has used that control to limit access to information and opinion. The government-owned telecommunications monopoly, the Ethiopian Telecommunications Corporation (ETC), operates the sole internet server.

"Since 2005, access to certain internet sites has been blocked within Ethiopia. Although most blocked sites are those run by Ethiopians in the diaspora who are highly critical of the government, ETC has also intermittently blocked access to other sites. In 2008, the Committee to Protect Journalists site was blocked for several months after it reported the arrest and beating of the editor-in-chief of The Reporter.

"For almost two years following the 2005 elections, the ETC, which is also the sole telephone provider in the country, blocked mobile phone text-messaging. The government accused the Coalition for Unity and Democracy, the largest electoral opposition at the time, of coordinating anti-government demonstrations using text messages.¹⁷⁶ The ETC resumed messaging service in September 2007."

Committee to Protect Journalists, Attacks on the Press 2009 – Ethiopia, Feb. 16, 2010, available at: <http://www.unhcr.org/refworld/docid/4b7bc2eac.html> [accessed Jan. 4, 2011]: Authorities also continued to restrict Web sites discussing political dissent and other sensitive issues on the government-run national Internet service provider, the Ethiopian Telecommunications Corporation.

In October, OpenNet Initiative — a research project on Internet censorship — released the findings of a study that named Ethiopia as the only country in sub-Saharan Africa with "consistent" and "substantial" filtering of Web sites, including CPJ's site and two major blogging platforms, Blogger and Nazret.

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.

08b. In practice, the government does not censor citizens creating content on-line.

100 | 75 | 50 | 25 | 0

References:

Human Rights Watch, Ethiopia (2010), One Hundred Ways of Putting Pressure: Violations of Freedom of Expression and Association in Ethiopia: "The government also controls the electronic media and has used that control to limit access to information and opinion. The government-owned telecommunications monopoly, the Ethiopian Telecommunications Corporation (ETC), operates the sole internet server.

"Since 2005, access to certain internet sites has been blocked within Ethiopia. Although most blocked sites are those run by Ethiopians in the diaspora who are highly critical of the government, ETC has also intermittently blocked access to other sites.

"In 2008, the Committee to Protect Journalists site was blocked for several months after it reported the arrest and beating of the editor-in-chief of The Reporter. For almost two years following the 2005 elections, the ETC, which is also the sole telephone provider in the country, blocked mobile phone text-messaging. The government accused the Coalition for Unity and Democracy, the largest electoral opposition at the time, of coordinating anti-government demonstrations using text messages.¹⁷⁶ The ETC resumed messaging service in September 2007."

Committee to Protect Journalists, Attacks on the Press 2009 – Ethiopia, Feb. 16, 2010, available at: <http://www.unhcr.org/refworld/docid/4b7bc2eac.html> [accessed Jan. 4, 2011: Authorities also continued to restrict Web sites discussing political dissent and other sensitive issues on the government-run national Internet service provider, the Ethiopian Telecommunications Corporation. In October, OpenNet Initiative — a research project on Internet censorship — released the findings of a study that named Ethiopia as the only country in sub-Saharan Africa with "consistent" and "substantial" filtering of Web sites, including CPJ's site and two major blogging platforms, Blogger and Nazret.

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?

58

09a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

Yes | No

Comments:

Article 30 sub-article 1 of the Broadcasting Service Proclamation states that any program to be transmitted shall reflect different and balanced viewpoints to serve the public at large.

Article 30 sub-article 2 of the Broadcasting Service Proclamation states that the accuracy of the content and source of any program to be transmitted shall be ascertained.

Article 40 sub-article 1 of the Broadcasting Service Proclamation states that where any factual information or matter injurious to the honor or reputation of any person is reported in a mass media, such person shall have the right to have his reply inserted, free of charge in publication in which the report appeared.

References:

Proclamation No.533/2007, Broadcasting Service Proclamation, Article 30, sub-article 1 and 2: http://www.ethiobar.net/type/English/hopre/bills/2004_2005/533.ae_.pdf

Proclamation No. 590/2008, Freedom of the Mass Media and Access to Information Proclamation, Article 40 sub-article 1, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/590.ae_.pdf

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.

09b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

References:

Human Rights Watch, Ethiopia (2010), One Hundred Ways of Putting Pressure: Violations of Freedom of Expression and Association in Ethiopia: "A journalist working for a newspaper in Addis Ababa described the fear and uncertainty that prevail among many working in the independent media:

"There is a significant element of self-censorship, there are many stories we cannot write, many things we cannot say. We are not told the red lines, we have to guess. Their interpretation of terrorism [in the anti-terrorism law] is so broad that it is dangerous for us. For example, if they label a particular political party a terrorist organization then we cannot write about them.... Newspapers are not allowed to do polling or predict anything before the National Electoral Board has announced it."

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on the Dec. 29, December 2010, Addis Ababa, Ethiopia: Investigative journalism is difficult because the law is frustrating. There is self-censorship.

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.

09c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

References:

International Press Institute, World Press Freedom Review, February 9, 2010:

"The Ethiopian government passed two repressive new laws in 2009: the Charities and Societies Proclamation in January, and the Anti-Terrorism Proclamation in July. [...]

"The new anti-terrorism law has more direct consequences for the press. Anyone who reports something deemed to support terrorism can be jailed for up to 20 years, and terrorism suspects can be detained for four months without charge. National security forces no longer need a warrant to tap phones or intercept communications, or to search and seize property." <http://www.freemedia.at/publications/world-press-freedom-review/africa/singleview/4737/>

International Freedom of Expression Exchange: The Global Network for Free Expression, Nov. 25, 2009: "Despite some positive changes in media law, Ethiopian journalists operating within state media have no editorial independence, says the International Press Institute (IPI) after a recent fact-finding mission to Ethiopia."

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?

70

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

Yes | No

Comments:

Article 100, sub-article 1, of the Commercial Code of Ethiopia states that any Ethiopian or foreign person or business organization carrying out commercial activities shall be registered.

References:

Commercial Code of the Empire of Ethiopia 1960, Article 100 sub article 1

Proclamation No. 590/2008, Freedom of the Mass Media and Access to Information
Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/590.ae..pdf

<http://www.ethiopar.net/>

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:

Article 100, sub-article 1, of the Commercial Code of Ethiopia states that any Ethiopian or foreign person or business organization carrying out commercial activities shall be registered.

References:

Commercial Code of the Empire of Ethiopia, Article 100, sub-article 1

Proclamation No.533/2007, Broadcasting Service Proclamation,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/533.ae..pdf

<http://www.ethiopar.net/>

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 types 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

References:

<http://www.irex.org/project/media-sustainability-index-msi-africa>

The 2008 edition of the Africa MSI for Full Report on Africa,
http://www.irex.org/system/files/Africa%20MSI%202008%20Full%20Version_0.pdf

For report section on Ethiopia: Ethiopia Media Sustainability Index 2008, page 126-132
http://www.irex.org/system/files/2-Africa_08_ethiopia.pdf

"For its part, the government claims slow but steady improvement in its relations with the media. But press freedom advocates say that a new press law passed in late 2008 aims to systematically encourage self-censorship and diminish the media's ability to engage the government on important issues."

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

References:

European Union, Election Observation Mission, Ethiopia Final Report, House of People's Representatives and State Council Election, May 2010:

"During the entire monitored period, the media, especially state-owned media, regularly reported on the daily activities of government members, such as inaugurations of public works, which resulted in an imbalanced coverage in favour of the incumbent."

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.

100 | 75 | 50 | 25 | 0

References:

European Union, Election Observation Mission, Ethiopia Final Report, House of People's Representatives and State Council Election, May 2010:

"This imbalance was even more marked in state-owned written media, where the EPRDF obtained 70%, 77% and 72% of all electoral coverage space in Addis Zemen, The Ethiopian Herald and Addis Lessan, respectively. Private newspapers covered a slightly broader political spectrum, and offered a generally more balanced coverage between the different parties. Nevertheless, the focus in all private newspapers was on the ruling party and some of the main opposition parties and coalitions, namely Medrek, AEUP and EDP. Coverage for other smaller parties was negligible."

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?

67

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

Yes | No

References:

International Freedom of Expression Exchange: The Global Network for Free Expression, June 2, 2010:

"Authorities make every effort to eliminate critical voices. According to IPI, two opposition members were shot dead by police after the election. Broadcast media are completely state run and self-censorship is the norm among journalists. In December 2009, the most prominent independent newspaper was closed. Recently, the government began jamming Voice of America shortwave broadcasts, and many publications shut down in 2005 remain closed.

"Meanwhile, local journalists continue to be arrested, harassed and intimidated, and since 2005, several foreign journalists have been detained or expelled from the country for covering sensitive issues. Also, a broadly defined anti-terror law has been used to threaten rights activists and journalists with prosecution. In 2009, several Ethiopian journalists fled the country; and more civil society activists and journalists have left in recent months."

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

References:

Committee to Protect Journalists, Attacks on the Press in 2008 – Ethiopia, Feb. 10, 2009, available at: <http://www.unhcr.org/refworld/docid/4992c4994e.html> [accessed Jan. 4, 2011]:

Critical coverage of influential business interests also posed dangers. Journalists with the English- and Amharic-language weekly Reporter, including Managing Editor Amare Aregawi, received anonymous threats over a series of investigative reports alleging that people close to billionaire Sheik Mohammed Hussein al-Amoudi had mismanaged his investments, according to local journalists.

On October 31, three men attacked Aregawi as he was walking near his office, bashing his head with a stone and leaving him unconscious, witnesses told CPJ. Three men were arrested, and their cases were pending in late year.

Aregawi, one of the country's best-known journalists, also endured six days of imprisonment without charge in August in connection with a story about a labor dispute at a government-run brewery in the northern city of Gonder. His reporter, Teshome Niku, the author of the story, was briefly detained in June. Neither was formally charged.

"It's becoming routine for journalists: You report something, then you go to the police station," Awramba Times Deputy Editor Debretision told CPJ in August. Zenawi saw things in a different light. "I don't think the political space is in any way being constrained," he told the Los Angeles Times that same month.

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

References:

No reports have been found indicating that a journalist investigating corruption has been killed.

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.

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

Yes | No

Comments:

Article 29, sub-article 2:

Everyone has the right to freedom of expression without any interference. This right shall include freedom 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 any media of his choice.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 29, sub-article 2

<http://www.ethiopar.net/type/English/genifo/conchp32.htm>

Yes: A YES score is earned if there is a formal right to request 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 a request for a basic government record is denied.

Yes | No

Comments:

Article 29, sub-article 7: Any citizen who violates any legal limitations on the exercise of these rights may be held liable under the law.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 29, sub-article 7

Article 37 Right of Access to Justice

<http://www.ethiopar.net/type/English/genifo/conchp32.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:

Article 11, sub-article 2: ...to establish mechanisms and procedures to give effect to that right in a manner which enables persons to obtain information as quickly, inexpensively and effortlessly as is reasonably possible.

Article 12, sub-article 2: The right referred to under sub-article (1) of this Article shall include the right to be informed whether or not the public body holds a record containing the requested information and to obtain information from any public body by means of: a) inspection, taking extracts and notes;

b) certified copies of any records of such public authority; c) diskettes, floppies or any other electronic mode or through print-outs where such information is stored in a computer or in any other device.

Article 14, sub-article 1: Any person who desires to obtain information shall present his request to the concerned public relations officer in writing, or through electronics device, clearly identifying the information he seeks. Where the requester owing to illiteracy or physical incapacity is unable to present his request in writing, the public relation officer has a duty to assist the requester by putting his request in writing in the prescribed form.

References:

Proclamation No. 590/2008, Freedom of the Mass Media and Access to Information Proclamation:

Article 11, sub-article 2;

Article 12, sub-article 1 and 2;

Article 13, Duty to Publish;

Article 14, sub-article 1.

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 to information requests effective?

71

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

100 | 75 | 50 | 25 | 0

References:

2009 Human Rights Reports: Ethiopia, Bureau of Democracy, Human Rights and Labor, 2009 Country Reports on Human Rights Practices, March 11, 2010:

The law provides for public access to government information, but access was largely restricted in practice. The Press Law, passed in July 2008, included freedom of information provisions, but it will not take effect for two years.

The government publishes its laws and regulations in the national gazette prior to their taking effect. The Communication Affairs Office managed contacts between the government, the press, and the public; however, the government routinely refused to respond to queries from the private press.

Mr XXX who wishes to remain anonymous, a former civil servant (technical staff) with seven-years work experience at the Central Statistical Authority until December 2010 and who joined the private sector; interview on the Jan. 3, 2011.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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 information request mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Information is provided at a reasonable cost. It is even free for students and researchers at the CSA.

Most data is free.

References:

Mr. XXX who wishes to remain anonymous, a former civil servant (technical staff) with seven-years work experience at the Central Statistical Authority until December 2010 and who joined the private sector; interview on Jan. 3, 2011.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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 NGOs. 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 NGOs trying to access this information.

13c. In practice, responses to information requests are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Quality of data may be questionable, not because of the technical aspect, but because, sometimes, numbers are reviewed and manipulated according to government expectations. Data on the same issue may not show the same numbers when it is provided by different institutions. There is a gap in data cross-checking.

Some forecast data may differ between the MOFED and the IMF of World Bank but the actual data is of good quality.

References:

Mr. XXX who wishes to remain anonymous, a former civil servant (technical staff) with seven-years work experience at the Central Statistical Authority until December 2010 and who joined the private sector; interview on Jan. 3, 2011.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

100: Responses to information requests typically address the requestor's questions in full and are not redacted or edited to remove sensitive information.

75:

50: Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

25:

0: The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

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

100 | 75 | 50 | 25 | 0

Comments:

Some information may take time to acquire. Citizens have to provide the right request letter and information to acquire data and this is sometimes a long process. Regarding information exchange among government institutions, there are sometimes problems of access to data and this takes up time.

References:

Mr. XXX who wishes to remain anonymous, a former civil servant (technical staff) with seven-years work experience at the Central Statistical Authority until December 2010 and who joined the private sector; interview on Jan. 3, 2011.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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.

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

100 | 75 | 50 | 25 | 0

Comments:

Most information is free. Appeals are not costly to my knowledge. As long as one provides the required document (letter and intended use of data), information appeal is free and fast.

References:

Mr. XXX who wishes to remain anonymous, a former civil servant (technical staff) with seven-years work experience at the Central Statistical Authority until December 2010 and who joined the private sector; interview on Jan. 3, 2011.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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.

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

Comments:

Information request is denied either because the requester did not provide the required documents for obtaining such information, or because the information is confidential. Either way, the requester is systematically given an explanation for the refusal and also given guidance on how to obtain the information.

References:

Mr. XXX who wishes to remain anonymous, a former civil servant (technical staff) with seven-years work experience at the Central Statistical Authority until December 2010 and who joined the private sector; interview on Jan. 3, 2011.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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.

 Category 2. Elections

2.1. ⁶⁰Voting and Party Formation

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

References:

Constitution Article 38 – 1(C):

1. Every Ethiopian national, without any discrimination based on colour, race, nation, nationality, sex, language, religion, political or other opinion or other status, has the following rights: (c) To vote and to be elected at periodic elections to any office at any level of government; elections shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

<http://www.ethiopar.net/>

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

References:

A Proclamation to Amend the Electoral Law of Ethiopia, Proclamation No. 532/2007
28 – 1:

General elections shall be elections to the House of Peoples' Representatives or State Councils conducted every five years.

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/532.ae..pdf

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?

83

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

100 | 75 | 50 | 25 | 0

References:

European Union Election Observation Mission to Ethiopia 2010, Final Report on the House of People's Representatives an State Council Elections, May 2010:

"The NEBE registered 31,926,520 voters for the 2010 elections, out of approximately 37 million eligible citizens according to its own projections. This reflected a relatively inclusive register that included around 5 million more voters than in 2005."

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

References:

European Union Election Observation Mission to Ethiopia 2010, Final Report on the House of People's Representatives an State

Council Elections, May 2010:

"Election Day unfolded in a peaceful manner, with a high turnout of voters. Secrecy of the vote was respected in 87% of observed polling stations and all necessary materials were present in most polling stations. EU EOM observers reported an inconsistent application of procedures, especially during the opening as well as during the closing and counting operations, where these inconsistencies were reported in a third of cases."

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:

National Electoral Board of Ethiopia (NEBE),
<http://www.electionethiopia.org/en/ethiopian-election/election-time-table.html>;

Elections are held on a regular basis based on a precise time-table. This is both at the federal and regional levels. The time-table provided by the link outlines the planned and revised/actual dates of elections.

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?

55

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

Yes | No

References:

Constitution Article 38 – 1 (a):

Every Ethiopian national, without any discrimination based on colour, race, nation, 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.

Constitution Article 38 – 2:

The right of everyone to be a member of his own will in a political organization, labour union, trade organization, or employers' or professional association shall be respected if he or she meets the special and general requirements stipulated by such organization.

<http://www.ethiobar.net/>

A Proclamation to Amend the Electoral Law of Ethiopia, Proclamation No. 532/2007,
26. Electoral Principles:

2/ Any Ethiopian whose electoral rights are not legally restricted shall be eligible to elect or to be elected.

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

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

References:

A Proclamation to Amend the Electoral Law of Ethiopia, Proclamation No. 532/2007
45, Criteria for Candidature:

1/ Any person shall be eligible for candidature, where he:

- a) is an Ethiopian;
- b) is versed in the working language of the Regional State or the area of his intended candidature;
- c) is 21 years old or above on the date of the registration;
- d) has been regularly residing in the constituency of his intended candidature for two years immediately preceding the date of the election or his birth place is within the constituency of his intended candidature, or where the city, or woreda, has more than one constituency or he has been regularly working in the city, or wereda, for two years, in tor city, or wereda, he choose;
- e) is not deprived of his right to vote and to be elected;
- f) has accepted and signed the election code of conduct to be issued by the Board in accordance with Article 105 of this Proclamation, if it is a political organization or private candidate.

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

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 citizens are able to form political parties, they face several barriers.

References:

European Union Election Observation Mission to Ethiopia 2010, Final Report on the House of People's Representatives an State Council Elections, May 2010:

"According to the NEBE, 72 candidates withdrew during the campaign period, often alleging intimidation and harassment as well as financial constraints and perceived bias in the local NEBE structures. Relatively small political parties withdrew completely and four regional parties in the Somali Region boycotted the elections altogether."

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

References:

European Union Election Observation Mission to Ethiopia 2010, Final Report on the House of People's Representatives an State Council Elections, May 2010:

"There are no major discriminatory or unreasonable requirements to register as a candidate for either the HPR or the State Council elections. [...] However, the Electoral Law limits the maximum number of candidates per constituency to 12. If there are more than 12, priority is given to candidates presented by political parties. Independent candidates are therefore at a disadvantage. Furthermore, the provisions for public financing of political campaigning exclude independent candidates. Steps should be taken to ensure that the equal rights of all citizens to be elected are respected regardless of whether they run under a political party platform or as independent candidates."

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

References:

European Union Election Observation Mission to Ethiopia 2010, Final Report on the House of People's Representatives an State Council Elections, May 2010:

"The ruling party and its partner parties won 544 of the 547 seats to the HPR and all but four of the 1,904 seats in the State Councils. The participation rate was of 93.4%. An independent candidate and a candidate from one of the main opposition coalitions, the Ethiopian Federal Democratic Unity Forum (Medrek) won seats to the HPR. A candidate from a relatively smaller party, the Argoba People's Democratic Organisation (APDO), won the third seat. The APDO won three State Council seats. The All Ethiopian Unity Party (AEUP) won one State Council seat.

"The results indicate that the EPRDF has a practically absolute control over both the lower legislative chamber and the State Councils."

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.

2.2. Election Integrity

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

100

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

Yes | No

References:

A Proclamation to Amend the Electoral Law of Ethiopia, Proclamation No. 532/2007, 4. Establishment:

1/ The National Electoral Board of Ethiopia (hereinafter referred to as "the Board"), accountable to the FDRE House of Peoples' Representatives, is hereby established as an independent and autonomous organ for conducting elections having its own legal personality.

5. Objectives:

The Board shall have the following objectives:

1/ ensure the establishment of a government elected through a fair and impartial election conducted in accordance with the Constitution;

2/ ensure the existence of an electoral system that enables political parties and private candidates that respect the Constitution and institutions established by it to compete equally and impartially;

3/ enable citizens to exercise their constitutional democratic rights to elect and be elected.

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

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.

18. Is the election monitoring agency effective?

70

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

Yes | No

References:

Constitution Article 102, 1:

There shall be established a National Election Board, independent of any influence, to conduct in an impartial manner free and fair elections in Federal and State constituencies.

<http://www.ethiobar.net/>

A Proclamation to Amend the Electoral Law of Ethiopia, Proclamation No. 532/2007
Article 6, 3(b):

Members of the board shall be non-partisans.

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

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

References:

European Union Election Observation Mission to Ethiopia 2010, Final Report on the House of People's Representatives and State Council Elections, May 2010:

"The 23 May 2010 elections were held in a generally peaceful environment, as unanimously called for by all stakeholders. The relatively quiet election campaign by both the opposition and the incumbent, the Ethiopian People's Revolutionary Democratic Front (EPRDF), grew in intensity in the very last stages of the campaign.

"Although, the National Electoral Board of Ethiopia (NEBE) largely managed the electoral process in an efficient and competent manner, its handling of the consolidation process was less praiseworthy. The electoral authorities failed to dispel the opposition parties' lack of trust in their independence. While several positive improvements were introduced since the 2005 elections, there were negative developments in the practical application of the legal and electoral framework.

"As a result, the electoral process fell short of international commitments for elections, notably regarding the transparency of the process and the lack of a level playing field for all contesting parties. Insufficient efforts were taken to ensure a more equitable and representative electoral process."

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

References:

The National Electoral Board of Ethiopia (NEBE) website:

The Board has permanent employees working at the head office and regional branch offices of the Secretariat. In addition, it has temporary electoral officers recruited from various governmental and non-governmental organizations who assist the Board during elections. Currently, the Board has 547 constituencies and around 43,500 polling stations.

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

References:

European Union Election Observation Mission to Ethiopia 2010, Final Report on the House of People's Representatives and State Council Elections, May 2010:

"The NEBE announced provisional results less than 48 hours after polling stations closed, thanks to a parallel system of communication allowing for the aggregation of polling station results at the national level."

Additional information is available on the NEBE website: <http://www.electionethiopia.org>

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.

References:

National Electoral Bord of Ethiopia
<http://www.electionethiopia.org/en/>

Powers and Duties of the Board:

"Investigate, cancel election results, order re-election or order injunction of the act and bring perpetrator before the court of law where it has received information about violation of law in the election process, fraudulent act or disturbance of peace and order of such magnitude and type which would determine the outcome of election from political organization running for election, private candidates, observers, electoral officers or any other sources."

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.

References:

European Union Election Observation Mission to Ethiopia 2010, Final Report on the House of People's Representatives an State Council Elections, May 2010:

"Voter registration procedures are relatively flexible and inclusive, although insufficient to ensure the accuracy and reliability of the voter register.[...] For a country with such a large and dispersed population, the voter registration period was relatively short. Although there was a provision for displaying voter registers locally to enable complaints or corrections, this was also very short (five days) and preceded the end of registration, which meant that only provisional versions were displayed. [...] No single national voter list was ever compiled. The numbers of voters registered at each polling station were summarised at the constituency electoral offices, after which the figures were sent to the NEBE headquarters, where they were added to provide a national summary.

"The national summary listed the total number of men and women registered in each constituency but did not allow for any crosschecking or the application of safeguards. For example, it was impossible to check for multiple registrations. Inconsistent figures were produced for all regions, significantly after the close of voter registration, when figures should have been confirmed. The failure to collate and disseminate clear, consistent and detailed figures on registered voters per constituency damaged the transparency and credibility of the process."

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

References:

A Proclamation to Amend the Electoral Law of Ethiopia, Proclamation No. 532/2007, 96:

Complaints Relating to Vote Counting and Results:

1: Any political organization or private candidate or representative who has complaints on the vote counting and results may get his complaint recorded at the Polling Station Grievance Hearing Committee, and may submit the same complaint to the Constituency Grievance Hearing Committee in 48 hours;

2: The Constituency Grievance Hearing Committee shall investigate and give decision on the complaint submitted in accordance with sub-article (1) above in 48 hours;

3: Any complainant dissatisfied by the decision given in accordance with sub article (2) above may appeal to the Board in 5 days. The Board shall investigate the complaint and give its final decision;

4: A complainant dissatisfied by the decision of the Board may appeal to the Federal Supreme Court in 5 days;

5: The Federal Supreme Court shall give a decision to the complaint submitted to it in accordance with sub-article (4) above as soon as possible.

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

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

References:

European Union Election Observation Mission to Ethiopia 2010, Final Report on the House of People’s Representatives and State Council Elections, May 2010:

“Official results were released on 21 June and were accepted by most parties. Medrek and the AEUP rejected the results and unsuccessfully presented requests to the NEBE calling for nation-wide re-elections. Both parties appealed the NEBE decision at the Federal Supreme Court (FSC). The FSC confirmed the NEBE’s decision.”

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

References:

European Union Election Observation Mission to Ethiopia 2010, Final Report on the House of People's Representatives and State Council Elections, May 2010:

"The election campaign was held in an atmosphere characterised as timid, low-key and more quiet than calm. Nonetheless, the campaign picked up momentum in the very last week, although it failed to generate genuine enthusiasm amongst the majority of the population. All contesting parties reiterated their unanimous desire to hold peaceful elections.

"However, different interlocutors reported numerous accusations of pressure and intimidation against the ruling party, local administrations and the police, and to a lesser extent against opposition parties during the campaign period. A few cases of potentially politically motivated violence occurred in certain regions, notably in Oromia and Tigray. The exact details and circumstances of many of these actions remained unclear at the time of writing.

"The number of allegations of political violence, harassment and intimidation is a serious matter of concern. These allegations were mainly, but not exclusively, made by opposition parties against the ruling party, local administrations and the police. Most of the more virulent campaign rhetoric was concentrated between the EPRDF and Medrek, who accused each other of various campaign violations.

"Thirteen EU EOM observers regularly reported on the fear that opposition candidates expressed regarding the consequences of their political activities. Although there is no substantive evidence to corroborate most of the allegations, they are at least indicative of a heightened level of tension between opposition and ruling party forces in numerous parts of the country.

"EU EOM observers considered the frequent filming of opposition rallies by filming crews from the Information and Communication Bureau of the Government's Office for Communication as potentially intimidating. In general, the Mission believes that beyond the repeated calls for peaceful elections, insufficient measures were taken to protect the right to campaign in an environment free from threats and intimidation throughout the country."

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

References:

A Proclamation to Amend the Electoral Law of Ethiopia, Proclamation No. 532/2007, 78:
Election Observers:

1. Interested domestic election observers may observe the election process upon the issuance of license from the Board;
2. Without prejudice to international conventions to which the country is a party, the government may invite foreign observers as deemed necessary.

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/532_ae.pdf

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

References:

European Union Election Observation Mission to Ethiopia 2010, Final Report on the House of People's Representatives and State Council Elections, May 2010:

"The role of 'public observers' was fraught with procedural problems and attendant mistrust from many opposition parties. The EU EOM considers that public observers were inadequately equipped for the effective and impartial discharge of their duties and that they did not contribute to the transparency or confidence in the process. [...]

"Procedures for electing public observers require that all political parties be notified, but there were widespread reports that this did not occur, and that some public observers were selected rather than elected. This fueled inadequately dispelled suspicions regarding the independence of public observers. Although public observers received training, their considerable powers of intervention were not adequately supported by any specific attention given to their level of training and competence."

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.

73
2.3. Political Financing Transparency

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

83

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

Yes | No

Comments:

Though there isn't a law that states a fixed limit on the amount donated to political parties from individuals, the article stated above concerning the income sources of political parties speaks to such limits. Particularly, 51 (1b) allows the board to set limits that might be different from one election period to another.

References:

The Revised Political Parties Registration Proclamation
Proclamation No. 573/2008:

51. Income Source of Political Party:

1) The income source of a political party may be:

a) membership dues collected from members;

b) donations or grants by Ethiopian nationals and companies in accordance with the limit to be set by the Board on basis of its study;

c) the grant and support to be given by the government as provided from Article 42 to Article 50 of this Proclamation.

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/573.pdf

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.

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

Yes | No

Comments:

Based on the Commercial Code, corporations are referred to as companies.

References:

Proclamation No. 573/2008

The Revised Political Parties Registration Proclamation
Article 51 sub article 1(b):

1. The income source of a political party may be (b) donations or grants by Ethiopian nationals and companies in accordance with the limit to be set by the Board on basis of its study.

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/573.pdf

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.

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

Yes | No

References:

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/573.pdf

Yes: A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

No: A NO score is earned if there are no limits on political party expenditures during an election. 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 requirements for the disclosure of donations to political parties.

Yes | No

References:

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation:

Article 19. Duty to Submit Report – sub article 1(c)(d);

Article 54. Record and Audit of Political Party;

Article 55. Books of Account;

Article 56. Annual Audit Report.

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/573.pdf

<http://www.ethiopar.net/>

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. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

Yes | No

References:

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation

Article 56. Annual Audit Report, sub-article 4:

Where a political party fails to submit the report as referred in sub-article 1 of this Article, or if it submits, the Board finds uncertainty, the Board may cause the inspection of the account by sending an external auditor. The political party shall incur the costs of such inspection.

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/573.pdf

Yes: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. 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 when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

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

Yes | No

References:

The National Electoral Board and the Auditor General are responsible for monitoring the financing of political parties.

Regulation Concerning the Procedure for Determining the Apportionment of Government Financial Support to Political Parties, Regulation Number 5/2009, Article 25

<http://www.electionethiopia.org/en/images/stories/directives/Regulation%20concerning%20the%20Procedure%20to%20Determine%20the%20Apportionment>

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation:

Article 54. Record and Audit of Political Party;

Article 55. Books of Account;

Article 56. Annual Audit Report

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/573.pdf

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. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

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

0

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

Yes | **No**

References:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/573.pdf

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.

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

Yes | **No**

References:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/573.pdf

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.

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

Yes | **No**

References:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/573.pdf

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. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

Yes | **No**

References:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/573.pdf

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 when financial irregularities are uncovered. 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 when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

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

Yes | **No**

References:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

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. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

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

25

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:

There are no financial limits regarding the amount of donation to political parties as long as the source of donation is within the approved listing.

References:

The Revised Political Parties Registration Proclamation, Proclamation NO. 573/2008

There are no financial limits regarding the amount of donation to political parties as long as the source of donation is within the approved listing

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/573.pdf

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:

There are no financial limits regarding the amount of donation to political parties that have been set by the National Electoral Board of Ethiopia (NEBE).

References:

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation,
Article 51 sub article 1(b):

The income source of a political party may be (b) donations or grants by Ethiopian nationals and companies in accordance with the limit to be set by the Board on basis of its study.

"As a governing party for almost two decades, the EPRDF has strengthened itself in various ways. As opposition parties alleged, and as it is widely believed, the incumbent party controls many multi-billion business organizations under the umbrella corporation called EFFORT (Endowment Fund for the Rehabilitation of Tigray).

"However, the other provisions in the legislation, such as the revelation of the names of the local donors, and the ban on Diaspora donors (who assumed foreign nationality) were highly objected to. The opposition parties have also an earnest fear that the local donors would be frightened to give financial and material support to the opposition parties due to the risk of retaliatory measures by the incumbent party. They argued that the provision would particularly frighten the business community and bar them from lending support to the opposition.

"Their fear has justifiable grounds as witnessed in the post-election period in 2005. It was alleged that in the pre-election period, the government practiced intimidation, and in the post-election period, revoked the licenses of many business people when they closed their businesses in response to the opposition call for boycotts.

"Moreover, in the post-election crisis in 2005, many of the supporters of the CUD who gave financial, material and political support were rounded up and imprisoned. It was alleged that the government security forces took the list of the party supporters and members by ransacking the various offices of the party after they imprisoned the CUD leaders. "

"Moreover, due to the extreme poverty of the local supporters, the major sources of income for the opposition parties so far have been the Diaspora Ethiopians and foreign nationals of Ethiopian origin. Therefore, the new legislation that requires the disclosure of the names of the Diaspora donors and the prohibition of foreign nationals of Ethiopian origin from materially and financially supporting the opposition parties is a major blow to the opposition parties."

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

Comments:

There are no limits to total party expenditure. Party expenditure is limited by their budget.

References:

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation

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:

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation, Article 56. Annual Audit Report, sub-article 4:

"Where a political party fails to submit the report as referred in sub-article 1 of this Article, or if it submits, the Board finds uncertainty, the Board may cause the inspection of the account by sending an external auditor. The political party shall incur the costs of such inspection."

The National Electoral Board and the Auditor General are responsible for monitoring the financing of political parties. So far, there is no evidence to our knowledge that there has been an investigation that has been initiated during the 2008 and the 2010 elections.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. 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, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. 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, is uncooperative with other agencies, 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:

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation Article 56. Annual Audit Report, sub-article 4:

"Where a political party fails to submit the report as referred in sub-article 1 of this Article, or if it submits, the Board finds uncertainty, the Board may cause the inspection of the account by sending an external auditor. The political party shall incur the costs of such inspection."

So far, there is no evidence to our knowledge that there has been an investigation that has been initiated and that has resulted in penalties on offenders during the 2008 and the 2010 elections.

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

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, reluctant to cooperate with other agencies, 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 and may refuse cooperation with other agencies.

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

100 | 75 | 50 | 25 | 0

References:

European Union Election Observation Mission to Ethiopia 2010, Final Report on the House of People's Representatives and State Council Elections, May 2010:

"Public financing of political parties for election campaigning, a novelty in Ethiopian federal elections, was established according to the Political Parties Registration Proclamation and the NEBE Regulation Concerning the Procedure for Determining the Apportionment of Government Financial Support to Political Parties. Funds were allocated based on the number of elected representatives in the federal houses, the number of candidates fielded and the number of women candidates. This formula proportionately favored those parties already represented in the HPR, and ignored independent candidates.

"According to NEBE sources, over 13 million Birr (US\$302,000) were allocated. Most opposition parties considered that the received amounts were insufficient to conduct an effective campaign. Some opposition parties repeatedly complained about delays in the disbursement of these funds. Political parties also financed their campaign efforts through their usual sources of incomes. As regulated by the Political Parties Registration Proclamation, these can include membership fees and donations or grants from Ethiopian nationals and corporations. Donations and grants from foreign nationals, organisations, governments or political parties are prohibited, as are those from religious organisations, terrorist organisations or anonymous sources.

"The financial contributions of the Ethiopian diaspora were reportedly less significant than in the 2005 elections, possibly due to the more restrictive conditions imposed by the Political Parties Registration Proclamation. The EPRDF benefited from greater financial resources, from the contributions of its large membership base as well as substantial financial support from the private sector."

100: Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing 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:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/532.ae.pdf

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/573.pdf

There are no financial limits regarding the amount of donation to political parties as long as the source of donation is within the approved listing.

Wondwosen Teshome B.(2009), Political Finance in Africa: Ethiopia as a Case Study, International Journal of Human and Social Sciences 4:6 2009:

"As a governing party for almost two decades, the EPRDF has strengthened itself in various ways. As opposition parties alleged, and as it is widely believed, the incumbent party controls many multi-billion business organizations under the umbrella corporation called EFFORT (Endowment Fund for the Rehabilitation of Tigray).

"However, the other provisions in the legislation, such as the revelation of the names of the local donors, and the ban on Diaspora donors (who assumed foreign nationality) were highly objected to. The opposition parties have also an earnest fear that the local donors would be frightened to give financial and material support to the opposition parties due to the risk of retaliatory measures by the incumbent party. They argued that the provision would particularly frighten the business community and bar them from lending support to the opposition.

"Their fear has a justified ground as witnessed in the post- election period in 2005. It was alleged that in the pre-election period the government committed intimidation, and in the post-election period, revoked the licenses of many business people when they closed their businesses in response to the opposition call for boycotts.

"Moreover, in the post-election crisis in 2005, many of the supporters of the CUD who gave financial, material and political support were rounded up and imprisoned. It was alleged that the government security forces took the list of the party supporters and members by ransacking the various offices of the party after they imprisoned the CUD leaders.

"Moreover, due to the extreme poverty of the local supporters, the major sources of income for the opposition parties so far have been the Diaspora Ethiopians and foreign nationals of Ethiopian origin. Therefore, the new legislation that requires the disclosure of the names of the Diaspora donors and the prohibition of foreign nationals of Ethiopian origin from materially and financially supporting the opposition parties is a major blow to the opposition parties."

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:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/532.ae..pdf

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/573.pdf

There are no financial limits regarding the amount of donations to political parties as long as the source of donation is in the approved listing.

Wondwosen Teshome B.(2009), Political Finance in Africa: Ethiopia as a Case Study, International Journal of Human and Social Sciences 4:6 2009:

"As a governing party for almost two decades, the EPRDF has strengthened itself in various ways. As opposition parties alleged, and as it is widely believed, the incumbent party controls many multi-billion business organizations under the umbrella corporation called EFFORT (Endowment Fund for the Rehabilitation of Tigray).

"However, the other provisions in the legislation, such as the revelation of the names of the local donors, and the ban on Diaspora donors (who assumed foreign nationality) were highly objected to. The opposition parties have also an earnest fear that the local donors would be frightened to give financial and material support to the opposition parties due to the risk of retaliatory measures by the incumbent party. They argued that the provision would particularly frighten the business community and bar them from lending support to the opposition.

"Their fear has a justified ground as witnessed in the post- election period in 2005. It was alleged that in the pre-election period the government committed intimidation, and in the post-election period, revoked the licenses of many business people when they closed their businesses in response to the opposition call for boycotts.

"Moreover, in the post-election crisis in 2005, many of the supporters of the CUD who gave financial, material and political support were rounded up and imprisoned. It was alleged that the government security forces took the list of the party supporters and members by ransacking the various offices of the party after they imprisoned the CUD leaders.

"Moreover, due to the extreme poverty of the local supporters, the major sources of income for the opposition parties so far have been the Diaspora Ethiopians and foreign nationals of Ethiopian origin. Therefore, the new legislation that requires the disclosure of the names of the Diaspora donors and the prohibition of foreign nationals of Ethiopian origin from materially and financially supporting the opposition parties is a major blow to the opposition parties."

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:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/573.pdf

So far, there is no evidence to our knowledge that there has been an investigation that has been initiated.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns, or cooperates well with other agencies that do. 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, thought limited in effectiveness, is still fair in its application of power. It may be reluctant to cooperate with other investigatory agencies.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

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:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation,

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation,
http://www.ethiobar.net/type/English/hopre/bills/2004_2005/573.pdf

So far, there is no evidence to our knowledge that there has been an investigation that has been initiated and that has resulted in penalties on offenders.

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

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, reluctant to cooperate with other agencies, 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 or may refuse to cooperate with other agencies.

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

100 | 75 | 50 | 25 | 0

References:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation,
http://www.ethiobar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation,
http://www.ethiobar.net/type/English/hopre/bills/2004_2005/573.pdf

So far, to our knowledge, there is no evidence that an investigation that has been initiated.

100: The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

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?

50

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

100 | 75 | 50 | 25 | 0

References:

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation:

Article 19. Duty to Submit Report, sub-article 1(c)(d);

Article 54. Record and Audit of Political Party;

Article 55. Books of Account;

Article 56. Annual Audit Report.

So far, to our knowledge, there is no evidence of disclosure to the general public of information on parties' financial records.

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

References:

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation:

Article 19. Duty to Submit Report, sub-article 1(c)(d);

Article 54. Record and Audit of Political Party;

Article 55. Books of Account;

Article 56. Annual Audit Report.

So far, to our knowledge, there is no evidence of disclosure of parties' financial records to the general public.

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

References:

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation:

Article 19. Duty to Submit Report, sub-article 1(c)(d);

Article 54. Record and Audit of Political Party;

Article 55. Books of Account;

Article 56. Annual Audit Report;

So far, to our knowledge, there is no evidence of disclosure of parties' financial records to the general public.

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 NGOs. 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 NGOs trying to access this information.

24d. In practice, the publicly available records of political parties' finances are of high quality.

100 | 75 | 50 | 25 | 0

References:

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation:

Article 19. Duty to Submit Report, sub-article 1(c)(d);

Article 54. Record and Audit of Political Party;

Article 55. Books of Account;

Article 56. Annual Audit Report;

So far, to our knowledge, there is no evidence of the disclosure of parties' financial records to the general public.

100: Publicly available records of political parties' finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political parties' finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political parties' finances, when available, are so incomplete or overly general as to render them useless in understanding a party's sources of income and its expenditures.

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

References:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/573.pdf

There are no requirements mandating the disclosure of contributions to individual political candidates. So far, to our knowledge, there is no evidence of disclosure of individual candidates' financial records to the general public.

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:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/573.pdf

There are no requirements mandating the disclosure of contributions to individual political candidates. So far, to our knowledge, there is no evidence of disclosure of individual candidates' financial records to the general public.

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:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation http://www.ethiopar.net/type/English/hopre/bills/2004_2005/573.pdf

There are no requirements mandating the disclosure of contributions to individual political candidates. So far, to our knowledge, there is no evidence of disclosure of individual candidates' financial records to the general public.

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 NGOs. 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 NGOs trying to access this information.

25d. In practice, the publicly available records of political candidates' campaign finances are of high quality.

100 | 75 | 50 | 25 | 0

References:

Proclamation No. 532/2007, The Amended Electoral Law of Ethiopia Proclamation,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/532.ae_.pdf

Proclamation No. 573/2008, The Revised Political Parties Registration Proclamation,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/573.pdf

There are no requirements mandating the disclosure of contributions to individual political candidates. So far, to our knowledge, there is no evidence of disclosure of individual candidates' financial records to the general public.

100: Publicly available records of political candidates' campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political candidates' campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

Category 3. Government Conflicts of Interest Safeguards & Checks and Balances

3.1. ⁶²Conflicts of Interest Safeguards & Checks and Balances:
Executive Branch

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

100

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

Yes | No

References:

Constitution of the Federal Democratic Republic of Ethiopia, Article 37 (1):

Everyone has the right to bring a judicial matter to, and to obtain a decision or judgment by, a court of law or any other competent body with judicial power.

<http://www.ethiobar.net/type/English/genifo/conchp32.htm>

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.

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

75

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

100 | 75 | 50 | 25 | 0

References:

Ethiopian Television (ETV):

The sessions of the parliament and debates are transmitted on the ETV. The Prime Minister take questions on a regular basis in Parliament and grants interviews to the state-owned and international media on major policy matters. When there is a new policy adopted by the executive, the chief executive gives reasons for his policy decisions.

Recently, the executive had passed a law (trade Practice and Consumers' Protection, and Commercial Registration and Business Licensing Proclamations) that sets a ceiling price for a selected number of commodities. Prime Minister Meles Zenawi has given reasons for this decision on television as well as through written media as in the capital news paper for instance (Monday, 07 February 2011 12:16 edition, Shape up or ship out; Monday, 24 January 2011 15:33 edition: Prices and ceilings).

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:

Article 80:

1. The Federal Supreme Court shall have the highest and final judicial power over Federal matters;

2. State Supreme Courts shall have the highest and final judicial power over State matters.

In the matter of the constitutionality of actions, the Council of Constitutional Inquiry will conduct an investigation, submit findings to the House of Federation, which will make the final decision.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 80 Concurrent Jurisdiction of Courts, sub-articles 1 & 2

Article 83 Interpretation of the Constitution;

Article 84 Powers and Functions of the Council of Constitutional Inquiry

<http://www.ethiopar.net/type/English/genifo/conchp9.htm>

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

References:

Academician (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia:

This has not happened in Ethiopia. The occasion has not occurred because laws are in accord with the constitution.

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

References:

Academician (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

The Chief Executive has the majority in parliament. Therefore, there is no need to use the executive order.

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:

The articles of the constitution stated above establish that all citizens, organs of state, political organizations, other associations, as well as their officials, have the duty to ensure observance of the Constitution and to obey it; that the judiciary is independent and that judicial powers, both at Federal and State levels, are vested in the courts

Article 4 of the Criminal Code states that the Criminal law applies to all alike without discrimination as regards persons, social conditions, race, nation, nationality, social origin, color, sex, language, religion, political or other opinion, property, birth or other status.

References:

The Constitution of the Federal Democratic Republic of Ethiopia:

Article 9 Supremacy of the Constitution;

Article 78 Independence of the Judiciary;

Article 79 Judicial Powers.

<http://www.ethiopar.net/type/English/genifo/conchp2.htm>

<http://www.ethiopar.net/>

Proclamation No.414/2004

The Criminal Code of Ethiopia

Article 4. Equality before the law

<http://www.lexadin.nl/wlg/legis/nofr/oeur/arch/eth/TheRevisedCriminalCode.pdf>

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:

The articles stated above establish that all citizens, organs of state, political organizations, other associations as well as their officials have the duty to ensure observance of the Constitution and to obey it; that the judiciary is independent and that judicial powers, both at Federal and State levels, are vested in the courts.

References:

The Constitution of the Federal Democratic Republic of Ethiopia:

Article 9 Supremacy of the Constitution;

Article 78 Independence of the Judiciary;

Article 79 Judicial Powers.

<http://www.ethiobar.net/type/English/genifo/conchp2.htm>

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?

63

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

Yes | No

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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

References:

Proclamation No.414/2004, The Criminal Code of the Federal Democratic Republic of Ethiopia, Article 417, Taking Things of Value without or with Inadequate Consideration

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70993/75092/F1429731028/ETH70993.pdf>

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 15, Gift, Hospitality and Sponsored Travel

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 11, Verification of Registration

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 18 Post Employment Limitation

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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

Comments:

Proclamation No. 668 /2010, the Disclosure and Registration of Assets Proclamation, came into effect on April 12, 2010. Furthermore, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

References:

Academician (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa, Ethiopia

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. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

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

100 | 75 | 50 | 25 | 0

Comments:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, came into effect on April 12, 2010. Furthermore, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister, and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the the regulations governing gifts and hospitality offered to members of the executive branch are effective.

References:

Academician (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec.29, 2010, Addis Ababa, Ethiopia

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:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, came into effect on April 12, 2010. Furthermore, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister, and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the executive branch asset disclosures (defined here as ministers and above) are being audited.

References:

Academician (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa, Ethiopia

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?

25

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

Yes | No

Comments:

Article 12, sub-article 1:

All information regarding the registration of assets of an appointee, elected person or a public servant shall be open to the public.

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 12, Accessibility of Registered Information

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/668.pdf

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

References:

Academician (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa, Ethiopia

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, came into effect on April 12, 2010. Furthermore, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister, and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

Capital news Paper, Tuesday, 07 December 2010 07:21, Meles declares his wealth, By Yohannes Anberbir
Capital news Paper, Tuesday, 14 December 2010 12:27 Gov't officials begin declaring assets, By Binyam Tamene

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

References:

Academician (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa, Ethiopia

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, came into effect on April 12, 2010. Furthermore, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister, and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

Capital Newspaper, Tuesday, Dec. 7, 2010, 07:21, Meles Declares His Wealth, by Yohannes Anberbir:

"In line with its responsibility, the Commission requested heads of the three government branches to disclose their personal belongings. The assets of the four officials has not been disclosed to the public yet, though the proclamation requires the Commission to be transparent and open to the public.

"Yes, the law authorizes the disclosure of the assets and details of belongings of any official and the Commission will make it available for the public shortly," Berhanu Assefa, Communication Director of the Commission told Capital.

"The Commission has to organize the asset files it has received from each official, and this requires time, Berhanu explained. It has the task of verifying accuracies of the assets as well, Berhanu added. Doubts on the assets' accuracy, tips from the public about unregistered assets of officials and possible court case outcomes are prerequisites for the verification, he said."

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 NGOs. 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 NGOs trying to access this information.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

100 | 75 | 50 | 25 | 0

References:

Assistant Professor, Addis Ababa University, Dec. 29, 2010:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, came into effect on April 12, 2010. Furthermore, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister, and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the asset disclosure records of the heads of state and government are of high quality.

Capital Newspaper, Tuesday, Dec. 14, 2010, 12:27 Gov't Officials Begin Declaring Assets, by Binyam Tamene

Capital Newspaper, Tuesday, Dec. 7, 2010, 07:21, Meles Heclares His Wealth, by Yohannes Anberbir

100: The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

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

0

31a. 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 is composed of ruling party members.

References:

Capital Newspaper, Vol. No. 628, It's Not Just the Opposition That Has Been Devastated, Monday, June 28, 2010:

"The overwhelming victory of the ruling EPRDF in the latest election has dealt a crushing blow to the effectiveness and credibility of the nation's young parliamentary system, argues Kirubel Tadesse. EPRDF and its allied parties in the emerging regions won 545 seats, while Medrek was the only opposition grouping to win a seat in the federal parliament. The regional councils show the same story: all seats went to the ruling front and its peripheral partners. This almost total dominance means the EPRDF can rewrite any legislation, or even the constitution itself.

"Amendments to the constitutions even on crucial sections such as human rights can be made at the speed of light. The positive slant on this is it is the same party that first enacted the constitution, so there should be no need to worry they will tamper with it,

especially in areas such as the protection of human rights that seem to have mass support locally and globally. But the thought that it is easy for one party to alter the country's core document is very scary."

Capital Newspaper, Vol. No. 628628, Ethiopia's Electoral problems, Monday, June 14, 2010:

"The EPRDF as a government, political party, business entity, police force, judicial system and ombudsman knows no boundaries. In Ethiopia, the boundary between state and party has yet to be realised, despite the plethora of support and skill there is to do so—from Ethiopians abroad, to opposition politicians, who have seen their political space dwindle, to the country's donor community. The EPRDF faces many opportunities to improve its governance record; however, the nature of its actions shows increased indifference to meeting the aspirations of democracy in Ethiopia.

"Solving Ethiopia's electoral problems must also include reexamining the separation of state and party as well as the separation of the Executive, Legislature and Judiciary. The European Union Election Observer Mission and other domestic observers observed the usage of state resources for the EPRDF's re-election campaign. This, as discussed earlier, would be a serious violation against electoral law in any matured democracy, and to suggest that this is excusable given Ethiopia's infantile democracy is simply foolish. Furthermore, there is a lack of checks and balances in the Federal Government."

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.

3.2. Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch

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

42

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

Yes | **No**

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 62, sub-article 1,2,3

<http://www.ethiobar.net/type/English/genifo/conchp62.htm>

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.

References:

Capital Newspaper, Vol. No. 628628, Ethiopia's Electoral Problems, Monday, June 14, 2010:

"The EPRDF as a government, political party, business entity, police force, judicial system and ombudsman knows no boundaries. In Ethiopia, the boundary between state and party has yet to be realised, despite the plethora of support and skill there is to do so—from Ethiopians abroad, to opposition politicians, who have seen their political space dwindle, to the country's donor community. The EPRDF faces many opportunities to improve its governance record; however, the nature of its actions shows increased indifference to meeting the aspirations of democracy in Ethiopia.

"Solving Ethiopia's electoral problems must also include reexamining the separation of state and party as well as the separation of the Executive, Legislature and Judiciary. The European Union Election Observer Mission and other domestic observers observed the usage of state resources for the EPRDF's re-election campaign. This, as discussed earlier, would be a serious violation against electoral law in any matured democracy, and to suggest that this is excusable given Ethiopia's infantile democracy is simply foolish. Furthermore, there is a lack of checks and balances in the Federal Government."

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:

The articles stated above establish that all citizens, organs of state, political organizations, other associations as well as their officials have the duty to ensure observance of the Constitution and to obey it; that the judiciary is independent and that judicial powers, both at Federal and State levels, are vested in the courts.

Article 4 of the Criminal Code states that the Criminal law applies to all alike without discrimination as regards persons, social conditions, race, nation, nationality, social origin, colour, sex, language, religion, political or other opinion, property, birth or other status.

References:

The Constitution of the Federal Democratic Republic of Ethiopia:

Article 9, Supremacy of the Constitution;

Article 78, Independence of the Judiciary;

Article 79, Judicial Powers.

<http://www.ethiopar.net/type/English/genifo/conchp2.htm>

<http://www.ethiopar.net/>

Proclamation No.414/2004, The Criminal Code of Ethiopia, Article 4. Equality Before the Law,

<http://www.lexadin.nl/wlg/legis/nofr/oeur/arch/eth/TheRevisedCriminalCode.pdf.nl/wlg/legis/nofr/oeur/arch/eth/TheRevisedCriminalCode.pdf>

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?

57

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

Yes | No

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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

Comments:

Article 18 states that any appointee, elected person or public servant may not take up any benefit ensuing work from persons whom he used to control, until two years after leaving office. The details shall be provided in regulations and/or directives.

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 18, Post Employment Limitation, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

<http://www.ethiobar.net/>

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:

Proclamation No.414/2004, The Criminal Code of the Federal Democratic Republic of Ethiopia, Article 41: Taking Things of Value With or Without Inadequate Consideration

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70993/75092/F1429731028/ETH70993.pdf>

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 11: Verification of Registration

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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:

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the regulations restricting post-government private sector employment for national legislators are effective.

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

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. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

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

100 | 75 | 50 | 25 | 0

Comments:

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the regulations governing gifts and hospitality offered to national legislators are effective.

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

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 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.

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

100 | 75 | 50 | 25 | 0

Comments:

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the national legislative branch asset disclosures are audited.

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

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: 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.

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

25

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

Yes | No

Comments:

Article 12 sub-article 1: All information regarding the registration of assets of an appointee, elected person or a public servant shall be open to the public.

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation,
Article 12, Accessibility of Registered Information

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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, non-governmental 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:

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether citizens can access legislative asset disclosure records within a reasonable time period.

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

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:

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether citizens can access legislative asset disclosure records at a reasonable cost.

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

Capital Newspaper, Tuesday, Dec. 7, 2010 07:21, Meles declares his wealth, by Yohannes Anberbir:

"The Federal Ethics and Anti-Corruption Commission (FEACC) has said it will disclose assets of Prime Minister Meles Zenawi and Heads of the two Houses of Parliament as well as the president of the judiciary to the public.

"Prime Minister Meles Zenawi filed his personal assets to the Anti-Corruption Commission. Similarly, heads of the legislative organ — Abadula Gemeda, Speaker of the House of Peoples Representatives (the Upper House); Kassa Teklebrehane, Speaker of House of Federation (The Lower House); and Tegene Getaneh, President of the Supreme Court (Head of the Judiciary Organ), have also done so.

"The Asset Registration Proclamation, which is intended to fight corruption, was ratified last year. It requires all political appointees, including the 547 members of parliament and high government officials, to disclose their personal assets and belongings to EFACC, a federal government entity that is responsible for the fight against corruption in public offices and in charge of implementing this specific proclamation.

"In line with its responsibility, the Commission requested heads of the three government branches to disclose their personal belongings. The assets of the four officials has not been disclosed to the public yet, though the proclamation requires the Commission to be transparent and open to the public.

"Yes, the law authorizes the disclosure of the assets and details of belongings of any official and the Commission will make it available for the public shortly," Berhanu Assefa, Communication Director of the Commission told Capital Newspaper.

The Commission has to organize the asset files it has received from each official, and this requires time, Berhanu explained, adding that it has the task of verifying accuracies of the assets as well. Doubts on the assets' accuracy, tips from the public about unregistered assets of officials and possible court case outcomes are prerequisites for the verification, he said."

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 NGOs. 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 NGOs trying to access this information.

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Proclamation No. 668 /2010 "Disclosure and Registration of Assets Proclamation" came into effect on 12th of April , 2010. Furthermore the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister, and the President) did so this past week (19th of December 2010). As such, enough time has not yet passed to measure or assess whether the asset disclosure records of members of the national legislature are of high quality.

References:

Academician (PhD in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on December 29, 2010, Addis Ababa Ethiopia

Capital Newspaper, Tuesday, Dec. 7, 2010 07:21, Meles declares his wealth, by Yohannes Anberbir:

"The Federal Ethics and Anti-Corruption Commission (FEACC) has said it will disclose assets of Prime Minister Meles Zenawi and Heads of the two Houses of Parliament as well as the president of the judiciary to the public.

"Prime Minister Meles Zenawi filed his personal assets to the Anti-Corruption Commission. Similarly, heads of the legislative organ — Abadula Gemeda, Speaker of the House of Peoples Representatives (the Upper House); Kassa Teklebrehane, Speaker of House of Federation (The Lower House); and Tegene Getaneh, President of the Supreme Court (Head of the Judiciary Organ), have also done so.

"The Asset Registration Proclamation, which is intended to fight corruption, was ratified last year. It requires all political appointees, including the 547 members of parliament and high government officials, to disclose their personal assets and belongings to EFACC, a federal government entity that is responsible for the fight against corruption in public offices and in charge of implementing this specific proclamation.

"In line with its responsibility, the Commission requested heads of the three government branches to disclose their personal belongings. The assets of the four officials has not been disclosed to the public yet, though the proclamation requires the Commission to be transparent and open to the public.

“Yes, the law authorizes the disclosure of the assets and details of belongings of any official and the Commission will make it available for the public shortly,” Berhanu Assefa, Communication Director of the Commission told Capital Newspaper.

The Commission has to organize the asset files it has received from each official, and this requires time, Berhanu explained, adding that it has the task of verifying accuracies of the assets as well. Doubts on the assets’ accuracy, tips from the public about unregistered assets of officials and possible court case outcomes are prerequisites for the verification, he said.”

100: The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals’ sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals’ sources of income, investments, and other financial assets.

35. Can citizens access legislative processes and documents?

100

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

Yes | No

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 29, sub-article 2

<http://www.ethiopar.net/type/English/genifo/conchp32.htm>

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 are 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

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

“Records are available online, in public libraries, and on journals. For more specific legislative records, one can obtain these at the House of People’s Representatives easily and for free.”

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

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

“Records are available online, in public libraries, and on journals. For more specific legislative records, one can obtain these at the House of People’s Representatives easily and for free. Records are also available online for free, in public libraries, and on journals for a very reasonable price.”

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 NGOs. 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 NGOs trying to access this information.

56

3.3. Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch

36. Are judges appointed fairly?

75

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

Yes | No

Comments:

The President and Vice-President of the Federal Supreme Court, upon recommendation by the Prime Minister, are appointed by the House of Peoples’ Representatives.

Regarding other Federal judges, the Prime Minister shall submit to the House of Peoples’ Representatives for appointment candidates selected by the Federal Judicial Administration Council.

The State Council shall, upon recommendation by the Chief Executive of the State, appoint the President and Vice-President of the State Supreme Court. State Supreme and High Court judges shall, upon recommendation by the State Judicial Administration Council, be appointed by the State 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. If the Federal Judicial Administration Council does not submit its views within three months, the State Council may grant the appointments.

Judges of State First-Instance Courts shall, upon recommendation by the state Judicial Administration Council, be appointed by the State Council.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 81, Appointment of Judges

<http://www.ethiopar.net/type/English/genifo/conchp9.htm>

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

References:

Dr XXX, academic from Addis Ababa University, Law Department, Dec. 29, 2010:

The selection of national level judges is not transparent. Too often, the judges are too young and not experienced enough, so the basis of the nomination is not clear.

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 sub-article 2:

The Prime Minister shall submit for approval to the House of Peoples' Representatives nominees for ministerial posts from among members of the two Houses or from among persons who are not members of either House and possess the required qualifications.

Article 81 sub-article:

The President and Vice-President of the Federal Supreme Court shall, upon recommendation by the Prime Minister, be appointed by the House of Peoples' Representatives.

Article 81 sub-article 2:

Regarding other Federal judges, the Prime Minister shall submit to the House of Peoples' Representatives for appointment candidates selected by the Federal Judicial Administration Council.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 74 sub-article 2, Article 81, sub-article 1 and 2

<http://www.ethiobar.net/type/English/genifo/conchp9.htm>

Yes: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity 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 the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

37. Can members of the judiciary be held accountable for their actions?

88

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

Yes | No

Comments:

Article 79, sub-article 3:

Judges shall exercise their functions in full independence and shall be directed solely by the law.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 79, sub-article 3

<http://www.ethiobar.net/type/English/genifo/conchp9.htm>

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.

100 | 75 | 50 | 25 | 0

References:

Dr XXX, academic from Addis Ababa University, who wishes to remain anonymous, Law Department, Dec. 29, 2010:

Judges provide explanations on their judgment based on the law. Although this is based on the law, some decisions may not seem adequate.

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:

Matters of the code of professional conduct and discipline, as well as the transfer of judges of any court, shall be determined by the concerned Judicial Administration Council.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 79 sub-article 4

Article 81 sub-article 6

<http://www.ethiopar.net/type/English/genifo/conchp9.htm>

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. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to 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:

Members of the Judicial Council are drawn from the Judiciary, plus three members from the Legislative. Therefore, the establishment is free from executive influence.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 81, sub-article 6:

Matters of the code of professional conduct and discipline, as well as the transfer of judges of any court, shall be determined by the concerned Judicial Administration Council.

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 executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

References:

Dr XXX, academician from Addis Ababa University, who wishes to remain anonymous, Law Department, Dec/29/2010:

The Judicial Administrative Council has rarely initiated such investigations to our knowledge.

Capital Newspaper, Vol. 13, No. 629, Judge Fired for Sending Getu Gelete, by Kirubel Tadesse, Tuesday, Jan. 4, 2011, 11:10:

“After a thorough investigation, which included an opportunity for Judge Zerihun to refute the complaints, the Federal Judges Administration Council members, including the Justice Minister Berhan Hailu, unanimously decided to fire Judge Zerihun for what they called the grave incompetence and partiality he showed while presiding over Getu’s case.

“The judge failed to interpret the law accurately, and didn’t show impartiality,’ the Council said.”

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

References:

Dr XXX, academic from Addis Ababa University who wishes to remain anonymous, Law Department, Dec. 29, 2010:

The Judicial Administrative Council has initiated only one such investigation to our knowledge.

Capital Newspaper, Vol. 13, No. 629, Judge Fired for Sending Getu Gelete, by Kirubel Tadesse, Tuesday, Jan. 4, 2011, 11:10:

“After a thorough investigation, which included an opportunity for Judge Zerihun to refute the complaints, the Federal Judges Administration Council members, including the Justice Minister Berhan Hailu, unanimously decided to fire Judge Zerihun for what they called the grave incompetence and partiality he showed while presiding over Getu’s case.

“The judge failed to interpret the law accurately, and didn’t show impartiality,’ the Council said.”

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?

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

Yes | No

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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:

Proclamation No.414/2004, The Criminal Code of the Federal Democratic Republic of Ethiopia, Article 417: Taking Things of Value with or without Inadequate Consideration

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70993/75092/F1429731028/ETH70993.pdf>

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 15, Gift, Hospitality and Sponsored Travel

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 11, Verification of Registration

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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:

Article 18 states that any appointee, elected person or public servant may not take on any ensuing work from persons he formerly regulated while in office until two years after leaving office. The details shall be provided in regulations and/or directives.

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 18, Post-employment Limitation

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

<http://www.ethiobar.net/>

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

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the regulations restricting post-government private sector employment for national-level judges are effective.

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. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

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:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

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 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.

38g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether national-level judiciary asset disclosures are audited.

Capital Newspaper, Tuesday, Dec. 7, 2010 07:21, Meles Declares His Wealth, by Yohannes Anberbir:

"In line with its responsibility, the Commission requested heads of the three government branches to disclose their personal belongings. The assets of the four officials have not been disclosed to the public yet, though the proclamation requires the Commission to be transparent and open to the public.

"Yes, the law authorizes the disclosure of the assets and details of belongings of any official and the Commission will make it available for the public shortly,' Berhanu Assefa, Communication Director of the Commission told Capital Newspaper.

"The Commission has to organize the asset files it has received from each official, and this requires time, Berhanu explained, adding that it has the task of verifying accuracies of the assets as well. Doubts on the assets' accuracy, tips from the public about unregistered assets of officials and possible court case outcomes are prerequisites for the verification, he said."

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: 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.

39. Can citizens access the asset disclosure records of members of the national-level judiciary?

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

Yes | No

Comments:

Article 12 sub-article 1:

All information regarding the registration of assets of an appointee, elected person or a public servant shall be open to the public.

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 12, Accessibility of Registered Information

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the citizens can access judicial asset disclosure records within a reasonable time period. Capital Newspaper, Tuesday, Dec. 7, 2010 07:21, Meles Declares His Wealth, by Yohannes Anberbir:

"The Federal Ethics and Anti-Corruption Commission (FEACC) has said it will disclose assets of Prime Minister Meles Zenawi and Heads of the two Houses of Parliament as well as the president of the judiciary to the public.

"Prime Minister Meles Zenawi filed his personal assets to the Anti-Corruption Commission. Similarly, heads of the legislative organ — Abadula Gameda, Speaker of the House of Peoples Representatives (the Upper House); Kassa Teklebrehane, Speaker of House of Federation (The Lower House); and Tegene Getaneh, President of the Supreme Court (Head of the Judiciary Organ), have also done so.

"The Asset Registration Proclamation, which is intended to fight corruption, was ratified last year. It requires all political appointees, including the 547 members of parliament and high government officials, to disclose their personal assets and belongings to EFACC, a federal government entity that is responsible for the fight against corruption in public offices and in charge of implementing this specific proclamation.

"In line with its responsibility, the Commission requested heads of the three government branches to disclose their personal belongings. The assets of the four officials has not been disclosed to the public yet, though the proclamation requires the Commission to be transparent and open to the public.

"Yes, the law authorizes the disclosure of the assets and details of belongings of any official and the Commission will make it available for the public shortly,' Berhanu Assefa, Communication Director of the Commission told Capital Newspaper.

The Commission has to organize the asset files it has received from each official, and this requires time, Berhanu explained, adding that it has the task of verifying accuracies of the assets as well. Doubts on the assets' accuracy, tips from the public about unregistered assets of officials and possible court case outcomes are prerequisites for the verification, he said."

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:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the citizens can access judicial asset disclosure records at a reasonable cost.

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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 NGOs. 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 NGOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

100 | 75 | 50 | 25 | 0

References:

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the asset disclosure records of the national-level judiciary are of high quality.

Capital Newspaper, Tuesday, Dec. 7, 2010 07:21, Meles Declares His Wealth, by Yohannes Anberbir:

"In line with its responsibility, the Commission requested heads of the three government branches to disclose their personal belongings. The assets of the four officials has not been disclosed to the public yet, though the proclamation requires the Commission to be transparent and open to the public.

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The Commission has to organize the asset files it has received from each official, and this requires time, Berhanu explained, adding that it has the task of verifying accuracies of the assets as well. Doubts on the assets’ accuracy, tips from the public about unregistered assets of officials and possible court case outcomes are prerequisites for the verification, he said.”

100: The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals’ sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals’ sources of income, investments, and other financial assets.

3.4. Budget Process Oversight & Transparency

40. Can the legislature provide input to the national budget?

83

40a. In law, the legislature can amend the budget.

Yes | No

Comments:

The House of the Peoples’ Representatives has the power to levy taxes and duties on revenue sources that are reserved to the Federal Government; it shall ratify the Federal budget.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 55, sub-article 11

<http://www.ethiopar.net/type/English/genifo/conchp61.htm>

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

References:

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

The House of Peoples Representatives has the power to levy taxes and duties on revenue sources reserved to the Federal Government, it shall ratify the Federal budget. The budget is proposed and approved after voting by the House of the Peoples' Representatives.

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

References:

Dr XXX, academic from Addis Ababa University who wishes to remain anonymous, Law Department, Dec. 29, 2010:

The House of Peoples Representatives has the power to levy taxes and duties on revenue sources that are reserved to the Federal Government; it shall ratify the Federal budget. The budget is proposed and approved after voting by the House of the Peoples' Representatives.

Elizabeth Mekonnen (2005), Does the Ethiopian Budget Encourage "articipation? A Preliminary Assessment, The African Child Policy Forum:

The Constitution provides the framework for people's participation through electoral representation. The House of Peoples' Representatives is composed of 550 members. The Legislature has clear authority over the approval of budget estimated and expenditure.

In general, the meetings of the House of the Representatives are public. The law specifies the condition and the process for having closed sessions. The House shall have a closed session upon the request of the Executive or members and when supported by a decision of more than one-half of the members.

The legal framework has made a provision for the Legislature to maintain an oversight over the Executive in the budget process. However, the practice in Ethiopia remains to be studied.

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

References:

Dr XXX, academic from Addis Ababa University who wishes to remain anonymous, Law Department, Dec. 29, 2010:

The National Budgetary Process is transparent. Budget debates are broadcast. However, the rationale behind the sectoral allocations may not be clear to citizens. The Ministry of Finance and Economic Development (MOFED) makes macro-economic and fiscal plans available for allocation to sector ministries. It issues a budget guideline and indicative spending ceilings. Each spending agency submits its proposal to MOFED. The overall budget envelope, finalized after a budget hearing process, will be submitted to the Council of Ministers for approval. The budget then is presented to parliament and published.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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

References:

Dr XXX, academic from Addis Ababa University who wishes to remain anonymous, Law Department, Dec. 29, 2010:

By law, citizens do not directly participate in the budget hearings. The process is not participatory. This is possible only through the representatives they have elected.

100: Citizens, usually acting through NGOs, 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 NGOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or NGOs 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

References:

Dr XXX, academic from Addis Ababa University who wishes to remain anonymous, Law Department, Dec. 29, 2010:

Access to itemized budget is provided by the Ministry of Finance and Economic Development (MOFED). The MOFED provides data on sector-level aggregated income and expenditures. Anyone can access such information by providing a request letter from an institution. This may sometimes take some time.

Elizabeth Mekonnen (2005), Does the Ethiopian Budget Encourage Participation? A Preliminary Assessment, The African Child Policy Forum:

The Constitution grants access to public information, presumably, including the budget. However, the implementation of this right is mixed. Information held by public authorities is not easily accessible to the public and comprehensive guidance on how to obtain such information is limited.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED):

The macroeconomic-level sectoral budget is posted on the website of the MOFED.

100: Citizens, journalists and NGOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and NGOs 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.

42. In law, is there a separate legislative committee which provides oversight of public funds?

100

42a. In law, is there a separate legislative committee which provides oversight of public funds?

Yes | No

Comments:

Sub-article 1:

The main objective for the establishment of the Budget and Finance Affairs Standing Committee is, based on the relevant policies and laws of the country, to supervise and investigate the Federal Government's annual and additional budget and the subsidies allotted to the regional States as well as to monitor the collection and protection of the Federal Government's money; and its proper usage for the intended purposes.

References:

Proclamation No. 470/2005, Federal Democratic Republic of Ethiopia House of Peoples' Representatives Working Procedure and Members' Code of Conduct (Amendment) Proclamation, Article 29 The Budget and Finance Affairs Standing Committee

<http://www.ethiopar.net/type/Amharic/hopre/bills/1998/470.ae..pdf>

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).

43. Is the legislative committee overseeing the expenditure of public funds effective?

42

43a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

References:

www.mofed.gov.et/ and www.nbe.gov.et/:

The Ministry of Finance and Economic Development (MOFED) publishes quarterly reports on its activities, revenue and expenditure.

The National Bank of Ethiopia follows the same procedure. The reports are available online.

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

References:

Dr XXX, academic from Addis Ababa University who wishes to remain anonymous, Law Department, Dec. 29, 2010:

There are, in reality, only two opposition party members who have been elected. As they cannot have two mandates at the same time, there are no opposition party members.

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

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous.

Interview on Dec. 29, 2010, Addis Ababa Ethiopia:

This is not seen much in practice.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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.

Category 4. Public Administration and Professionalism

4.1. ⁷²Civil Service: Conflicts of Interest Safeguards and Political Independence

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

Comments:

Article 2, sub-article 1, of the Federal Civil Service Commission Establishment Proclamation states that the commission is established as an autonomous public institution of the Federal Government. Furthermore, the objective of the commission is to see to the realization 'of a meritorious, efficient, productive and permanent civil service,in accordance with the law (article 4).

References:

Proclamation No. 8/1995, Federal Civil Service Commission Establishment Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc%20No.%208-1995%20Federal%20Civil%20Service%20Commission%20Establishme.pdf

Proclamation No. 515/2007, Federal Civil Servants Proclamation http://www.ethiopar.net/type/English/hopre/bills/2004_2005/515.ae_.pdf

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

Comments:

Article 1 of the Federal Civil Servants Proclamations defines Civil Servant as:
A person employed permanently by federal government institution; provided, however, that it shall not include the following:

- a) government officials with the rank of state minister, deputy director general and their equivalent and above;
- b) members of the House of Peoples' Representatives and the House of the Federation;
- c) federal judges and prosecutors;
- d) members of the Armed Forces and the Federal Police including other employees governed by the regulations of the Armed Forces and the Federal Police;
- e) employees excluded from the coverage of this Proclamation by other appropriate laws.

References:

Proclamation No. 515/2007, Federal Civil Servants Proclamation:

Article 13, Filling of vacancies

Article 16, Vacancy Announcement and Examination for Recruitment

Article 24, Selection for Promotion

Article 69, Taking Disciplinary Measures

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/515.ae.pdf

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 73. The grievance handling committee shall investigate complaints lodged by civil servants and submit recommendations relating to:

- 1) interpretation and implementation of laws and directives;
- 2) protection of rights and benefits;
- 3) occupational safety and health;
- 4) placement and promotion;
- 5) performance appraisal;
- 6) undue influence exerted by supervisors;
- 7) disciplinary measures provided under Article 67/1//a/-/c/;
- 8) other issues related to conditions of service.

Article 74, sub-article 1:

An Administrative Tribunal, which hears, litigates and decides cases brought to it on the basis of Article 75, is hereby established.

Article 75:

The Administrative Tribunal shall have the power to hear and decide on appeals brought by a civil servant relating to:

- 1) unlawful suspension or termination of service;
- 2) being penalized by rigorous disciplinary penalty;
- 3) an illegal attachment or deduction of his salary or other payments;
- 4) infringement of his rights arising from an employment injury;
- 5) except provided in Article 73/7 of this Proclamation, cases investigated and decided upon by grievance handling committee;
- 6) matters arising from his request for termination letters and testimonials of service.

References:

Proclamation No. 515/2007, Federal Civil Servants Proclamation:

Article 73, Duties of Grievance Handling Committee;

Article 74, Establishment of the Administrative Tribunal;

Article 75, Jurisdiction of the Administrative Tribunal

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/515.ae..pdf

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, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

Yes | No

Comments:

Article 14 sub-article 1(b) of the Federal Civil Servants Proclamation:

The following shall not be eligible to be civil servants: any person who has been convicted by a court of competent jurisdiction of breach of trust, theft, or fraud.

References:

Proclamation No. 515/2007, Federal Civil Servants Proclamation, Article 14 (Eligibility) sub-article 1(b)

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/515.ae..pdf

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?

61

45a. In practice, civil servants are protected from political interference.

Comments:

The implementation of the Business Process Re-engineering (BPR) has reinforced this, especially for civil servants at high political levels.

Especially since the BPR implementation, knowledge of the ruling party's policies is required. Public servants are given courses on the five major government policies and have to pass some test on this matter. This is used to allocate the staff to the different departments and levels. In addition, civil servants are encouraged to become party members; however, they are still given the choice of not joining

There is however a difference between the technical and the administrative staff. The latter group seem to face more pressure to become members of the ruling party.

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer:

Civil servants are generally not protected from political interference. The exception is made for those who work in research-related government institutions, such as the Central Statistical Office.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011

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.

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer:

There is rather a combination of professional and political criteria that is used when appointing civil servants.

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011:

Professional criteria is the major one, then comes political affiliation.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer:

Not all civil service management actions are based on nepotism, cronyism, or patronage. However, in some cases, this is commonly practiced.

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011:

It is observed in some cases.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer:

Yes, especially at high positions. There is sometimes a mixed result for the lower-level positions, but in general, they are clear.

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011:

This is true, especially since the Business Process Re-engineering (BPR) was established. Most staff members have clear job descriptions.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer:

Civil servants do not receive a bonus. Only those who work in government profit-making institutions, such as the Commercial Bank of Ethiopia or state-owned companies, have such benefits.

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011:

The public offices do not give out bonuses.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer:

Some departments do and others do not.

Mr XXX who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010 and who joined the private sector, interview on Jan. 3, 2011:

Reports are prepared on staff and posts.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

Some mechanisms are effective and other are not. There is no clear cut answer. It depends on the institution and the case.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED), interview on Dec. 6, 2010

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer:

Yes, civil servants are paid on time. There is no problem in this regard.

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer:

This does not really happen in practice. There are cases where civil servants have been convicted for corruption and even imprisoned. After serving their term, it these individuals are back working in government offices.

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011:

In practice, they are mostly given lower ranking positions but are not prohibited from government employment.

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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?

56

46a. In law, senior members of the civil service are required to file an asset disclosure form.

Yes | No

Comments:

Article 2, sub-article 6, states that "public servant" includes the following:

- a) department heads, directors and service heads of public offices and public enterprises and other employees having equivalent or higher ranks;
- b) advisers of appointees;
- c) employees of public offices performing licensing, regulating or tax collection functions, prosecutors, investigators, traffic police officers; and
- d) other employees of public offices and public enterprises to be specified by directives of the Commission.

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation
Article 2, sub-article 6:

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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 16. Measures to be Taken to Avoid Conflict of Interest:

1. Where an appointee, an elected person or a public servant encounters a case that may lead to a conflict between his official duty and his own or his close relative's private interest, he shall:

a) refrain from giving decision or opinion on the case as well as from taking any action that may be inconsistent with his official duty or may compromise his loyalty; and

b) disclose the situation to the concerned higher official.

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 16, Measures to Be Taken to Avoid Conflict of Interest

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/668.pdf

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:

Article 18 states that any appointee, elected person or public servant may not work for persons whose activities he formerly regulated until two years after leaving office. The details shall be provided in regulations and/or directives.

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 18, Post Employment Limitation:

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/668.pdf

<http://www.ethiopar.net/>

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:

Article 15 Gift, Hospitality and Sponsored Travel:

1. Any appointee, elected person or public servant may not accept any gift, hospitality or sponsored travel that may put his decision-making authority under question or result in a conflict of interest.

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 15, sub-article 1

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 11, Verification of Registration

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/668.pdf

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:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 18, Post-employment Limitation:

This proclamation came into effect on April 12, 2010. As such, not enough time has passed to measure or assess whether the regulations governing post-government private sector employment for civil servants are effective.

References:

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011:

There are no regulations that have been put in place and in practice.

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:

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the regulations governing gifts and hospitality offered to civil servants are effective.

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

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

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

Proclamation No. 668/2010, Disclosure and Registration of Assets Proclamation, Article 16 Measures to be Taken to Avoid Conflict of Interest,

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. As such, not enough time has passed to measure or assess whether the regulations governing conflicts of interest for civil servants are effective.

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

Comments:

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether civil service asset disclosures are audited.

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

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?

25

47a. In law, citizens can access the asset disclosure records of senior civil servants.

Yes | No

Comments:

Article 12, sub-article 1:

All information regarding the registration of assets of an appointee, elected person or a public servant shall be open to the public.

References:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation, Article 12, Accessibility of Registered Information

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/668.pdf

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:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

Capital Newspaper, Tuesday, Dec. 14, 2010 12:27, Gov't Officials Begin Declaring Assets, by Binyam Tamene:

"Following the ministers, the commission responsible for the fight against corruption in public office and in charge of implementing the bill that requires the registration, is scheduled to start its work with government officials at the ambassador and counselor level. To accomplish this, the commission has formed a new directorate called Disclosure and Registration of Assets of Government Officials Directorate, a directorate that employs 40 personnel.

"Not Ready for Public Knowledge

Even though the commission began registration a week ago, it has not yet disclosed the amount of assets that officials, including the Prime Minister, have. It says it is not making the knowledge public because 'it is still subject to verification.'"

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:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

Capital Newspaper, Tuesday, Dec. 14, 2010 12:27, Gov't Officials Begin Declaring Assets, by Binyam Tamene:

"Following the ministers, the commission responsible for the fight against corruption in public office and in charge of implementing the bill that requires the registration, is scheduled to start its work with government officials at the ambassador and counselor level. To accomplish this, the commission has formed a new directorate called Disclosure and Registration of Assets of Government Officials Directorate, a directorate that employs 40 personnel.

"Not Ready for Public Knowledge

Even though the commission began registration a week ago, it has not yet disclosed the amount of assets that officials, including the Prime Minister, have. It says it is not making the knowledge public because 'it is still subject to verification.'"

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 NGOs. 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 NGOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

100 | 75 | 50 | 25 | 0

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

Proclamation No. 668/2010, "Disclosure and Registration of Assets Proclamation," came into effect on April 12, 2010. Further, the first set of appointees to declare and disclose their assets (members of the House of Peoples Representatives, the Prime Minister and the President) did so this past week (December 19, 2010). As such, not enough time has passed to measure or assess whether the asset disclosure records of senior civil servants are of high quality.

100: The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

4.2. Whistle-blowing Protections

48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

81

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:

Article 7, sub-article 16, of the Federal Ethics and Anti-Corruption Commission Establishment Proclamation states that the Commission shall have the powers and duties to provide physical and job security protection to witnesses and whistle-blowers.

References:

Proclamation No. 235/2001, Federal Ethics and Anti-Corruption Commission Establishment Proclamation, Article 7, sub-article 16,
http://www.ethiopar.net/type/English/hqpre/bills/2004_2005/Proc%20No.%20235-2001%20Federal%20Ethics%20and%20Anti-Corruption%20Commis.pdf

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

References:

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011

Proclamation No. 235/2001, Federal Ethics and Anti-Corruption Commission Establishment Proclamation, Article 7 sub-article 16 of the Federal Ethics and Anti-Corruption Commission Establishment Proclamation states that the Commission shall have the powers and duties to provide physical and job security protection to witnesses and whistle-blowers.

Despite this, although there are officers in government institutions who are in charge of reporting cases of corruption within the institutions they are working, no one reports cases of corruption, graft, abuse of power, or abuse of resources. This is because of the fear of repercussions that may affect one's privileges.

Mr Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission, Addis Ababa, Ethiopia, Jan. 11, 2010:

There is a system that protects civil servants from possible recrimination or other negative consequences. The Federal Ethics and Anti-corruption Commission (FEACC) also gives protection with regard to job security and preservation of benefits for those who lodge complaints and may be at risk. There is actually a new law that was endorsed by the parliament about two weeks ago that protects whistle-blowers and witnesses even more. There is a more complete procedure that enables the full protection of complainants.

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:

Article 7, sub-article 16, of the Federal Ethics and Anti-Corruption Commission Establishment Proclamation states that the Commission shall have the powers and duties to provide physical and job security protection to witnesses and whistle-blowers.

Article 49, Illegality of Reprisal of the Anti-Corruption Special Procedure and Rules of Evidence Proclamation states the following:

- 1) Any reprisal taken against a whistle-blower for making or attempting to make a disclosure shall be illegal;
- 2) Every government office shall establish a procedure to protect its employees from reprisal.

References:

Proclamation No. 235/2001, Federal Ethics and Anti-Corruption Commission Establishment Proclamation, Article 7, sub-article 16,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20235-2001%20Federal%20Ethics%20and%20Anti-Corruption%20Commis.pdf

Proclamation No. 236/2001, Anti-Corruption Special Procedure and Rules of Evidence Proclamation, Article 49,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20236-2001%20Anti-Corruption%20Special%20Procedure%20and%20Rul.pdf

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

References:

Mr Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission, Addis Ababa, Ethiopia, Jan. 11, 2010:

Private sector employees can use the anonymous system to report corruption, graft, abuse of power, or abuse of resources.

Federal Ethics and Anti-Corruption Commission (FEACC):

“The FEACC established channels and mechanisms of making corruption complaints. Whistle-blowers can present their complaints about alleged corruption offences, ethical infringements and improprieties in person, on telephone, through e-mail, on fax and through post office. Their identity could be withheld upon their request. The FEACC will, in no way, disclose their identities without their permission and against their will.

“If the complainants prefer to present their complaints in person, they can directly turn up and do so in person. If they want to blow the whistle on alleged corruption on fax, they can use 0115536991. The e-mail and postal addresses of the Commission are feacinv@ethionet.et and 34798/9 respectively. For those who want to do it on telephone, the FEACC has already set up a new hotline (988) at which they can call and inform it about their cases free of charge.”

http://www.feac.gov.et/web_collection/feac_profile_english.htm#com9.3.1

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.

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

49a. 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

References:

Proclamation No. 235/2001, Federal Ethics and Anti-Corruption Commission Establishment Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20235-2001%20Federal%20Ethics%20and%20Anti-Corruption%20Commis.pdf

Proclamation No. 239/2001, Anti-Corruption Special Procedure and Rules of Evidence (Amendment) Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20239-2001%20Anti-Corruption%20Special%20Procedure%20and%20Rul.pdf

Mr Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission, Addis Ababa, Ethiopia, Jan. 11, 2010:

The internal mechanism through which civil servants can report corruption is the ethics liaison office, where there is at least one ethics officer. These officers advise different government bureaus on corruption and unethical practices.

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.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

31

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011:

The Federal Ethics and Anti-corruption Commission trains the staff in public offices on how to deal with charges of corruption and other mismanagement cases.

Federal Ethics and Anti-Corruption Commission (FEACC), Annual report:

"The FEACC established channels and mechanisms of making corruption complaints. Whistle blowers can present their complaints about alleged corruption offences, ethical infringements and improprieties in person, on telephone, through e-mail, on fax and through post office. Their identity could be withheld upon their request. The FEACC will, in no way, disclose their identities without their permission and against their will.

"If the complainants prefer to present their complaints in person, they can directly turn up and do so in person. If they want to blow the whistle on alleged corruption on fax, they can use 0115536991. The e-mail and postal addresses of the Commission are feacinv@ethionet.et and 34798/9 respectively. For those who want to do it on telephone, the FEACC has already set up a new hotline (988) at which they can call and inform it about their cases free of charge."
http://www.feac.gov.et/web_collection/feac_profile_english.htm#com9.3.1

Planning and Research Expert at the Ministry of Finance and Economic Development (MOFED)

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:

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011:

The Federal Ethics and Anti-corruption Commission trains the staff in public offices to deal with charges of corruption and other cases of mismanagement.

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:

The system is not really efficient because civil servants do not use it out of fear of negative repercussions.

References:

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011

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:

Not in practice. Only minor cases are investigated. The system is not really efficient because civil servants do not use it out of

fear of negative repercussions. Even those who have been trained by the Federal Ethics and Anti-corruption Commission do not act on corruption cases although they may know about it. No investigations are initiated when they concern a serious matter and a highly ranked official.

References:

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011:

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.

71
4.3. Government Procurement: Transparency, Fairness, and
Conflicts of Interest Safeguards

51. Is the public procurement process effective?

68

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

Yes | No

References:

Proclamation No. 649/2009, The Ethiopian Federal Government Procurement and Property Administration Proclamation:

Article 32. Rules of Ethics in Public Procurement and Property Administration;

Article 77. Offenses and Punishment

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/649.ae..pdf

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

Comments:

Article 8, Sub-article c:

Ensure that staff and officials assigned in the procurement and property administration and those assigned as members of the procurement endorsing committee receive training to enable them acquire knowledge of the content and application of this Proclamation, the directives to be issued in accordance with this Proclamation, the procurement and property administration manuals, the standard bidding documents and other relevant forms.

References:

Proclamation No. 649/2009, The Ethiopian Federal Government Procurement and Property Administration Proclamation, Article 8, Sub-article c,

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/649_ae_.pdf

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

References:

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011:

Procurement is the most corrupt sector in government offices.

Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission, Addis Ababa, Ethiopia, Jan. 11, 2010:

Procurement is one of the public sectors that are prone to corruption. Some cases of complaint related to procurement have been reported and the Federal Ethics and Anti-corruption Commission (FEACC) has made interventions. The FEACC focuses on this area with particular attention as it is one of the five major focus areas:

- land administration;
- revenue generation;
- big government procurement and sales;
- justice system; and
- asset registration.

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:

Proclamation No. 668 /2010, Disclosure and Registration of Assets Proclamation

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/668.pdf

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:

Sub-article 2: Except as otherwise provided in this Proclamation, public bodies shall use open bidding as the preferred procedure of procurement.

References:

Proclamation No. 649/2009, The Ethiopian Federal Government Procurement and Property Administration Proclamation 33, Methods of Procurement,

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/649.ae..pdf

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

References:

Proclamation No. 649/2009, The Ethiopian Federal Government Procurement and Property Administration Proclamation 51, Conditions for use of Direct Procurement,

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/649.ae..pdf

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:

Article 72, Sub-article 1:

The Minister shall issue and implement a directive setting for the procedure the Board has to follow in the exercise of its powers and duties; such directive shall adhere to the following general rules:

- a) the Board shall review and decide on complaints from candidates or suppliers;
- b) the Board may in the exercise of its function require the production of relevant documents and the testimony of officials and employees of the concerned bodies;
- c) the Board may also seek professional assistance from governmental or nongovernmental entities where it finds such assistance to be useful in reviewing and deciding on a complaint submitted to it.

References:

Proclamation No. 649/2009, The Ethiopian Federal Government Procurement and Property Administration Proclamation, Article 72, Sub-article 1

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/649.ae..pdf

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

References:

Proclamation No. 649/2009, The Ethiopian Federal Government Procurement and Property Administration Proclamation

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/649.ae..pdf

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:

Proclamation No. 649/2009, The Ethiopian Federal Government Procurement and Property Administration Proclamation

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/649.ae..pdf

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:

Although this does not reflect a bribery case, the company has been awarded several privatization bids even though it has not completed some investment projects that enabled it to win bids.

References:

The Reporter, Making Amends for Unnecessary Actions and Inactions, Saturday, Feb. 21, 2009:

The government has transferred sizeable state-owned investment projects through the privatization program to the owner of MIDROC Ethiopia, including 33 farms which were sold to one of its subsidiaries. But, due to the absence of a proper follow-up mechanism as well as the commitment to take timely measures, the expected outcome in terms of development has not been seen. In fact, monies owed to the government have not been properly collected, resulting in some cases in the institution of suits for their recovery.

The same company has failed to either start or complete several investment projects it had set out to run successfully. The land on which the Millennium Hall stands was given to the company after its owner committed himself to building a hotel as well as a convention and business center within a 24-month period completing them by the dawn of the new Ethiopia millennium in September 2007. The hotel and the centre have not been built to date; only the hall was hastily erected. However, no action has been taken regarding the still-born project.

Similarly, the company has not discharged the commitment it entered into to construct a hotel for the African Union. Given that the Ethiopian government granted the land on which the hotel is to stand free of lease and turned down the offers by African governments to build the hotel by assuring them that the company would undertake, it needs to take a stern measure. The country's image is being badly damaged.

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?

71

52a. In law, citizens can access public procurement regulations.

Yes | No

Comments:

Article 7 states that the Proclamation and the procurement and property directives to be issued by the Minister, as well as other documents pertaining to public procurement and property administration, shall be promptly made accessible to the public and systematically maintained.

References:

Proclamation No. 649/2009, The Ethiopian Federal Government Procurement and Property Administration Proclamation, Article 7, Public Accessibility of Legal Texts

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/649_ae_.pdf

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 44: After the opening of bids, information relating to the examination, clarification, and evaluation of bids and recommendations for award must not be disclosed to bidders or other persons not officially concerned with this process until the award of the contract is announced.

Article 46, Sub-article 1: Prior to the expiration of the period of bid validity, the public body shall notify the successful bidder that its bid has been accepted. The notification of award shall specify the time within which the contract must be signed. The unsuccessful bidders shall also be informed as to who the successful bidder is and why they have lost the bid.

References:

Proclamation No. 649/2009, The Ethiopian Federal Government Procurement and Property Administration Proclamation:

Article 44

Article 46, Sub-article 1

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/649_ae_.pdf

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

References:

The public procurement process is announced in newspapers and on national television. These newspapers include Reporter, Capital, Fortune, and other daily newspapers, among them English-language newspapers. The request for bid or proposal is often announced one week to 10 working days in advance.

The regulations are available from the Negarit Gazeta publisher and online.

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

References:

The public procurement process is announced in newspapers and on national television. These outlets include Reporter, Capital, Fortune, and other daily newspapers, along with English-language newspapers, which can be bought for a low cost

The regulations are available from the Negarit Gazeta publisher and online.

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 NGOs. 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 NGOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

Not all public procurements are advertised.

References:

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011

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:

Results of major public procurement bids are not always announced, and even those bidders who have submitted a proposal are not aware of decisions unless they have won the bid.

References:

Mr. XXX, who wishes to remain anonymous, former civil servant (technical staff) with seven years work experience at the Central

Statistical Authority until December 2010, and who joined the private sector, interview on Jan. 3, 2011:

Mr. XXX, who wishes to remain anonymous, managing director and owner of a local consulting firm, interview on Nov. 29, 2010

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.

4.4. Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards

53. Is the privatization process effective?

83

53a. In law, all businesses are eligible to compete for privatized state assets.

Yes | No

Comments:

Article 2, sub-article 8 of the Privatization of Public Enterprises Proclamation states that The words ‘Investor,’ ‘Domestic Investor’ and ‘foreign Investor’ shall have the meanings assigned to them under the Investment Proclamation No. 37/ 1996; provided, however, that ‘Domestic Investor’ shall not include the government and public enterprises.

Article 2 of the Re-Enactment of the Investment Proclamation states the following:

Sub-article 4: ‘Investor’ means a domestic or foreign investor having invested in Ethiopia;

Sub-article 5: ‘Domestic Investor’ means an Ethiopian or a foreign national permanently residing in Ethiopia who has made an investment, and includes the Government, public enterprises as well as foreign and national; Ethiopians by birth and who desire to be considered to be domestic investors;

Sub-article 6: ‘Foreign Investor’ means a foreign or an enterprise owned by foreign nationals, having invested foreign capital in Ethiopia, and includes Ethiopians who permanently reside abroad and prefer to be treated as a foreign investor.

References:

Proclamation No. 146/1998, Privatization of Public Enterprises Proclamation.

Article 2, Sub-article 8,

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20146-1998%20Privatization%20of%20Public%20Enterprises.pdf
<http://www.ethiobar.net/>

Proclamation No. 280/2002, Re-Enactment of the Investment Proclamation, Article 2, Sub-articles 4, 5, 6,
http://www.ethiobar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20280-2002%20Investment.pdf

<http://www.ethiobar.net/>

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, Article 404-409,
<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70993/75092/F1429731028/ETH70993.pdf>

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

References:

Federal Ethics and Anti-corruption Commission, Annual Report:

“Privatization and Public Enterprises Supervising Agency: In the period, the Agency’s working procedures and practices in assigning and evaluating board members fell under the Federal Ethics and Anti-corruption Commission’s review. The review found that, inter alia, terms of board members was not in compliance with the relevant proclamation. Board members were assigned by external bodies instead of committees established for this particular purpose. Lack of transparency in decision making and failure to take timely measures against incompetent board and audit committee members were some of the flaws mentioned in the report.”

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?

90

54a. In law, citizens can access privatization regulations.

Yes | No

References:

Proclamation No.412/2004, A Proclamation to Provide for The Establishment of The Privatization and Public Enterprises Supervising Authority,
[http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc No. 412-2004 A, Proclamation to Provide for The Establi.pdf](http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc.No.412-2004.A,Proclamation%20to%20Provide%20for%20The%20Establi.pdf)

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

References:

Privatization & Public Enterprises Supervising Agency
<http://www.ppesa.gov.et/Bids.aspx>:

Bids and notices are available on the website. Privatizations are also advertised on television and in newspapers.

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:

Proclamation No. 649/2009, The Ethiopian Federal Government Procurement and Property Administration Proclamation,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/649.ae..pdf

Proclamation No. 146/1998, Privatization of Public Enterprises Proclamation,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc No. 146-1998, Privatization of Public Enterprises.pdf

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.

100 | 75 | 50 | 25 | 0

References:

Privatization & Public Enterprises Supervising Agency,
<http://www.ppesa.gov.et/Bids.aspx>

Privatization regulations are available on the website.

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.

100 | 75 | 50 | 25 | 0

References:

Privatization & Public Enterprises Supervising Agency,
<http://www.ppesa.gov.et/Bids.aspx>

Privatization regulations are available on the website. Privatizations are also advertised on television and in newspapers.

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 NGOs. 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 NGOs trying to access this information.

Category 5. Government Oversight and Controls

5.1. National Ombudsman

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55a. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

Yes | No

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 55, sub-article 15,
<http://www.ethiobar.net/type/English/genifo/conchp61.htm>

Proclamation No. 211/2000, Institution of the Ombudsman Establishment Proclamation:

Article 3, Establishment;

Article 4 Scope;

Article 5 Objective;

Article 6 Powers and Duties.

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20211-2000%20Institution%20of%20the%20Ombudsman%20Establishment.pdf

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.

56. Is the national ombudsman effective?

57

56a. In law, the ombudsman is protected from political interference.

Yes | No

Comments:

Article 3, sub-article 1: The Institution of the Ombudsman (hereinafter referred to as "the Institution") is hereby established as an autonomous organ of the federal Government having its own juridical personality.

References:

Proclamation No. 211/2000, Institution of the Ombudsman Establishment Proclamation
Article 3, sub-article 1,
http://www.ethiobar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20211-2000%20Institution%20of%20the%20Ombudsman%20Establishment.pdf

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

It is not protected from political interference.

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

Their removal is decided based on the law.

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

Agency appointments are subject to political interference.

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:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

The Ombudsman receives regular funding from the government and the United Nations Development Programme.

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

The reports are made available, but the mandate of the Ombudsman is limited, so the reports are not that sensitive or do not cover sensitive issues and cases.

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

Its mandate is to initiate investigations based on complaints. It does not initiate any investigation on its own.

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

It does not have the mandate. The decisions and penalties are made by the court.

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

The ombudsman has a limited mandate and therefore its findings are not very important to the government. The government rather relies on the Federal Ethics and Anti-corruption Commission.

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

That is not the case.

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?

83

57a. In law, citizens can access reports of the ombudsman(s).

Yes | No

Comments:

Article 39, sub-article 1: The Institution shall issue an official report, as may be necessary.

Article 39, sub-article 2: The Institution shall exercise transparency in respect of its mode of operation, including issuance of regular reports.

References:

Proclamation No. 211/2000, Institution of the Ombudsman Establishment Proclamation, Article 39, sub-article 1;

Article 39, sub-article 2

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20211-2000%20Institution%20of%20the%20Ombudsman%20Establishment.pdf

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

References:

Ethiopian Institution of the Ombudsman website; some reports are available for download, <http://ethombudsman.org/downloads.php>

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

References:

Ethiopian Institution of the Ombudsman website; some reports are available for download for free, <http://ethombudsman.org/downloads.php>

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 NGOs. 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 NGOs trying to access this information.

5.2. Supreme Audit Institution

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58a. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Yes | No

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 101, The Auditor General, <http://www.ethiobar.net/type/English/genifo/conchp11.htm>

Proclamation No. 669 /2010, Office of the Federal Auditor General Establishment (Amendment) Proclamation, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/669.pdf

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.

59. Is the supreme audit institution effective?

75

59a. In law, the supreme audit institution is protected from political interference.

Yes | No

Comments:

Article 3, sub-article 1: The Office of the Federal Auditor General of the Federal Democratic Republic of Ethiopia (hereinafter referred as "the Office") is hereby re-established as an autonomous body of the federal government in accordance with sub-article /4/ of Article 101 of the Constitution of the Federal Democratic Republic of Ethiopia.

References:

Proclamation No. 669 /2010, Office of the Federal Auditor General Establishment (Amendment) Proclamation, Article 3, sub-article 1

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/669.pdf

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:

Since 2007, no Auditor general has been fired before the end of his or her term.

References:

Bertelsmann Stiftung, BTI 2010, Ethiopia Country Report, Gütersloh: Bertelsmann Stiftung, 2009:

"On the rare occasions when parliamentary commissions of inquiry were established, few of their members were parliamentarians; the commissions consisted mostly of externally drafted "experts." The results of the inquiry into the post-election violence in June and November 2005, for example, confirmed the death of 193 civilians but exonerated the police and the government of having used excessive and unnecessary force. According to the deputy chairman of the commission (who later sought political asylum in the United Kingdom) the original findings were considerably watered down.

"In another such inquiry provoked by the findings by the auditor-general that the government's level of borrowing had been unconstitutionally high in 2005-2006, the commission discovered a technicality that allowed it to assert that the government was still within its constitutional limits. Beforehand, the prime minister had publicly derided the (acting) auditor-general as somebody who did not understand his job. [...]

"Little budgetary oversight exists. The only time an auditor general was bold enough to criticize the government, he was publicly humiliated and his findings were dismissed.

"Another indicator of low efficiency is the increasing need for supplementary budgets. During the period of observation, the government had to table twice a supplementary budget because the regular one was insufficient to cover costs. [...]

"The office of the auditor general regularly carries out an audit of government finances, but as the 2005-2006 report (released 2008) shows, the government reacts very harshly when criticized. Party funding is only regulated in the sense that funding from external sources is prohibited. This mainly affects the opposition parties. Officeholders are not required to declare their assets and their business interests as this would reveal the extent to which ministers and other high officials form a network of political control in many private and public enterprises.

"The public procurement system has become more transparent since 2006 but is still far from being free from government manipulation. For example, the government makes sure that companies owned by or closely affiliated to the ruling party are awarded the contracts to transport food aid to needy areas. A recent study shows that the notorious construction sector in Ethiopia has reduced corruption levels. [...]"

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

References:

Office of the Federal Auditor General, <http://www.ofag.gov.et/faq.php>

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

References:

Dr. XXX, academic from Addis Ababa University who wishes to remain anonymous, Law Department, Dec. 29, 2010:

Proclamation No. 669 /2010, Office of the Federal Auditor General Establishment (Amendment) Proclamation, Page 5240:

6. Appointment and Accountability of the Federal Auditor General:

1. The Federal Auditor General who heads the Office of the Federal Auditor General shall be appointed by the House of Peoples' Representatives upon recommendation by the Prime Minister.

2. The Federal Auditor General shall be accountable to the House of Peoples' Representatives and, between sessions, shall be accountable to the President of the Federal Republic.

The House of Peoples' Representatives is composed of a very large majority of members of the ruling party.

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

References:

Office of the Federal Auditor General, http://www.ofag.gov.et/OFAG_Procla_new.pdf

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 Auditor General makes regular reports to the parliament, which are televised and available for future viewing from the organization.

References:

A former judge, presently an attorney at law, Jan. 05, 2011

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

References:

Capital Newspaper, Vol. 13 No. 629, Federal Auditor General to Probe Private Accounts, by Kirubel Tadesse, Monday, Jan. 25, 2010 00:00:

"The auditor was embroiled in controversy two years ago when PM Meles Zenawi famously ridiculed the Auditor General's Annual Report to parliament saying that the errors contained in the report were a 'junior accountant's mistake.'

"Back in 2008, in presenting its annual audit report of budget year 2006-2007, the auditor reported to parliament that the government had borrowed billions more than it should by law during the year in review. PM Meles and other senior government officials rejected the report and parliament established an independent professional committee to probe the finding of the report, a move the opposition said second-guessed an autonomous organ that is only accountable to parliament.

"The final report of the committee agreed with both the federal auditor and the executive.

"The experts say different accounting procedures that the two sides used referred to federal borrowing differently: While the government defines borrowing as net borrowing — the amount it has in banks deducted from overall borrowing — the auditor considers only the amount borrowed without subtracting the funds in the bank."

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.

References:

Capital Newspaper, Vol. 13, No. 629, by Groum Abate, Tuesday, April 6, 2010, 15:09, Auditors "Incompetent and Unethical"

"The Federal General Auditor is going to take measures against audit firms after a committee that had been formed to study the industry found that most of these firms are unethical and incompetent, despite some who do their job professionally. Gemechu Dubissa, the Federal General Auditor, said that, based on the study of the committee, the general auditor will take action.

"Gemechu told Capital that there has not been any assessment done in the past to monitor and supervise auditors' quality and status.

"According to the general auditor, his bureau will take firm action against those who are classified as incapable or unethical in the coming few months, after the committee has completed its report.

"He added that it is his belief that the situation will improve after the action and that his bureau will regularly monitor audit firms in the future."

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.

60. Can citizens access reports of the supreme audit institution?

83

60a. In law, citizens can access reports of the audit agency.

Yes | No

Comments:

Article 4, sub-article 2, of the Office of the Federal Auditor General Establishment (Amendment) Proclamation states that the office shall ascertain that all money and property of the federal government are collected, preserved and used properly, in accordance with the laws and regulations of the federal government, and that they will report the same to the House.

Article 7, sub-article 4, of the working procedure of the House states that all members of the Federal Government bodies shall present their reports to the pertinent committees in the allotted time.

Article 7, sub-article 5: The Standing Committee shall hold a public debate on the report after its own hearing. The committee shall invite pertinent bodies of the society and the mass media to attend the discussions. The pertinent Federal Government bodies shall present their reports through the pertinent Standing Committees to the House.

References:

Proclamation No. 669 /2010, Office of the Federal Auditor General Establishment (Amendment) Proclamation, Article 4, sub-article 2,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/669.pdf

Proclamation No. 470/2005, Federal Democratic Republic of Ethiopia House of Peoples' Representatives Working Procedure and Members' Code of Conduct (Amendment) Proclamation, Article 7, sub-article 4 and 5,
<http://www.ethiopar.net/type/Amharic/hopre/bills/1998/470.ae..pdf>

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

References:

Office of the Federal Auditor General,
<http://www.ofag.gov.et/auditedreport.php>:

The report looks to be available but it is not on the website.

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous.
Interview on Dec. 29, 2010, Addis Ababa Ethiopia

Accessing reports requires following the usual procedure as do other government offices. A response may take time if it concerns sensitive information.

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:

The report looks to be available on the website of the Federal Auditor General. However, when you click to download, nothing happens. It is as if the documents were not uploaded yet. However, most government reports are available free of charge.

References:

Office of the Federal Auditor General, <http://www.ofag.gov.et/auditedreport.php>

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 NGOs. 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 NGOs trying to access this information.

86
5.3. Taxes and Customs: Fairness and Capacity

61. In law, is there a national tax collection agency?

100

61a. In law, is there a national tax collection agency?

Yes | No

References:

Proclamation No. 587/2008, Ethiopian Revenues and Customs Authority Establishment Proclamation

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/587.pdf

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.

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:

Ethiopian Revenues and Customs Authority (ERCA), <http://www.erca.gov.et/about.php>

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:

The Ethiopian Revenues and Customs Authority (ERCA) receives regular funding from the government, <http://www.erca.gov.et>

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.

63. In practice, are tax laws enforced uniformly and without discrimination?

25

63a. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

References:

Private sector businessman who wishes to remain anonymous, Interview on Jan. 3, 2011:

Some civil servants within the tax collection agency are corrupt; therefore, some people pay lower taxes and others pay the entire required amount.

Capital Newspaper, Thursday, June 17, 2010, 11:00, Tax Evasion Still a Problem, by Yohannes Anberbir:

"The Revenue and Customs Authority (RCA) has identified 4.5 billion birr (US\$ 58,140,000) worth of unpaid taxes and blacklisted 171 taxpayers for evasion. The nine-month performance of the authority, which was presented to parliament a week ago, reported on its historic achievements, but identifying and collecting tax arrears, controlling contraband and tax evasion remains a problem."

Capital Newspaper, Monday, April 13, 2009, 00:00, Tax Axe Falls, by Yohannes Anberbir:

"The Federal Revenue and Customs Authority's continues its pursuit of the country's top private businesses. Late last month, the authority claimed it has collected evidence on one hundred firms with tax arrears — "avoided or evaded" — in amounts of hundreds of millions of birr."

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. In law, is there a national customs and excise agency?

100

64a. In law, is there a national customs and excise agency?

Yes | No

References:

Proclamation No. 587/2008, Ethiopian Revenues and Customs Authority Establishment Proclamation

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/587.pdf

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.

65. Is the customs and excise agency effective?

100

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Ethiopian Revenues and Customs Authority (ERCA), <http://www.erca.gov.et/about.php>

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.

100 | 75 | 50 | 25 | 0

References:

The Ethiopian Revenues and Customs Authority (ERCA) receives regular funding from the government, www.erca.gov.et/

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.

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

50

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

Some civil servants within the tax collection agency are corrupt; therefore, some people pay lower, taxes while others pay the entire required amount.

References:

Private sector businessman who wishes to remain 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.

5.4. Oversight of State-Owned Enterprises

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67a. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

Yes | No

References:

Proclamation No.412/2004, A Proclamation to Provide for The Establishment of The Privatization and Public Enterprises Supervising Authority:

Article 5 Objectives;

Article 6 Powers and Duties

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20412-2004%20A%20Proclamation%20to%20Provide%20for%20The%20Establi.pdf

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.

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

90

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

Yes | No

Comments:

Article 3, sub-article 1: The Privatization and Public Enterprises Authority (hereinafter referred to as the "Authority") is hereby established as an autonomous federal government office having its own legal identity.

References:

Proclamation No.412/2004, A Proclamation to Provide for The Establishment of The Privatization and Public Enterprises Supervising Authority, Article 3, sub-article 1:

http://www.ethiobar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20412-2004%20A%20Proclamation%20to%20Provide%20for%20The%20Establi.pdf

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, <http://www.ppesa.gov.et>

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, <http://www.ppesa.gov.et>

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

References:

Federal Ethics and Anti-corruption Agency, Annual Report, http://www.feac.gov.et/web_collection/Com_report_english.htm:

Although the Ethiopian Private and Public Enterprises Supervising Agency has the mandate to follow up and evaluate the performance of public enterprises and approve the financial reports of public enterprises submitted by external auditors, investigations seem to be enhanced by the Federal Ethics and Anti-corruption Commission (FEACC).

Mr Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission, Addis Ababa, Ethiopia, Jan. 11, 2010:

In addition to the Ethiopian Public and Private Enterprises Supervising Agency, the FEACC has the mandate to oversee state-owned companies and the commission has a full professional staff. Ethics officers can investigate corruption cases to some extent. In addition, the FEACC can initiate investigations either in collaboration with the ethics officers or without their knowledge if this is deemed necessary.

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

References:

Federal Ethics and Anti-corruption Agency (FEACC), Annual Report, http://www.feac.gov.et/web_collection/Com_report_english.htm.

Although the Ethiopian Private and Public Enterprises Supervising Agency has the mandate to follow up and evaluate the performance of public enterprises and approve the financial reports of public enterprises submitted by external auditors, investigations and penalties seem to be enhanced by the FEACC.

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

Yes they are, although we cannot access them.

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

Yes. There is an auditing process.

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

Citizens cannot access such records.

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.

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

Citizens cannot access such records.

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 NGOs. 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 NGOs trying to access this information.

80 5.5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

88

70a. In law, anyone may apply for a business license.

Yes | No

References:

Proclamation No. 686/2010, Commercial Registration and Business Licensing Proclamation, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/686.ae..pdf

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:

Article 61, Submission of Complaints on Administrative Decisions:

Any person, businessperson or a commercial representative against whom an administrative decision has been taken by the registering office or the appropriate authority may lodge an appeal in connection with his complaints to regular courts only on matters of law.

References:

Proclamation No. 686/2010, Commercial Registration and Business Licensing Proclamation, Article 61, Submission of Complaints on Administrative Decisions,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/686.ae_.pdf

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

References:

Building Materials shop owner, Dec. 31 2010:

It is very easy to get a license. It takes less than one week. The problem is when you want to give the license back and close a business.

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.

100 | 75 | 50 | 25 | 0

References:

Building materials shop owner, December 31 2010:

One can get a business license for a very reasonable price.

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?

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

Yes | No

References:

Proclamation No. 200/2000, Public Health Proclamation,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20200-2000%20Public%20Health.pdf

Proclamation No. 686/2010,
 Commercial Registration and Business Licensing Proclamation,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/686.ae.pdf

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:

Proclamation No. 200/2000, Public Health Proclamation,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20200-2000%20Public%20Health.pdf

Proclamation No. 686/2010, Commercial Registration and Business Licensing
 Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/686.ae.pdf

Proclamation No. 300/2002, Environmental Pollution Control Proclamation,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20300-2002%20Environmental%20Pollution%20Control.pdf

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:

Proclamation No. 200/2000, Public Health Proclamation,
http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20200-2000%20Public%20Health.pdf

Proclamation No. 686/2010, Commercial Registration and Business Licensing
 Proclamation, http://www.ethiopar.net/type/English/hopre/bills/2004_2005/686.ae.pdf

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 and are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

References:

International Labour Organisation, Labour Inspection and Administration Program, June 2009, Ethiopia:

"There is a general lack of prosecution with respect to OSH-related legislation. It has been indicated that judges and magistrates do not understand that inspectors have the authority to undertake prosecutions. Further training of labour inspectors is necessary to clarify this aspect of the process. Follow-ups are seldom undertaken due to the lack of resources."

Mr. XX, hotel owner, Addis Ababa, Ethiopia, Jan. 06, 2011:

The interviewee stated that in general, the team of inspectors that come to conduct an inspection are thorough and regular. He owns a fairly well-known hotel, so he said that his hotel had not encountered any unfairness or need for bribes. On the other hand, he also acknowledged that some some businesses have to resort to bribes to get a fair evaluation.

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.

100 | 75 | 50 | 25 | 0

References:

Environmental Policy for Ethiopia's Sustainable Social and Economic Development: A Working Paper, Monday, August 16, 2010, http://www.waltainfo.com/index.php?option=com_content&task=view&id=22899

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

References:

International Labour Organisation, Labour Inspection and Administration Program, June 2009, Ethiopia:

"There is a general lack of prosecution with respect to OSH-related legislation. It has been indicated that judges and magistrates do not understand that inspectors have the authority to undertake prosecutions. Further training of labour inspectors is necessary to clarify this aspect of the process. Follow-ups are seldom undertaken due to the lack of resources."

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 6. Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism

6.1. ~~71~~ Anti-Corruption Law

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

Yes | No

Comments:

Article 27 of the criminal code states that attempt of any crime is punishable by law.

Articles 402-404 of the criminal code state that various forms of corruption are considered a crime.

References:

Proclamation No.414/2004, The Criminal Code of the Federal Democratic Republic of Ethiopia, Article 27, Attempt

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

References:

Proclamation No.414/2004, The Criminal Code of the Federal Democratic Republic of Ethiopia, Article 713, Extortion:

...shall be punishable, according to the gravity of the case, with simple imprisonment for not less than three months, or with rigorous imprisonment not exceeding five years, and fine.

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:

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

Article 427, Soliciting of Corrupt Practices

Article 428, Giving Things of Value With or Without Inadequate Consideration

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

References:

Proclamation No.414/2004, The Criminal Code of the Federal Democratic Republic of Ethiopia, Article 417, Taking Things of Value without or with Inadequate Consideration

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:

Proclamation No.414/2004, The Criminal Code of the Federal Democratic Republic of Ethiopia, Article 427 (2):

Whoever gives or offers an advantage or gift to official or employee of a foreign State international organization, with intent to procure him to perform or omit an act related to international trade in violation of his official duties, is punishable as provided under sub-article (1).

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70993/75092/F1429731028/ETH70993.pdf>

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:

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

Article 407, Abuse of Power;

Article 408, Corrupt Practices;

Article 409, Acceptance of Undue Advantages;

Article 410, Corruption Committed by Arbitrators and Other Persons.

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70993/75092/F1429731028/ETH70993.pdf>

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

Article 401-417, <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70993/75092/F1429731028/ETH70993.pdf>

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 404, sub-article 3:

In addition to the crimes specified in Chapter II, Section I, and Chapter III, Section I, of this Title, the crimes of corruption also include corrupt electoral practices (Art. 468), forgery or falsification of public or military documents (Art. 479), aggravated breach of trust (Art. 676(1)), and the commission of and aiding in money laundering (Art. 684), and aggravated fraudulent misrepresentation committed by a public servant (Art.696 (a)).

References:

The Criminal Code of the Federal Democratic Republic of Ethiopia, Article 404, sub-article 3, <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70993/75092/F1429731028/ETH70993.pdf>

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

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 38, Criminal Conspiracy, <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70993/75092/F1429731028/ETH70993.pdf>

Yes: A YES score is earned if organized crime is illegal.

No: A NO score is earned if this is not illegal.

6.2. Anti-Corruption Agency or Equivalent Mechanisms

74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Yes | No

References:

Proclamation No. 235/2001, Federal Ethics and Anti-Corruption Commission Establishment,
http://www.ethiobar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20235-2001%20Federal%20Ethics%20and%20Anti-Corruption%20Commis.pdf

<http://www.ethiobar.net/>

Proclamation No. 236/2001, Anti-Corruption Special Procedure and Rules of the Evidence Proclamation,
http://www.ethiobar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20236-2001%20Anti-Corruption%20Special%20Procedure%20and%20Rul.pdf

<http://www.ethiobar.net/>

Federal Ethics and Anti-corruption Website, <http://www.feac.gov.et/>

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.

75. Is the anti-corruption agency effective?

67

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes | No

References:

Proclamation No. 235/2001, Federal Ethics and Anti-Corruption Commission Establishment, Articles 3 and 4,
http://www.ethiobar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20235-2001%20Federal%20Ethics%20and%20Anti-Corruption%20Commis.pdf

<http://www.ethiobar.net/>

Proclamation No. 236/2001, Anti-Corruption Special Procedure and Rules of the Evidence Proclamation,
http://www.ethiobar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20236-2001%20Anti-Corruption%20Special%20Procedure%20and%20Rul.pdf

<http://www.ethiobar.net/>

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

References:

2009 Human Rights Reports: Ethiopia, Bureau of Democracy, Human Rights, and Labor 2009, Country Reports on Human Rights Practices, March 11, 2010:

The law provides criminal penalties for official corruption; however, the government did not implement these laws effectively. The World Bank's 2008 Worldwide Governance Indicators reflected that corruption remained a serious problem.

The MOJ has primary responsibility for combating corruption, largely through the Federal Ethics and Anti-Corruption Commission (Ethics Commission). A combination of social pressure, cultural norms, and legal restrictions somewhat limited corruption. However, government officials appeared to manipulate the privatization process, and state- and party-owned businesses received preferential access to land leases and credit.

<http://www.state.gov/g/drl/rls/hrrpt/2009/af/135953.htm>

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

The practice follows the law. This is also true at the regional level.

Mr. Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission, Addis Ababa, Ethiopia, Jan. 11, 2010:

The head of the anti-corruption commission is in office for six years, and there has been no case of removal before the end of the legally set term.

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

Appointments to the anti-corruption agency are based on loyalty to the politics and policy of the government. However, the appointee are often qualified professionals and well experienced.

Mr. Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission, Addis Ababa, Ethiopia, Jan. 11, 2010:

Not only are appointments to the FEACC based on professional criteria (all appointees are lawyers or have a legal background), but ethics and commitment are also considered. The experience they have also matters.

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

References:

Mr. Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission, Addis Ababa, Ethiopia, Jan. 11, 2010

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia

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

References:

The Federal Ethics and Anti-Corruption Commission Annual Report, 2008/2009:

The Commission receives an annual budget from the government. This is rather a regular process. During the 2008- 2009 Ethiopian fiscal year, the commission benefited from additional external funding from the United Nations Development Program (UNDP) and the Justice System Reform Program (JSRP), which amounted a little over half of its annual budget obtained from the government.

Mr. Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission, Addis Ababa, Ethiopia, Jan. 11, 2010

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

References:

Federal Ethics and Anti-corruption Commission website, <http://www.feac.gov.et/>:

The Commission published an annual report. In addition, it conducts regular workshops where experience is shared with other government offices and non-government organizations.

Mr. Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission (FEACC), Addis Ababa, Ethiopia, Jan. 11, 2010

The FEACC prepares and submits quarterly reports to the Parliament and the Prime Minister. It also prepares annual reports. The general public can access the annual report through the website and also through the media.

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia

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

References:

According to the 2008-2009 Annual Report, the Commission has investigated a number of public offices and found numerous cases of corruption. The commission has saved several millions of Birr to the Government.

An example quoted in the The Reporter newspaper, dated Saturday, Feb. 27, 2010, said, "According to the report, the anti-corruption watchdog had, in a single incident, saved the government from losing over 11 million birr (US\$256,000) by canceling a tire supply bid issued by the Ethiopian Roads Authority, which it had found to be ridden with corruption".

However, in parallel to this, another article in the same newspaper, dated Saturday, Feb. 6, 2010, indicated that the commission was dissatisfied with the court's decision on some corruption cases where the accused are given light punishments that are not compatible with the extent of the corruption act.

Mr. Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission (FEACC), Addis Ababa, Ethiopia, Jan. 11, 2010:

The FEAC has sufficient powers to carry out its three mandates:

- promoting ethics and anti-corruption education;
- preventing corruption offenses and other improprieties; and
- exposing, investigating and prosecuting corruption offenses and impropriety.

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia

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.

100 | 75 | 50 | 25 | 0

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

Regarding middle and lower-level government staff, Federal Ethics and Anti-corruption Commission (FEACC) independently initiates investigations and takes the necessary actions. When it comes to high-position officials, there are rarely investigations. Politically sensitive investigations are not initiated or do not result in credible outcomes.

Mr. Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission, Addis Ababa, Ethiopia, Jan. 11, 2010:

The FEACC has established its own intelligence and surveillance unit. There are some capacity constraints. The process has been initiated and there are operations at the rudimentary level. At this stage, the FEACC usually uses whistle-blowers and audit reports to initiate investigations, but the process is in place.

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.

100 | 75 | 50 | 25 | 0

References:

FEACC 2008/09 Annual Report states that "In the reporting period Federal Ethics and Anti-corruption Commission (FEACC) received 2,286 complaints, out of which 1,212 were reports within the FEACC's mandate.

"In comparison, the FEACC received 3,073 complaints the previous budget year, of which 1,272 fell under its jurisdiction. Although the number of reports during the reporting period dropped, the proportion that comprises corruption matters increased 53% compared to 41% the previous budget year. This may be an indicator of increasing public awareness and understanding of the FEACC's jurisdiction."

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

Some cases take up to ten years.

Mr. Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission, Addis Ababa, Ethiopia, Jan. 11, 2010:

Access to the complaint lodging mechanism is very easy. There are many different options. The complainant is told right away if the complaint falls within the mandate of the commission. At the investigation level, complaints are prioritized and, therefore, some cases may take a longer time. However, no complaint is left unanswered. Sometimes, the commission transfers the case to the police or tries to solve it administratively.

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

Citizens can complain to the anti-corruption agency without fear of recrimination from the agency itself. However, those who lodge complaints are not always free from intimidation and pressure when the case is against a high official. Also, a study conducted shows that people are not that willing to lodge complaints because they fear that there will not be any substantial outcome.

Mr. Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission (FEACC), Addis Ababa, Ethiopia, Jan. 11, 2010:

Citizens can complain to the commission without fear of recrimination. They can lodge their complaint anonymously if they wish. There is a free hotline where the complaint can be made anonymously.

The FEACC also gives protection with regard to job security and preservation of benefits for those who lodge complaints and may be at risk. There is actually a new law that was endorsed by the parliament about two weeks ago that protects whistle-blowers and witnesses even more. There is a more complete procedure that enables the full protection of complainants.

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.

68
6.3. Judicial Independence, Fairness, and Citizen Access to Justice

77. Is there an appeals mechanism for challenging criminal judgments?

75

77a. In law, there is a general right of appeal.

Yes | No

Comments:

Article 20, sub-article 6, of the Constitution states that all persons have the right of appeal to the competent court against an order or a judgment of the court that first heard the case.

References:

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

Article 20 sub article 6

<http://www.ethiopar.net/type/English/genifo/conchp31.htm>

<http://www.ethiopar.net/>

Federal Democratic Republic of Ethiopia, Proclamation No. 211/2000, To Provide for the Establishment of the Institution of the Ombudsman,

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20211-2000%20Institution%20of%20the%20Ombudsman%20Establishment.pdf

<http://www.ethiopar.net/>

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia:

Appeals are not resolved within a reasonable time because the justice system is very slow. This is also the reason given by the Federal Ethics and Anti-corruption Commission (FEACC) for the delays incurred.

Mr. Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission, Addis Ababa, Ethiopia, Jan. 11, 2010:

There may be delays because of overload of courts. Although there is a specific bench for corruption cases, there are delays.

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

References:

Executive Director of Transparency Ethiopia, Mr. Eyasu Yimer, interview on Dec. 29, 2010, Addis Ababa, Ethiopia

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney 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. Attorney 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. Attorney fees greatly discourage the use of the appeals process.

78. In practice, do judgments in the criminal system follow written law?

50

78a. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

References:

Bureau of Democracy, Human Rights, and Labor, 2008 Country Reports on Human Rights Practices, Feb. 25, 2009:

"According to the law, accused persons have the right to a fair public trial by a court of law within a 'reasonable time,' a presumption of innocence, the right to be represented by legal counsel of their choice, and the right to appeal. However, closed proceedings occurred, and, at times, authorities allowed detainees little or no contact with legal counsel, and detainees usually were not presumed innocent. Judicial inefficiency, lengthy trial delays, and lack of qualified staff often resulted in serious delays in trial proceedings."

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. In practice, are judicial decisions enforced by the state?

50

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

References:

Former judge, presently an attorney-at-law, Jan. 5, 2011:

In general, all judicial decisions are enforced, though some may lag more than others. The question is whether the decision reached are adequate or appropriate, but once the decision is made, the state does enforce it.

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:

The Constitution of The Federal Democratic Republic of Ethiopia, Article 78, Independence of the Judiciary, <http://www.ethiopar.net/type/English/genifo/conchp9.htm>

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 includes 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.

References:

Bureau of Democracy, Human Rights, and Labor, 2008 Country Reports on Human Rights Practices, Feb. 25, 2009:

"The law provides for an independent judiciary. Although the civil courts operated with independence, the criminal courts remained weak, overburdened, and subject to significant political intervention and influence."

Capital Newspaper, Readers View, vol. 13, No. 628, by Samuel M. Gebru:

"While it is standard in many countries for the executive to appoint the judiciary, it is a concern that the line between the two is very narrow, if not blurred, in Ethiopia. Two primary reasons motivate this claim: First, there is a surprising number of judges — and even parliamentarians — that are not well versed in international law, the treaties that Ethiopia has signed as well as judicial norms and best practices. Incompetent people can only make incompetent decisions. Secondly, there is a growing disregard of the concept of "conflict of interest," where certain ruling party affiliates are sworn in as judges based on their affiliation and not profession.

"It should be noted that it is commendable that the National Electoral Board has been restructured so that the Chief Justice of Ethiopia's Supreme Court is not the Chairman of the Election Board. That is like asking Benito Mussolini to preside over Adolf Hitler's war crimes case—there is a serious conflict of interest."

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

Comments:

In law, a system for distributing cases to national-level judges does not exist. In practice, the registrar is the office that is responsible to distribute the case load in an objective manner; most of the time, the office divides the cases by odd and even numbers, etc.

References:

Proclamation No. 684/2010, Amended Federal Judicial Administration Council Establishment
Proclamation, http://www.ethiobar.net/type/English/hopre/bills/2004_2005/684.ae.pdf

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:

Article 79, sub-article 4, No judge shall be removed from his duties before he reaches the retirement age determined by law except under the following conditions:

- (a) When the Judicial Administration Council decides to remove him for violation of disciplinary rules or on grounds of gross incompetence or inefficiency; or
- (b) When the Judicial Administration Council decides that a judge can no longer carry out his responsibilities on account of illness; and
- (c) When the House of Peoples' Representatives or the concerned State Council approves by a majority vote the decisions of the Judicial Administration Council.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 79, sub-article 4, <http://www.ethiopar.net/type/English/genifo/conchp9.htm>

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

References:

Former judge, presently an attorney-at-law, Jan. 5, 2011

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:

Former judge, presently an attorney-at-law, Jan. 5, 2011

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

References:

Former judge, presently an attorney-at-law, Jan. 5, 2011:

Judicial decision are not affected by racial or ethnic bias toward the citizens of Ethiopia. However, in the case of Eritreans who are seeking rulings, there are obvious biases.

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

References:

Interview with Ethiopian Women's Lawyers Association Member and Gender Expert who wishes to remain anonymous:

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. Legal instruments do not hinder women from accessing the judicial system. However, culture, tradition and patriarchal views of the law enforcement agencies may be obstacles. In the case of rape for instance, women have sometimes been accused of provoking the situation or exposing themselves to such harm by going to the wrong place at the wrong time.

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

Comments:

Article 20, sub-article 5, accused persons have the right to be represented by legal counsel of their choice, and, if they do not have sufficient means to pay for it and miscarriage of justice would result, to be provided with legal representation at state expense.

References:

The Constitution of the Federal Democratic Republic of Ethiopia, Article 20, sub-article 5, <http://www.ethiopar.net/type/English/genifo/conchp31.htm>

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

References:

Former judge, presently an attorney-at-law, Jan. 5, 2011:

Legal counsel is provided to defendants in cases that are punishable by a sentence of 15 years or more.

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:

To get a case file opened is very cheap, and if you do not have the money to open the file, you just need a statement from your local government office attesting to the fact that you cannot afford it.

Further, if you are a laborer, then all case files are opened at no cost. However, just because you have proven you cannot afford it, the system still does not provide you with legal aid, or free counsel. So, for most of these cases, the defendants end up following up on the case by themselves, because attorneys are expensive.

References:

Former judge, presently an attorney-at-law, Jan. 5, 2011

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney 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. Attorney 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. Attorney 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

References:

Former judge, presently an attorney-at-law, Jan. 5, 2011:

The cost of initiating a legal suite is based on a progressive system. For example, a small retail business that is worth 40,000 birr (US\$930) which is a reasonable amount for a small business, the fee will be 450 birr (US\$10.50). Businesses worth up to a 100,000 birr (US\$2,326), the fee is 3,500 birr (US\$81). The attorney fee at times can be costly.

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. Attorney 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. Attorney 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

References:

Interview with a member of the Ethiopian Women Lawyers Association who wishes to remain anonymous:

Location and distance are the major factors here. Courts and legal offices are essentially located in cities and towns. In addition, some parts of the country do not operate under the official legal system and have their own traditional and cultural norms and practices.

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.

6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

83. Is the law enforcement agency (i.e. the police) effective?

42

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

References:

Academic (Ph.D. in Law) from Addis Ababa University, Assistant Professor, Law Department, who wishes to remain anonymous. Interview on Dec. 29, 2010, Addis Ababa Ethiopia

Proclamation No. 313/2003, Federal Police Commission Establishment, Administration of the Federal Police.

The Proclamation states:

"Where any person recruited, in accordance with sub-article (1) of this Article, is a member of a political organization, he shall quit his membership upon employment."

This is however not guaranteed in practice.

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

References:

Federal Police Commission Establishment Proclamation No. 313/2003:

The Commission gets its budget from the Federal Government.

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

References:

2009 Human Rights Reports: Ethiopia, Bureau of Democracy, Human Rights, and Labor, 2009 Country Reports on Human Rights Practices, March 11, 2010:

"The Federal Police Commission reports to the Ministry of Federal Affairs, which is subordinate to the parliament; however, this subordination is loose in practice. Local militias also operated as local security forces largely independent of the police and military. Corruption remained a problem, particularly among traffic police who routinely solicited bribes. Impunity also remained a serious problem. According to sources at government agencies, the government rarely publicly disclosed the results of investigations into abuses by local security forces, such as arbitrary detentions and beatings of civilians.

"The federal police acknowledged that many of its members as well as regional police lacked professionalism. In July the Addis Ababa Police Commission fired 444 staff members, including high-ranking officials, for involvement in serious crimes including armed robbery, rape, and theft. There were no prosecutions of those dismissed.

"The government continued efforts to train police and army recruits in human rights. During the year the government continued to seek assistance from the ICRC, JFA-PFE, and EHRC to improve and professionalize its human-rights training and curriculum by including more material on the constitution and international human rights treaties and conventions. JFA-PFE conducted human rights training for police commissioners and members of the militia."

Capital newspaper, Vol. No. 628628, Ethiopia's Electoral Problems, Monday, June 14, 2010:

"The EPRDF as a government, political party, business entity, police force, judicial system and ombudsman knows no boundaries. In Ethiopia, the boundary between state and party has yet to be realized, despite the plethora of support and skill there is to do so—from Ethiopians abroad, opposition politicians, who have seen their political space dwindle, and the country's donor community. The EPRDF faces many opportunities to improve its governance record, however, the nature of its actions shows increased its indifference to meeting the aspirations of democracy in Ethiopia."

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?

88

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes | No

References:

Proclamation No. 313/2003, Federal Police Commission Proclamation, Article 22. Complaints Hearing Organ

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20313-2003%20Federal%20police%20commission.pdf

Proclamation No. 20712000, Federal Police Proclamation, Article 24. Federal Police Complaint Hearing Committee

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20207-2000%20Federal%20Police.pdf

Proclamation No. 211/2000, Institution of the Ombudsman Establishment Proclamation, Article 6 (2):

The Institution shall have the powers and duties to receive and investigate complaints in respect of maladministration.

http://www.ethiopar.net/type/English/hopre/bills/2004_2005/Proc%20No.%20211-2000%20Institution%20of%20the%20Ombudsman%20Establishment.pdf

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:

Former judge, presently an attorney-at-law, Jan. 5, 2011

Mr. Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission (FEACC), Addis Ababa, Ethiopia, Jan. 11, 2010:

The FEACC has the mandate to investigate the police. As for the other reporting mechanisms, the FEACC responds to citizens' complaints regarding police actions in a reasonable time.

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:

Article 7, sub-article 4: to investigate or cause the investigation of any alleged or suspected corruption offenses specified in the Penal Code or in other laws where they are committed in public offices and public enterprises, or in the private sector with the participation of government offices and public enterprises, or in the regional offices relating to subsidies granted by the Federal Government to the Regions; and prosecute same.

References:

Proclamation No. 235/2001, Federal Ethics and Anti-Corruption Commission Establishment, Article 7, sub-article 4

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

References:

Federal Ethics and Anti-corruption Commission, 2008-2009 Annual Report

The Reporter Newspaper, dated Saturday, March 6, 2010, by Hayal Alemayehu:

"The bid process through which the Ethiopian Sugar Development Agency (ESDA) conducts the sale of sugar from the three state-owned sugar producing factories is prone to corruption practices, the Federal Ethics and Anti-Corruption Commission (FEACC) indicated."

The Reporter Newspaper, Saturday, Feb. 27, 2010, by Hayal Alemayehu:

"The Federal Ethics and Anti-Corruption Commission's (FEACC) half-year report for the current fiscal year says major government offices figure in the list of institutions prone to corruption offenses."

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

Comments:

Article 4 of the criminal code states:

Criminal law applies to all alike without discrimination as regards persons, social conditions, race, nation, nationality, social origin, color, sex, language, religion, political or other opinion, property, birth or other status.

No difference in treatment of criminals may be made except as provided by this Code, which are derived from immunities sanctioned by public international and constitutional law, or relate to the gravity of the crime or the degree of guilt, the age, circumstances or special personal characteristics of the criminal, and the social danger which he represents.

References:

The Constitution of the Federal Democratic Republic Of Ethiopia, Article 4, Equality Before the Law

Proclamation No.414/2004, The Criminal Code of the Federal Democratic Republic of Ethiopia, Chapter III – Application of Articles 284-337 to the Police:

Article 340, Principle of Application;

Article 341, Special Circumstances;

Article 342; The Application of the Provisions Regarding Public Servants on the Police

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70993/75092/F1429731028/ETH70993.pdf>

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

References:

Former judge, presently an attorney-at-law, Jan. 5, 2011

Mr. Berhanu Assefa, Director of the Ethics Education and Communication Affairs Directorate, the Federal Ethics and Anti-corruption Commission (FEACC), Addis Ababa, Ethiopia, Jan. 11, 2010:

The FEACC has the mandate to investigate and prosecute corruption committed by law enforcement officials. The FEACC independently initiates investigations into allegations of corruption by law enforcement officials.

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.