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## Proclamation No 433/2005

### The REVISED PROCLAMATION FOR THE ESTABLISHMENT OF THE FEDERAL ETHICS AND ANTI-CORRUPTION COMMISSION

WHEREAS, the Government and the Peoples of Ethiopia recognize that corruption and impropriety are capable of hindering the Social, Economic and Political development of any country;

WHEREAS, corruption and impropriety are to be checked in order to promote and sustain the development and the democratic process in Ethiopia; and to that end it has become necessary to create a society which shall not condone but rather prepared to effectively combat corruption and impropriety;

WHEREAS, it has been deemed necessary to amend the commission's establishment proclamation to make its operation and activities be guided with the principle of transparency and accountability, and carry out its activity with better efficiency; in order to effectively fight corruption and impropriety through investigation, prosecution, and prevention as well as through the promotion of ethical values in the society;

WHEREAS, it has become necessary to redefine the powers and duties of the Commission in line with the Criminal Code of The Federal Democratic Republic of Ethiopia;

WHEREAS, it has become necessary to make the attention of the Commission focused on grand corruption;

WHEREAS, it has become necessary to lay down detailed provisions enabling the Commission to work in collaboration with other relevant investigation and prosecution institutions;

WHEREAS, it has become necessary to make amendments to certain provisions of the Commission's establishment proclamation lacking clarity;

Now, therefore, in accordance with article 55(1) of The Constitution of The Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows;

#### Part One General

##### 1. Short Title

This proclamation may be cited as << The Revised Federal Ethics and Anti-Corruption Commission Establishment Proclamation No.433/2005 >>

##### 2. Definition

In this Proclamation, unless the context requires otherwise:

1. "Commission" means The Federal Ethics and Anti-Corruption Commission.
2. "Commissioner and Deputy commissioner" means the Commissioner and the Deputy commissioner of the Commission respectively;
3. "Public Office" means any office of the Federal Government the budget of which is fully or partially allocated by the Government and in which any government activity is performed;
4. "Public Enterprise" means any Federal Public Enterprise or Share Company the ownership of which is fully or partly owned by the Government.
5. "Public Official" means members of the House of People's Representatives and of the House of the Federation, officials of the Federal Government above ministerial rank, ministers, state ministers, vice ministers, commissioners, vice commissioners, judges of the Federal Supreme Court, members of Regional State Councils, officials of the Regional State above the Regional State bureau heads, Regional State Bureau heads, judges of the Regional State Supreme Court, Council members of the Addis Ababa City Administration and the Dire Dawa Administrative Council, officials of the Administration above Bureau heads, Bureau heads and such other officials of the Federal, Regional, Addis Ababa City Administration and Dire Dawa Administrative Council of equivalent rank.
6. "Public Employee" means all persons, other than those referred to under sub-article 5 hereof, who are appointed, assigned, employed or elected and working in a public office or a public enterprise of the Federal Government, Regional State, Addis Ababa city Administration or Dire Dawa Administrative council.
7. "Ethics Infrastructures" means mechanisms, bodies, or procedures or the necessary conditions and similar matters that will serve to reduce substantially unethical conducts and to encourage efficiency and integrity in the public service;
8. "Serious Ethical Violations" means any ethical violation entailing dismissal, as per appropriate code of conduct regulation.
9. "Serious Corruption Offence" means
  - a) Corruption offences involving huge amount of money committed in highly strategic Public Office and Public Enterprise; or
  - b) Corruption offences involving a public official; or
  - c) Corruption offences which cause or capable of causing a grave danger to the national sovereignty, economy, security or social life.
10. "Bank Account" means money, gold and similar precious materials and includes any transactions made through the bank.
11. "Person" means natural or juridical person.

## Part Two

### Establishment and Powers and Duties of the Commission

#### 3. Establishment of the Commission

1. The Federal Ethics and Anti-Corruption Commission (hereinafter referred to as "the Commission") is hereby established as an independent Federal Government body.
2. The Commission shall be accountable to the Prime Minister.

#### 4. Independence of the Commission

Notwithstanding the provisions of sub-article (2) of Article 3 of this Proclamation, the Commission shall be free from any interference or direction by any person with regard to cases under investigation or prosecution or to be investigated or prosecuted.

#### 5. Head Office

The Commission shall have its head office in Addis Ababa and may establish branch offices in the Regions as may be necessary.

#### 6. Objectives of the Commission

The Commission shall have the following objectives:

1. In cooperation with relevant bodies, to strive to create an aware society where corruption will not be condoned or tolerated by promoting ethics and anti-corruption education;
2. In cooperation with relevant bodies, to prevent corruption offences and other improprieties;
3. To expose, investigate and prosecute corruption offences and impropriety.

#### 7. Powers and Duties of the Commission

The Commission shall have the powers and duties:

1. In cooperation with relevant bodies, to combat corruption and other impropriety by creating awareness through educating the public about the effects of corruption and the promotion of ethics in public service and in the society;
2. In cooperation with relevant bodies, to prevent corruption by studying or causing to be studied the practices and procedures in Public Offices and Public Enterprises to secure the revision of methods of work which may be conducive to corrupt practices as well as follow up their implementation; and inform or remind the relevant body, when deemed essential, to take the proper measures or give decision, and advise or assist on same,

- upon request, any other persons;
3. To investigate or cause the investigation of any complaints of alleged or suspected serious breaches of the codes of ethics in public offices or public enterprises; and follow up the taking of proper measures;
  4. To investigate and prosecute or cause the investigation and the prosecution of any alleged or suspected corruption offences specified in the criminal code or in other laws where they are committed by public officials or public employees or other persons in Public Offices or Public Enterprises, or in the Regional offices relating to subsidies granted by the Federal Government to the Regions;
  5. Where there is reasonable suspicion in connection with corruption offences, to investigate and obtain information about, with the order of the commissioner, any bank account of suspected persons; and cause the attachment, with court order of same where necessary;
  6. To freeze, by court order, the assets of any person who may be under investigation for corruption; and cause, through court order, the forfeiture of any assets and wealth obtained by corruption or its equivalent to the state or dispose same by or without public auction;
  7. In cooperation with relevant bodies, to register or cause the registration of the assets and financial interests of public officials and other public employees compellable to do so as specified by law;
  8. In cooperation with relevant bodies, to facilitate the condition, for the protection of physical and job security of witnesses and whistleblowers, provide protection of the same in accordance with the law.
  9. To establish and implement, upon approval, procedures and standards for the selection of awards, upon competition, of persons or offices who are successful in fighting and preventing corruption;
  10. Apart from legislative and judicial bodies, to ensure the preparation or to prepare and monitor the implementation of codes of ethics for Public Offices and Public Enterprises; to provide upon request, advice to legislative and judicial bodies in establishing their own codes of ethics;
  11. In cooperation with relevant bodies, to coordinate other components of the ethical infrastructures;
  12. In cooperation with relevant bodies, to undertake research on ethics and corruption; give support to other similar activities and to publish reports and technical studies to further the purpose of the commission;
  13. In cooperation with relevant bodies, to follow up and ensure the enforcement of anti-corruption laws and give advice on the implementation of same;
  14. To provide the necessary support to the Public Offices and Public Enterprises in the establishment of ethics liaison units;
  15. To provide the necessary advice and support to the regions;

16. To liaise and cooperate with national, regional and international bodies with similar objectives;
17. To own property, enter into contract, to sue and be sued in its own name;
18. To perform such other duties as may be defined by law and undertake other activities necessary for the attainment of its objectives:

#### 8. Investigation of Corruption Offences by Other Organs

1. The Commission may delegate, in whole or in part, to Federal or Regional crime investigation bodies, as the case may be, a general investigation power of corruption cases, other than grand corruption, from that it is vested under sub art 4 of Article 7 of this Proclamation.
2. Any Federal or Regional crime investigation body that is not delegated under sub article 1 of this Article shall begin investigation of any alleged or suspected corruption offences falling under the competence of the commission. It shall, however, inform the commission of same forthwith.
3. The Commission may, upon receipt of the report as specified in sub article 2 of this Article
  - a) investigate the matter by itself, or
  - b) cause its investigation, including grand corruption; be undertaken by the reporting investigation organ or other organ, as the case may be. Details shall be provided for in directives to be issued by the commission.
4. Where the Commission fails to react on the report it received under sub article 2 of this Article, the organ commencing investigation shall finish and send same to the competent organ.
5. The Commission may cause the investigation of corruption offences it has started investigating be undertaken by other investigating organs. Any such organ shall undertake the investigation.
6. The Commission shall issue directives concerning the manners of reporting of corruption offences investigation carried out by other investigating bodies as provided in sub articles 2 to 5 of this article and notify same to all concerned investigating bodies.

#### 9. Prosecution of Corruption Offences by Other Justice Organs

1. The Commission may delegate, in whole or in part, to Federal or Regional prosecution offices or regional anti- corruption institutions, as the case may be, its

power of corruption prosecution.

2. Regional anti-corruption or prosecution offices may institute corruption offence proceedings in the regional offices relating to subsidies granted by the federal government to the regions. The Commission, when it deems necessary, may at any time substitute the Regional anti-corruption office or prosecutor and enter into the proceeding.

#### 10. Organization of the Commission

The commission shall have;

1. A Commissioner to be appointed by the house of peoples' representatives upon nomination by the Prime Minister;
2. A Deputy Commissioner to be appointed by the Prime Minister; and
3. The necessary staff.

#### 11. Organization of the Commission's Prosecution

**The Commission's prosecution shall be organized and structured in such a way that ensures its professional independence.**

#### 12. Powers and Duties of the Commissioner

1. The Commissioner shall be the chief executive of the Commission and, as such, shall organize, direct and administer the activities of the Commission;
2. Without limiting the generality stated in sub-article (1) of this article, the Commissioner shall have powers and duties:
  - a. to exercise the powers and duties of the Commission specified under article 7 of this Proclamation;
  - b. to employ, administer and dismiss officers of the Commission in accordance with the provisions provided for in this Proclamation and the administrative regulation of the Commission to be issued in line with the basic principles of Civil Service Laws;
  - c. to prepare, following the provisions laid down in this proclamation and the general principles of The Federal Civil Service Law, and submit the administrative regulation to the Prime Minister and implement upon approval.
  - d. to prepare the annual work program and budget of the Commission and submit to the Prime Minister. Implement same upon approval;
  - e. to effect expenditure in accordance with approved budget and work program of the Commission and in accordance with the financial laws;
  - f. to authorize, in accordance with the law, any officer of the commission to carry

- out investigation or prosecution or to arrest persons who are suspected of corruption;
  - g. to issue warrants to search and obtain information there from, of any bank account of any person or organization if there is reasonable suspicion that such is relevant to a case under investigation;
  - h. to represent the Commission in its dealings with third parties.
  - i. to submit performance and financial reports to the prime minister.
3. The Commissioner may delegate part of his powers and duties to other officials and employees of the Commission to the extent necessary for the effectiveness and efficiency of the Commission.

### 13. Powers and Duties of the Deputy Commissioner

1. The Deputy Commissioner, shall:
- a. assist the Commissioner in planning, organizing, directing and coordinating the functions of the commission
  - b. follow up part of the Commission's departments by sharing functions in accordance with the structure of the Commission;
  - c. act on behalf of the Commissioner in the absence of the latter;
  - d. perform such other duties as may be specifically entrusted to him by the Commissioner.
4. The Deputy Commissioner shall be accountable to the Commissioner.

### 14. Term of Office and Removal from Office of the Commissioner and the Deputy Commissioner

1. The term of appointment of the Commissioner or the Deputy Commissioner shall be for six years; he may, however, be reappointed where necessary.
2. Once appointed, the Commissioner or the Deputy Commissioner may not be removed, except on his own will, from his office unless;
- a. he has violated the provisions of the relevant code of conduct;
  - b. he has shown manifest incompetence and inefficiency
  - c. he can no longer carry out his responsibilities on account of mental or physical illness.

### 15. Employment of Officers of the Commission

The terms and conditions of employment, administration and dismissal of the officers



of the Commission shall be in accordance with the regulations to be issued following the provisions laid down in this Proclamation and the general principles of the Federal Civil Service Law.

#### 16. Taking of an Oath

**Any person shall take oath upon employment in the Commission declaring that he carry out his functions with diligence and utmost commitment to the constitution so that he fulfill the demands of public trust and professional responsibility bestowed on him. Contents of the oath shall be determined by the administrative regulation.**

#### 17. Rights of officers

1. Any officer of the Commission is entitled to a salary in accordance with the salary scale approved by the Government.
2. The salary of any officer may not be attached or deducted except in accordance with,
  - a) the consent of the officer, or
  - b) court order, or
  - c) provisions of the law.
3. The amount deductible in accordance with sub article 2 (b) or (c) of this Article may not exceed one third of the salary of the officer.
4. Any permanent officer of the Commission is entitled to a pension in accordance with the Pension law.
5. Any officer of the Commission shall:
  - a) **be provided with attorney service at the expense of the Commission for any liability incurred while executing his duties properly. Particulars shall be determined by the administrative regulation.**
  - b) have the right to appropriately question superiors under any circumstances, inform mistakes, resolve problems through discussion as well as lodge complaints following the chains of command;
  - c) has the right to appeal as to be determined in the administrative regulation.
  - d) be entitled to benefits provided in the relevant pension law for permanent,

total, or partial disability sustained in relation to his duties. Where the officer who has sustained permanent total disability is a temporary officer, he shall be entitled to compensation amounting to five times of his annual salary.

- e) receive an amount of compensation to be calculated on the basis of the sum referred to in sub-article 5(d) of this article and proportional to the degree of disability, where he is a temporary officer and the disability he sustained is permanent partial.
- f) where the injury he sustained causes serious deformity although not resulting in disability, it shall be considered permanent partial disability for the purpose of this Article.
- g) May, after informing the Commission, engage in any other activity, which may not have a conflict of interest with his duty, during his leisure time. Details shall be the subject of regulations to be issued by the Commission.

#### 18. Exemption from tax

Any pension allowance or compensation to be made pursuant to this proclamation shall be exempt from taxation and may not be attached, deducted by way of setoff or assigned by the beneficiary.

#### 19. Suspension from duty

1. An officer of the Commission may be suspended from duty by withholding his salary for a period not exceeding one month if that course of action is necessary for the smooth execution of the work.
2. An officer shall be suspended if he is formally charged with a criminal or disciplinary offence for which his dismissal is to be expected if it is proved against him.

#### 20. Period of Limitation

1. Disciplinary measure shall not be taken against an officer who has committed an offense entailing simple disciplinary penalty unless such measure is taken within six months, excluding the time required for investigation from the time the breach of discipline is known.
2. No disciplinary charge shall be brought against an officer who has committed an offense entailing rigorous disciplinary penalty unless such disciplinary charge is brought within a year from the time the commission of the offense is known.
3. The official who has failed to take the measures specified under sub-article (1) or

(2) of this Article shall be held responsible.

#### 21. Budget

The budget of the commission shall be allocated by the Government

#### 22. Books of Accounts

1. The Commission shall keep complete and accurate books of accounts.
2. The Commission's books of accounts and financial documents shall be audited annually by the Federal Auditor-General.

### Part Three

#### Miscellaneous Provisions

#### 23. The Police and Prosecution Power of the Commission

The investigation and prosecution powers of the police and public prosecutor specified under the Criminal Procedure Code and other laws are hereby given to the Commission with regard to matters specified in this Proclamation.

#### 24. Establishment of Ethics Liaison Units

1. There shall be established Ethics Liaison Units at every level of Public Offices and Public Enterprises the duty of which shall be to coordinate ethical issues and advise the heads of the concerned bodies.
2. The liaison unit shall be accountable to the head of the concerned public office or public enterprise.
3. The liaison unit's head or employee may be assigned by the head of the concerned public office or public enterprise body through employment, promotion or transfer. The qualification, work experience and ethical standards required for the post may be determined in consultation with the Commission.
4. The liaison unit's work relation with the Commission shall be specified by regulations.

#### 25. Relations of the Commission with the Regional Institutions

1. The Commission shall work in cooperation and mutually supportive way with the Regional ethics and anti-corruption institutions in areas of creating an aware society which cannot tolerate corruption, as well as corruption prevention, investigation and

prosecution.

2. The Regional Institutions shall be accountable to the Commission when they investigate and prosecute in accordance with the delegation given to them.
3. The Commission and the Regional ethics and anti-corruption institutions may form a joint forum where they may deliberate on the success of their anti-corruption activities and evaluate their performance. The Commissioner shall preside over such forum. The joint forum shall:
  - a) draw up its own internal regulations;
  - b) exchange experiences in matters of corruption prevention, investigation and prosecution as well as in the promotion of ethics;
  - c) devise joint directions with respect to training;
  - d) deliberate on studies presented by the Commission or Regional ethics and anti-Corruption institutions; forward recommendations and measures to be taken on the basis of the study to the proper government body, and ensure their implementation.
4. The Commission and the Regional ethics and anti-Corruption institutions on their part shall follow up the implementation of decisions adopted by the forum.
5. The Regional Ethics and anti-corruption institutions shall submit statistical data and periodic report regarding the state of corruption offences in their respective region to the Commission.

26. **Duty to Inform and Cooperate**

1. Public offices and Public Enterprises shall, without prejudice to administrative or disciplinary measures they take, report to the Commission serious ethical violations and corruption offences forthwith.
2. Any public official or public employee in a Public Office or Public Enterprise shall report to the Commission where he has reasonable suspicion that corruption offences are or are about to be committed.
3. Any person is duty bound to cooperate whenever cooperation and assistance is required by the Commission in connection with its powers and duties. In particular Public Offices and Public Enterprises having the necessary expertise shall provide the Commission with the necessary professional support when required.
4. Any investigator who has the power to investigate corruption offences may require the production or examination of relevant documents or information from any

Federal or Regional Public Office and Public Enterprise. Any public official or public employee in a public office or public enterprise of a Federal or Regional Government shall show or produce relevant documents or information when required by any investigator who has the power to investigate corruption offences.

## 27. Penalty

Unless it is punishable with more severe penalty under other laws;

1. Whosoever attempts to influence, harm or punish or who influences, harms or punishes any person who gives evidence or provides information relating to corruption offences to the Commission, organs of judicial administration, head of a Public office, or a Public enterprise shall be punishable with rigorous imprisonment not less than three years and not exceeding fifteen years; and with fine not less than Birr six thousand and not exceeding Birr twenty five thousand.
2. Any official or staff of the Commission who abuses the powers and responsibilities legally entrusted to him shall, in addition to the forfeiture of any advantage gained therefrom, be punishable with rigorous imprisonment not less than five years and not exceeding fifteen years, and with fine not less than Birr three thousand and not exceeding Birr ten thousand.
3. Whosoever, with the intent to mislead the Commission or to injure others, submits a false report, allegation or evidence to the Commission shall be punishable with rigorous imprisonment not less than one year and not exceeding five years; and with fine not less than Birr three thousand and not exceeding Birr ten thousand.
4. Whosoever commits a deceitful act by pretending to be the staff of the Commission shall be punishable with rigorous imprisonment not less than three years and not exceeding ten years; and with fine not less than Birr five thousand and not exceeding Birr fifteen thousand.
5. Whosoever refuses to cooperate with the Commission as provided for in sub article 3 or 4 of article 26 of this article shall be punishable with simple imprisonment not less than six months and not exceeding four years; and with fine not less than Birr one thousand and not exceeding Birr five thousand.
6. Whosoever obstructs or attempts to obstruct the activities of the Commission shall be punishable with rigorous imprisonment not less than two years and not exceeding ten years; and with fine not less than Birr five thousand and not exceeding Birr twenty thousand. Where the offence is accompanied by violence, the maximum penalty prescribed in this sub-article shall be imposed.
7. Whosoever publicize, disseminate, distribute without the authorization of the investigator that an investigation of corruption offence is to commence or underway, or about the act of corruption knowing that the case is under

investigation, shall be punishable with imprisonment not less than six months and not exceeding four years; and with fine not less than one thousand Birr and not exceeding five thousand Birr.

8. Any public official or public employee who, knowing the commission of a corruption offence in his respective office, fails to inform shall be punishable with simple imprisonment not exceeding five years and with fine not exceeding ten thousand Birr.
9. Where the offences specified in sub-articles (1), (3), (4), (5), , and (6) of this article are committed by juridical persons, responsible under the penal code, the punishment with a fine shall be five fold.

#### 28. [Transitory provision](#)

Any corruption cases or other cases related with corruption which have been committed prior to the coming into force of proclamation no 235/93 and the investigation of which have been just started, or undergoing, or finalized, or which have been in the process of trial, shall continue to be handled and decided in the same manner

#### 29. [Repealed and inapplicable laws](#)

1. Proclamation no. 235/1993 is hereby repealed.
2. All laws which are inconsistent with this Proclamation shall not apply on matters covered under this Proclamation.

#### 30. [Powers to Issue Regulations and Directives](#)

1. The Council of Ministers may issue Regulations for the implementation of this Proclamation.
2. The Commission may issue Directives for the implementation of this Proclamation and the Regulations issued under this Proclamation.

#### 31. [Effective date](#)

This Proclamation shall come into forces as of the **2<sup>nd</sup> day of February 2005.**

Done at Addis Ababa, this **2<sup>nd</sup> day of February 2005**

GIRMA WOLDEGIORGIS

PRESIDNET OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA