

ETHIOPIA

Philanthropy Law Report



ETHIOPIA

Philanthropy Law Report



Published by the International Center for Not-for-Profit Law (ICNL).

Cover photo: Julio Garcia. Icons (page 2): Susannanova (population), Dave Carson (type of government), Piotrek Chuchla (GDP)

TABLE OF CONTENTS

I. INTRODUCTION	2
II. RECENT DEVELOPMENTS	3
III. RELEVANT LAWS	4
Constitutional Framework	4
National Laws and Regulations Affecting Philanthropic Giving	5
IV. ANALYSIS	6
Institutions Responsible for the Regulation and Oversight of Organizations	6
Organizational Forms for Nonprofit Organizations	7
Registration	9
NPO Activities	12
Internal Management	14
Government Supervision and Reporting	15
Involuntary Suspension, Dissolution, and Sanctions	15
Conversion, Merger, Division	16
Charitable or Public Benefit Status	16
Local and Cross-Border Funding	17
Tax Law	17
V. NEWS AND EVENTS	19

INTRODUCTION

The Federal Democratic Republic of Ethiopia (FDRE) was established in 1991 after the Ethiopian People's Revolutionary Democratic Front (EPRDF) removed the Ethiopian People's Revolutionary Party (EPRP) from power. The FDRE has a parliamentary form of government and ethnic-based federal system, with nine regional entities based on homogeneous ethnic groups.

The earliest forms of civil society in Ethiopia primarily served the interests of their members, rather than those of the public. Such organizations included traditional community-based organizations such as *idir* and *iqub*, and other informal self-help organizations. Similarly, the associations registered under the 1960 Civil Code were mainly professional associations such as trade groups and unions, and did not play a significant role in development or other public issues. There were also other groups, such as government-supported women's associations and patriotic groups though these organizations played a marginal role in their communities.¹

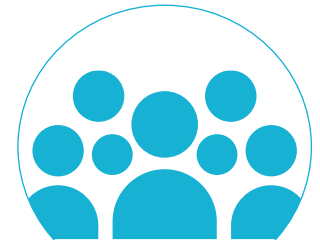
Philanthropy grew in both importance and visibility during the Ethiopian famines of 1973-74 and 1984-85, both of which caused mass migration and a huge loss of lives and property. The two periods of famine lead to an exponential growth of organizations and faith-based institutions engaging in humanitarian aid. Since the famines, organizations have begun engaging in development work as well.

¹ Dessalegn Rahmato, "The Voluntary Sector in Ethiopia," in *Civil Society at the Crossroads: Challenges and Prospects in Ethiopia*, ed. Taye Assefa, Bahru Zewede, and Yamahbarawi tenant madrak (Addis Ababa: Forum for Social Studies, 2008), 81.



Capital city:

Addis Ababa



Population:

108,113,150

(July 2020 estimate)



Type of government:

**Federal
Parliamentary
Republic**



GDP (purchasing power parity):

\$200.6 billion

GDP per capita:

\$2,200

GDP - real growth rate:

10.9%

(all 2017 estimates)

Source: "The World Factbook," The Central Intelligence Agency, accessed October 30, 2019, <https://www.cia.gov/library/publications/the-world-factbook/geos/in.html>.

RECENT DEVELOPMENTS

Since coming into office in 2018, Prime Minister Abiy Ahmed has led the government to initiate a number of democratic reforms which have had significant implications for human rights work. In March 2019, the government of Ethiopia enacted the Organization of Civil Societies Proclamation No. 1113/2019 (2019 CSO Proclamation), replacing the Proclamation of Charities and Societies No. 621/2009 (2009 Proclamation). The international community had harshly criticized the 2009 Proclamation for violating international standards related to the freedom of association. By contrast, the 2019 CSO Proclamation has been relatively well-received, as it builds a more enabling legal framework to govern CSOs. The 2019 CSO Proclamation lifts the restrictions from the 2009 Proclamation on access to funding, recognizes the right of all persons to establish CSOs for any lawful cause, and contains other provisions aimed at creating a more enabling environment for civil society.

The Government has also established the Justice and Legal Affairs Advisory Council, a panel of independent legal professionals advising the government on different areas for reform including democratic institutions, criminal justice, courts and other areas of law. The House of Peoples' Representatives² appointed Birkutan Midekssa, a progressive figure and former opposition leader and judge, as the head of the National Electoral Board of Ethiopia; additionally, Parliament passed the Ethiopian Election, Political Parties Registration, and Election Ethics law in August 2019, providing a more complete and transparent framework for elections.³ Finally, in 2018, the administration arrested 36 security officials on the basis of past corruption and human rights abuses, a first step towards ensuring accountability for abuses, and ensuring victims access to justice and effective remedies.⁴

² The Ethiopian Federal Parliamentary Assembly is comprised of the House of Peoples' Representatives (its lower chamber) and the House of Federation (its upper chamber).

³ Some opposition leaders have criticized the consultation processes prior to the approval of the new electoral law, complaining that their input was not adequately considered. <https://freedomhouse.org/country/ethiopia/freedom-world/2020>; <https://www.reuters.com/article/us-ethiopia-politics/ethiopias-opposition-parties-criticize-election-law-changes-idUSKCN1VE0OV>

⁴ <https://af.reuters.com/article/ethiopiaNews/idAFN6N1O401Z?feedType=RSS&feedName=ethiopiaNews>

INTERNATIONAL RANKINGS

#173

UN Human Development Index (2018)

Scale (best to worst): 1-189

#24

Foreign Policy: Fragile States Index (2016)

Scale (best to worst): 178-1

#98

CAF World Giving Index (2018)

Scale (best to worst): 1-145

Subcategories:

106

HELPING A STRANGER

101

DONATING MONEY

58

VOLUNTEERING TIME

#56

Hudson Philanthropic Freedom Index (2015)

Scale (best to worst): 1-64

Kindly note that some of these rankings were last updated before Prime Minister Abiy Ahmed came into power in 2018. Thus, the rankings may not fully account for major democratic reforms that have occurred in Ethiopia in recent years.

RELEVANT LAWS

The Ethiopian legal system generally adheres to the civil law tradition, though some areas are influenced by common law. Sources of law include the Constitution, proclamations, regulations, directives, decrees, and orders, as well as decisions by the cassation court and the Federal Supreme Court’s cassation division. Supreme Court decisions regarding fundamental errors of law are binding on federal as well as regional courts at all levels. There are no known decisions by the Supreme Court’s cassation division on NPOs.

Constitutional Framework

The Constitution of the FDRE recognizes that the protection and promotion of fundamental human rights in Ethiopia must be measured against the standards laid out in the Universal Declaration of Human Rights and other international human rights instruments.⁵ Moreover, the Constitution states that “all international agreements ratified by Ethiopia are an integral part of the law of the land.”⁶

The Constitution of the FDRE provides that “[e]very person has the right to freedom of association for any cause or purpose,” but prohibits “[o]rganizations formed, in violation of appropriate laws, or to illegally subvert the constitutional order, or which promote such activities.”⁷ There are no known constitutional interpretations or court cases related to the freedom of association.⁸

⁵ The Constitution of the FDRE, Article 13(2).

⁶ The Constitution of the FDRE, Article 9(4).

⁷ The Constitution of the FDRE, Article 31.

⁸ In Ethiopia, the power to interpret the Constitution is vested in the House of Federation, the upper chamber of the Ethiopian Federal Parliamentary Assembly. Courts often refer cases that require constitutional interpretations to this body. The House of Federation is supported by the Council of Constitutional Inquiry, which is empowered to receive applications where any Federal State law is contested as being unconstitutional and such a dispute is submitted to it by any court or interested party.

National Laws and Regulations Affecting Philanthropic Giving

Table 1 shows the national laws and regulations affecting philanthropic giving in Ethiopia.

TABLE 1. NATIONAL LAWS AND REGULATIONS AFFECTING PHILANTHROPIC GIVING IN ETHIOPIA

FRAMEWORK LAWS			
Organizations Of Civil Societies	2019	Promotes the realization of the right to associate and facilitates the role of civil society organizations in the overall development of the Ethiopian people	Bilingual
Chambers of Commerce and Sectoral Association Establishment Proclamation No. 341/2003	2003	Regulates the establishment of chambers of commerce and sectoral associations	Bilingual
TAX LAWS			
Federal Income Tax Proclamation No. 979/2016	2016	Establishes income tax regulations	Amharic
Income Tax Regulation No. 410/2017	2017	Regulates issues related to the income tax proclamation	Bilingual
LABOR LAWS			
Labor Proclamation No. 1156/2019	2019	Regulates labor relationships	Bilingual
LAWS OF GENERAL APPLICATION			
Freedom of the Mass Media and Access to Information Proclamation No. 590/2008⁹	2008	Regulates access to information and mass media	Bilingual
Civil Code	1960	Articles 404-482 of the Civil Code govern organizations that only operate in one region if that region has not adopted its own CSO law.	English

⁹ As of July 2020, the Freedom of the Mass Media and Access to Information Proclamation is under review by the federal Attorney General's Legal and Justice Affairs Advisory Council. Major issues under review are the prohibition of foreign nationals from investing in the media sector and the prohibition on investors from having controlling shares in different media houses.

ANALYSIS

The 2019 CSO Proclamation is relatively new and its terms are at times rather general. For these reasons, not all issues governing the non-profit sector and philanthropy are explicitly laid out in the existing framework. Under President Abiy's leadership, the Legal and Justice Affairs Advisory Council continues to review existing laws for reform; the new CSO Agency is also in the process of issuing directives and regulations under the 2019 CSO Proclamation that will impact the non-profit sector and philanthropy. ICNL will continue to periodically update this Note as developments arise.

Institutions Responsible for the Regulation and Oversight of Organizations

THE AGENCY FOR CIVIL SOCIETY ORGANIZATIONS PROCLAMATION (CSO AGENCY)

The 2019 Proclamation establishes the Agency for Civil Societies Organizations Proclamation (CSO Agency), which oversees the regulation of CSOs.¹⁰ The CSO Agency is responsible for the registration, monitoring and supervision, and support of CSOs, and also acts as a liaison between CSOs and the rest of the federal government.¹¹

The Civil Society Organizations Board (Board) within the CSO Agency has the power to set policy directions for the CSO Agency, hear appeals from the decisions of the Director General of the CSO Agency, establish an independent complaint review committee and set its rules of procedure, provide administrative decisions, issue directives, examine and approve organizations' annual activity plans and reports, evaluate the performance of the CSO Agency's Director General and Deputy Director Generals, and decide on other matters submitted to it by the Director General.¹² The Board is comprised of eleven members who represent Government bodies, CSO representatives, a civil society expert, and representatives of marginalized populations.

COUNCIL OF CIVIL SOCIETY ORGANIZATIONS (COUNCIL)

The 2019 Proclamation also establishes the Council of Civil Society Organizations (Council), a body of CSO representatives responsible for enacting a Code of Conduct for the civil society sector, advising the CSO Agency on registration and administration processes, and otherwise representing the civil society sector.¹³ While the CSO Agency had begun processes for establishing a Council, as of July 2020, it has placed these plans on hold in reaction to the ongoing COVID-19 pandemic.

¹⁰ 2019 CSO Proclamation, Article 4.

¹¹ 2019 CSO Proclamation, Article 6.

¹² 2019 CSO Proclamation, Article 9.

¹³ 2019 CSO Proclamation, Article 85(5).

SECTOR ADMINISTRATORS

Sector administrators refer to government bodies that assist the CSO Agency in supervising and advising organizations. Sector administrators are responsible for issuing permits allowing organizations to operate in certain sectors.¹⁴ For example, the Ministry of Health is the sector administrator for organizations working on health issues, and issues permits for CSOs engaged in malaria vaccination.

Organizational Forms for CSOs

The 2019 CSO Proclamation defines a “civil society organization” as a non-governmental, non-partisan, not-for-profit entity voluntarily established by two or more persons and registered to carry out any lawful purpose, noting that the term includes non-governmental organizations, professional associations, mass-based societies,¹⁵ and consortiums.¹⁶ The 2019 CSO Proclamation distinguishes between “foreign” and “local” CSOs; “foreign” organizations are formed under foreign countries’ laws and are registered to operate through a branch office in Ethiopia, while “local” organizations are formed under the Ethiopia’s laws by Ethiopians and foreign residents.¹⁷ “Foreign” organizations are subject to a few additional requirements and restrictions than local organizations, as discussed below.

The 2019 CSO Proclamation also explicitly defines five forms of CSOs: associations, board-led organizations, charitable endowments, charitable trusts, and charitable committees.¹⁸

ASSOCIATION

An association is “an organization formed by five or more members and governed by a General Assembly as its supreme decision-making body.”¹⁹

BOARD-LED ORGANIZATION

A board-led organization is an organization “formed by two or more founders,” and whose supreme decision-making body is its board.²⁰

CHARITABLE ENDOWMENT

A charitable endowment is “an organization by which a certain property is perpetually and irrevocably designated by donation or will or the order of the Agency for a purpose that is solely charitable.”²¹

¹⁴ 2019 CSO Proclamation, Article 62(10).

¹⁵ A “mass-based society” is an organization with a large membership that aims to provide services to its members.

¹⁶ 2019 CSO Proclamation, Article 2(1).

¹⁷ 2019 CSO Proclamation, Articles 2(2) and 2(3).

¹⁸ 2019 CSO Proclamation, Article 18.

¹⁹ 2019 CSO Proclamation, Article 19(1)

²⁰ 2019 CSO Proclamation, Article 20(1).

²¹ 2019 CSO Proclamation, Article 21(1).

CHARITABLE TRUST

A charitable trust is “an organization by virtue of which specific property is constituted solely for a charitable purpose to be administered by [trustees] in accordance with the instructions given by the instrument constituting the charitable trust.” A charitable trust differs from a charitable endowment in its management structure: it is administered by trustees rather than by a board.

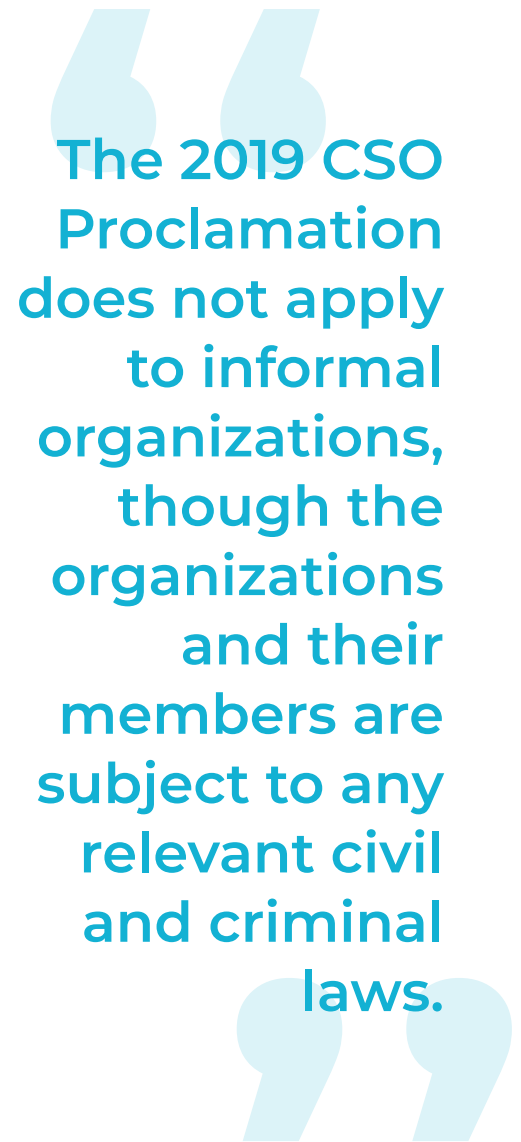
CHARITABLE COMMITTEE

A charitable committee is a body composed of five or more natural or juridical persons who have come together with the intent of soliciting money or other property from the public for charitable purposes.²² Such committees are typically established for the short-term to serve as a mechanism to mobilize funds to help people in emergency situations such as pandemics and natural calamities.

The 2019 CSO Proclamation does not apply to informal organizations. Informal organizations are unregulated, though the organizations and their members are subject to any relevant civil and criminal laws. Informal organizations primarily exist to facilitate self-reliance among individuals, households, and the local community. For example, a *debo* is an organization whose members are farmers who support each other through mutual aid; an *ekub* is similar to a savings and credit association, with a lottery component providing periodic rewards to members. Some *ekub* are established to benefit particular groups of individuals, such as women and merchants. An *ezen* is a self-help group that assists families after the death of a member. An *idir* is a larger group that serves as a local neighborhood association, taking on various functions depending on the community, such as providing emergency insurance assistance to its members.

Some civil society experts view informal groups as a logical starting point for various development interventions and as local counterparts for international NGOs (INGOs) and donor organizations. By contrast, other experts fear that if informal groups receive international aid, donor priorities may displace the original focus of the groups, thus rendering them less impactful in their communities.

²² 2019 CSO Proclamation, Article 48.



The 2019 CSO Proclamation does not apply to informal organizations, though the organizations and their members are subject to any relevant civil and criminal laws.

Registration

The 2019 Proclamation states that “any organizations shall be registered by the Agency in accordance with these provisions.”²³ In practice, this provision has been interpreted to require mandatory registration. The procedure for registration differs slightly for local and foreign organizations.

REGISTRATION OF DOMESTIC (“LOCAL”) NONPROFIT ORGANIZATIONS

Local organizations must complete the following steps to register:

1. Submit a completed application form. The application form is a physical form available upon request to the CSO Agency.²⁴ The submitted form must contain the following information:²⁵
 - a. The minutes of the formative meeting indicating the names, addresses and citizenship of the founders;
 - b. Copy of the identity card or passport of the founders;
 - c. The name of the organization and its logo, if it has one;
 - d. The objectives of the organization and its intended sector of operation;
 - e. The region where it intends to operate;
 - f. The rules of the organization approved by the founders; and
 - g. The organization’s address.
2. Submit the CSO’s memorandum of association.
3. Pay a registration fee of 1000 Ethiopian Birr (approximately US\$30). Other fees include 100 Ethiopian Birr (approximately US\$3) for registration of the logo/symbol, and an additional 1000 Ethiopian Birr (approximately US\$30) for the publication of registration in the government newspaper. To use a memorandum of association different from the model document provided by the CSO Agency requires an additional vetting fee of 600 Ethiopian Birr (approximately US\$17).

Once a CSO submits an application for registration to the CSO Agency, the CSO Agency must decide whether to register the CSO within 30 days. If the CSO Agency fails to make a decision within 30 days, the applicant may file a complaint before the Board of the CSO Agency within 30 days after the passage of the deadline for the CSO Agency to

²³ 2019 CSO Proclamation, Article 57(1).

²⁴ As of July 2020, registration is still a completely analog (i.e. non-digitized) process. Plans for digitizing the registration process have not yet been solidified.

²⁵ 2019 CSO Proclamation, Article 58(1).

make a decision.²⁶ The Board must decide on the matter within 60 days of receiving the complaint.²⁷ The CSO may appeal the Board's decision before the Federal High Court within 30 days after receiving the Board's decision.²⁸

Organizations have full legal personality upon completion of registration.²⁹

REGISTRATION OF FOREIGN NONPROFIT ORGANIZATIONS

A foreign organization must submit the same application form for registration noted above in the Domestic ("Local") Nonprofit Organizations subsection.

In addition, a foreign organization must also submit the following documents:

1. Duly authenticated certificate of registration showing its establishment from its country of origin;
2. Duly authenticated resolution of its competent organ to operate in Ethiopia;
3. Duly authenticated power of delegation of the country representative; Letter of recommendation from the embassy in which the charity is incorporated or in the absence of such by a competent authority in that country or from Ministry of Foreign affairs of federal democratic republic of Ethiopia and;
4. An action plan for a minimum period of two years.³⁰

The CSO must also pay a registration fee of 1000 Ethiopian Birr (approximately US\$30), a document authentication fee of 5 Ethiopian Birr (approximately US\$.25) per page per copy, and a statute vetting fee of 100 Ethiopian Birr (approximately US\$3).

The Civil Code requires foreigners to obtain a permit from the Ethiopian Investment Commission to own immovable property in Ethiopia.³¹

REGISTRATION OF CONSORTIUM OF CSOS

To form and register a consortium, the head of the organization representing the consortium must sign and submit an application for registration to the CSO Agency that details:

1. The rules of the consortium signed by the representatives of founder organizations;
2. The minutes documenting the decision among members to form the consortium; and

26 2019 CSO Proclamation, Article 57(3).

27 2019 CSO Proclamation, Article 57(4).

28 2019 CSO Proclamation, Article 57(6).

29 2019 CSO Proclamation, Article 61.

30 2019 CSO Proclamation, Article 58.

31 1960 Civil Code, Article 390.

3. A certificate of registration issued by the Agency or authorized regional government body to the members of the consortium.³²

The consortium must pay a registration fee of 1000 Ethiopian Birr (approximately US\$30).

REFUSAL OF REGISTRATION

The CSO Agency may refuse to register a local or foreign organization if:

1. The organization's application does not comply with requirements for registration under the 2019 Proclamation;
2. The aim of the organization or activities described in the organization's rules are contrary to law or public morals;
3. The name or symbol under which the proposed organization is to be registered resembles the name of another organization or other institution, is contrary to public morals, or is illegal;³³ or
4. Registration documents are fraudulently obtained or forged.³⁴

If an organization fails to fulfill the necessary requirements for registration laid out under the law, the CSO Agency must write to the applicant requesting it to amend and resubmit its application within 30 days of the submission of the application.³⁵ If the applicant is unwilling to amend and resubmit its application, the CSO Agency will reject the application for registration and state the legal grounds for rejecting the application.³⁶ The rejection of the application is not required to be in writing.

The 2019 Proclamation does not require renewal of registration.



If an organization fails to fulfill the necessary requirements for registration laid out under the law, the CSO Agency must write to the applicant requesting it to amend and resubmit its application within 30 days.

³² 2019 CSO Proclamation, Article 58(3).

³³ For example, the CSO Agency might refuse to register an organization whose name refers to same-sex marriage, as same-sex marriage is illegal in Ethiopia.

³⁴ 2019 CSO Proclamation, Article 59(1).

³⁵ 2019 CSO Proclamation, Article 59(3).

³⁶ 2019 CSO Proclamation, Article 59(4).

NPO Activities

Organizations are generally permitted to engage in any lawful activity to accomplish their objectives.³⁷ However, consortiums may not engage in activities that “compete” with the activities of their member organizations.³⁸

Foreign organizations are encouraged though not required to build the capacity of and partner with local organizations.³⁹

Under the 2019 CSO Proclamation, directives issued under the former Proclamation regulating CSO operations and activities have expired.⁴⁰ The CSO Agency has not yet issued new directives under the 2019 CSO Proclamation.

OPERATIONAL AND ADMINISTRATIVE COSTS

An organization established for the benefit of the general public or that of third parties may not spend over twenty percent of its total income on administrative expenses.⁴¹ “Administrative expenses” are “expenses which are not related to the project activities of an organization but are necessary to ensure the continuity of an organization and related to administrative activities, and shall include: salaries and benefits of administrative employees; purchase of consumables and fixed assets and repair and maintenance expenses related to administrative matters; office rent, parking fees, audit fees, advertisement expenses, bank service fees, fees for electricity, fax, water and internet services; postal and printing expenses; tax, purchase and repair of vehicles for administrative purposes, and procurement of oil and lubricants for the same; insurance costs, penalties and attorney fees.”⁴²

POLITICAL ACTIVITIES AND LOBBYING

The 2019 CSO Proclamation explicitly protects the right of an organization to propose changes for existing laws, policies and practices, or recommend the issuance of new laws and policies that relate to the organization’s activities.⁴³

Foreign organizations seeking to engage in election monitoring or voter education activities they are required to receive the permission of the National Electoral Board of

37 2019 CSO Proclamation, Article 62(1).

38 2019 CSO Proclamation, Article 56(3).

39 2019 CSO Proclamation, Article 62(7).

40 Expired directives include: Consortium of Charities and Societies Directive No. 1/2010; Directive to Determine the Operational and Administrative Costs of Charities and Societies No. 2/2011 (also known as the 70/30 Directive); Directive to Provide for the Establishment and Administration of Charitable Committee No. 3/2011; Directive to Provide for the Establishment of a Charitable Endowment, Charitable Trust and Charitable Institution No. 4/2011; Directive to Provide for Public Collections by Charities and Societies No. 5/2011; Directive to Provide for Public Collection by Charities and Societies No. 5/2011; Directive to Provide for the Liquidation, Transfer and Dissolution of Properties of Charities and Societies No. 6/2011; Directive to Provide for Income Generating Activities by Charities and Societies No. 7/2011; Directive to Determine the Particulars of the Audit and Activity Reports of Charities and Societies No. 8/2011.

41 2019 CSO Proclamation, Article 63(2).

42 2019 CSO Proclamation, Article 63(2).

43 2019 CSO Proclamation, Article 62(4).

Ethiopia.⁴⁴ Additionally, foreign and local organizations established by foreign citizens that are residents of Ethiopia may not engage in lobbying.⁴⁵

ECONOMIC ACTIVITIES

An organization has the right to solicit, receive, and use funds from any legal source to further its objectives.⁴⁶ An organization also has the right to engage in any lawful business and investment activity to raise funds for the fulfillment its objectives, provided it abides by all relevant trade and investment laws. However, an organization may not distribute the profits of those business activities to benefit its members.⁴⁷ Furthermore, income derived from these economic activities must be used to cover administrative and program costs of the organization, rather than distributed to the organization's members.

An organization may engage in income generating activities through the following means: establishing a separate business organization (company), acquiring shares in an existing company, making public collections, or operating its business as a sole proprietorship.

An organization engaged in income generating activities must open a separate bank account and keep separate books of account for its business in accordance with the relevant commercial and tax laws. The organization must abide by all relevant tax, commercial registration and business licensing, and investment laws when engaging in income-generating activities.⁴⁸

PROHIBITION ON DISTRIBUTION OF INCOME OR ASSETS/PRIVATE INUREMENT

Income and resources that are acquired from income generating activities may not be distributed to or transferred for the benefit of members or workers of the organization.⁴⁹ Furthermore, all members, officers and employees of the Organization must give primacy to the organization's interest and take the necessary precaution to avoid conflicts of interest while performing their duties.⁵⁰ The law clearly prohibits distribution of profits or assets of the organization for an individual's benefit, requiring CSOs to include in their rules or statutes a provision indicating that the organization's income and resources may not be distributed to members or employees other than for payment of legally-permitted service fees.⁵¹ CSOs must also include in their rules a stipulation that members or employees of the organization do not have any rights to the organization's resources by the mere fact of their membership or employment.⁵²

44 Ethiopian Electoral, Political Parties Registration and Election's Code of Conduct Proclamation, Article 114(2).

45 2019 CSO Proclamation, Article 62(5).

46 2019 CSO Proclamation, Article 63(1)(c)

47 2019 CSO Proclamation Article 63(1)(b)

48 2019 CSO Proclamation Article 64(2)-(3).

49 2019 CSO Proclamation, Article 64(5).

50 2019 CSO Proclamation, Article 62(11).

51 2019 CSO Proclamation, Article 60(1)(d).

52 2019 CSO Proclamation, Article 60(1)(e).

Internal Management


The CSO Agency may set guidelines for the internal management of an organization through the following mechanisms: working with organizations to create systems of internal governance and self-regulation and developing policy guidelines to ensure that organizations implement development activities in line with development plans issued by the government.⁵³

Additionally, the 2019 Proclamation lays out certain structural requirements for certain forms of CSOs:


- Charitable endowments must have a management board, manager, and auditor;⁵⁴
- Charitable trusts should have a trustee manager, a trustee treasurer, and a trustee auditor;⁵⁵
- Associations must have a general assembly, and may have executive committee, internal auditor, and a manager/director as necessary;⁵⁶ and
- Board-led CSOs shall in addition to the Board have a manager.⁵⁷

CSOs may not employ expatriates unless a work permit is granted in accordance with the relevant law. In addition, the following categories of individuals may not act as officials of the CSO: individuals convicted of a crime involving fraud or other crimes involving dishonest acts and who have not been reinstated; individuals convicted of any crime as a result of which he or she has been deprived of civil rights and those rights have not yet been restored; individuals unable to act by reason of incapacity within the meaning of the law; and individuals interdicted by a court.⁵⁸

Finally, a member of the board or executive committee of an organization shall not be employed in the same organization



CSOs may not employ expatriates unless a work permit is granted in accordance with the relevant law. In addition, certain categories of individuals may not act as officials of the CSO.



⁵³ 2019 CSO Proclamation, Articles 6(4) and 6(10).

⁵⁴ 2019 CSO Proclamation, Article 24.

⁵⁵ 2019 CSO Proclamation, Article 41.

⁵⁶ 2019 CSO Proclamation, Article 19.

⁵⁷ 2019 CSO Proclamation, Article 20(5).

⁵⁸ 2019 CSO Proclamation, Article 65.

as an officer or ordinary employee.⁵⁹

The Agency will not register an organization if its assignment of officers is contrary to any of the above rules.

Government Supervision and Reporting

The CSO Agency can supervise CSOs through the following mechanisms: monitoring and supervising organizations to ensure that they undertake their activities in compliance with the law; and examining annual activity and financial reports of organizations and conducting the necessary follow up.⁶⁰

Within three months after the end of every financial year, all organizations must prepare and submit to the CSO Agency a report summarizing major activities. After reviewing the reports, the CSO Agency may require additional information or explanation. The annual activity report must include an annual statement of accounts.⁶¹

All organizations must keep books of account containing entries for day to day receipt of funds and expenditures, the names and identities of donors, sources of donations, and a record of assets and liabilities.⁶² A certified auditor will examine the books of account within three months after the end of the financial year. However, organizations whose annual flow of funds do not exceed Birr 200,000 (approximately 5,700 USD) may choose to submit a record of funds received by the organization, its expenditures, and a statement of assets and liabilities, rather than a fully audited financial report.⁶³ Furthermore, the officers of CSOs are obliged to preserve all of their organizations' accounting records for at least 5 years from the end of the financial year in which they are made.

Involuntary Suspension, Dissolution, and Sanctions

The CSO Agency may suspend an organization if it finds that the organization has committed a grave violation of law and the organization fails to redress the violation after the CSO Agency has given it one preliminary warning and one strict warning. The suspension may be for a period of up to three months, during which the Board of the CSO will determine whether the organization has satisfactorily redressed the violation. The Board will dissolve the organization if it determines that the organization has failed to satisfactorily redress the violation.⁶⁴

⁵⁹ 2019 CSO Proclamation, Article 65(2).

⁶⁰ 2019 CSO Proclamation, Articles 6(2)-6(3).

⁶¹ 2019 CSO Proclamation, Articles 73(1)-73(3).

⁶² 2019 CSO Proclamation, Article 71(2).

⁶³ 2019 CSO Proclamation, Article 72(2).

⁶⁴ 2019 CSO Proclamation, Article 78.

The Board may also decide to dissolve an organization if the CSO Agency cannot verify the organization's existence.⁶⁵ An organization that has been dissolved may appeal the decision to the Federal High Court within 30 days of the decision for dissolution.⁶⁶

Additionally, a Federal High Court may order the dissolution of an organization if the organization is convicted of a serious criminal offense or is repeatedly found guilty of a minor criminal offense; or the organization is insolvent.⁶⁷

Upon dissolution, the CSO Agency will appoint a liquidator to settle the organization's debts and transfer any remaining money or property to another organization in accordance with the dissolved organization's rules or a prior decision by the decision-making body of the organization. If the organization has not determined a recipient organization, then the CSO Agency will designate a recipient organization.⁶⁸

Every six months, the CSO Agency publishes a list of CSOs whose registration has been suspended or cancelled in the official Gazette.⁶⁹

Conversion, Merger, Division

A CSO may decide to convert its structure to a different subtype (for example, from an association to a board-led organization) at its will. A converted organization must register with the CSO Agency in its new form.⁷⁰

Two or more CSOs may merge into one under a new name or under the name of one of the original organizations, retaining the rights and obligations of the original organizations. Merged organizations must register with the CSO Agency.⁷¹

An organization may decide to split into two or more organizations. Division is an act whereby a charity or society is divided into two or more organizations. One of the new organizations may retain the name of the previous organization, and all newly formed organizations must register with the CSO Agency.⁷²

Charitable or Public Benefit Status

There is no official "public benefit status" for CSOs in Ethiopia. However, an organization that is established for the benefit of the general public or third parties must ensure that its activities take into account the interests of women, children, persons with dis-

⁶⁵ 2019 CSO Proclamation, Article 70.

⁶⁶ 2019 CSO Proclamation, Article 78(5).

⁶⁷ 2019 CSO Proclamation, Article 83(2).

⁶⁸ 2019 CSO Proclamation, Articles 84(2)-84(4).

⁶⁹ 2019 CSO Proclamation, Article 66(3).

⁷⁰ 2019 CSO Proclamation, Article 82.

⁷¹ 2019 CSO Proclamation, Article 80.

⁷² 2019 CSO Proclamation, Article 81.

abilities, the elderly and others exposed to threat or vulnerable groups of the society.⁷³ Ethiopian law does not provide any specific benefits to organizations established for the benefit of the general public or third parties.

Local and Cross-Border Funding

As noted above, CSOs have the right to seek and secure funding from any lawful source, including foreign donors. Foreign organizations are also encouraged to give technical and financial support to local CSOs.⁷⁴ Finally, the 2019 Proclamation establishes a Civil Society Fund to be administered by the CSO Agency to encourage development in the civil society sector.⁷⁵ As of July 2020, the Fund is not yet fully operational.

Tax Law

Income from grants, donations, and membership fees are not subject to tax for any form of NPO. NPOs working on service delivery and philanthropic activities may also be exempt from some other taxes, including customs duties on imported items.

Every person with income is required to pay income tax.⁷⁶ The Proclamation proceeds to provide a long illustrative list of activities that entail income tax liability, including income from employment, business activities, and moveable and immovable properties, among other income.⁷⁷

Most NPOs are also expected to pay value-added tax (VAT) when buying goods and services from VAT-registered providers of goods and services. However, the following transactions and activities are exempted from VAT:

- The rendering by religious organizations of religious or church-related services;
- The rendering of educational services provided by educational institutions, as well as childcare services for children at pre-school institutions;

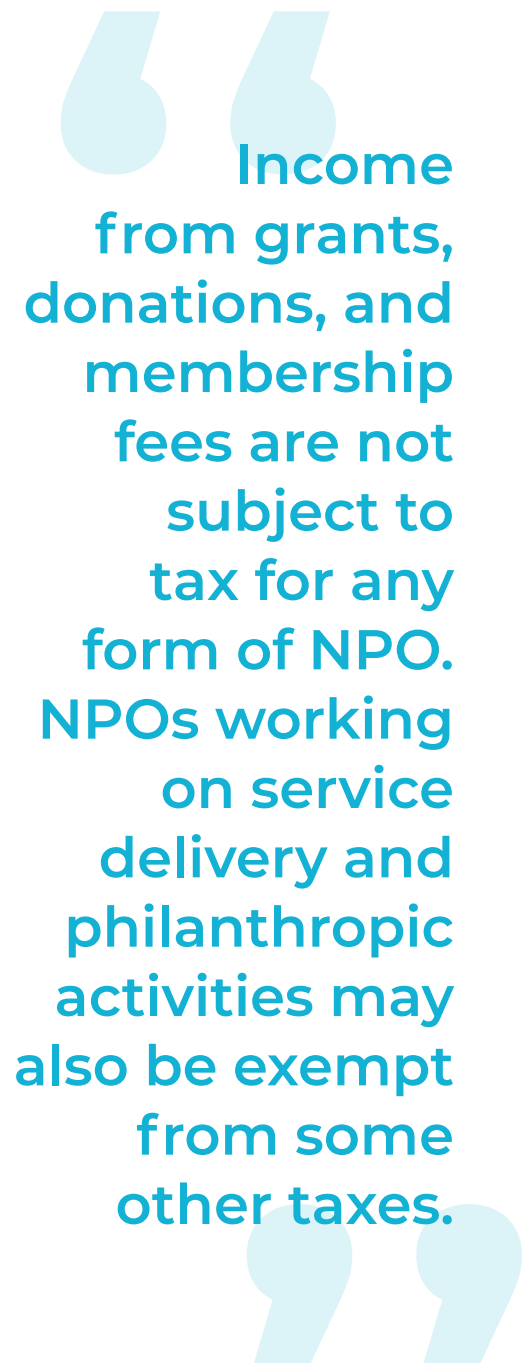
⁷³ 2019 CSO Proclamation, Article 62(9).

⁷⁴ 2019 CSO Proclamation, Article 62(6).

⁷⁵ 2019 CSO Proclamation, Article 86.

⁷⁶ 2016 Income Tax Proclamation, Article 9.

⁷⁷ See 2016 Income Tax Proclamation, Articles 10, 13, and 18.



Income from grants, donations, and membership fees are not subject to tax for any form of NPO. NPOs working on service delivery and philanthropic activities may also be exempt from some other taxes.

- The import or supply of prescription drugs specified in directives issued by the Minister of Health, and the rendering of medical services;
- The supply of goods and rendering of services in the form of humanitarian aid, as well as the import of goods transferred to state agencies of Ethiopia and public organizations for the purpose of rehabilitation after natural disasters, industrial accidents, and catastrophes; and
- The supply of goods or services by a workshop employing disabled individuals if more than 60 percent of the employees are disabled.⁷⁸

CSOs working with the financial support of international organizations like USAID may also be exempt from VAT upon applying to the CSA and Tax Authority, in accordance with agreements between foreign and Ethiopian governments.

Donations may be tax-deductible for both individuals and business organizations if all of the following criteria are met:

- The charitable organization is a registered organization;
- The contribution is made in response to an emergency call issued by the government to, among other objectives, prevent man-made or natural catastrophes, epidemics, or for any other similar cause;
- The donation is made in support of education, health, environmental protection or provided in the form of humanitarian aid other than for the taxpayer's own employees; and
- The amount of the donation or grant does not exceed 10 percent of the taxable income of the taxpayer.⁷⁹

⁷⁸ 2019 VAT Proclamation, Article 8.

⁷⁹ Income Tax Regulation 78 (2002).

NEWS AND EVENTS

- Belachew, Worku. “Ethiopia: Legal Instrument - Enabling Environment for Chs.” All Africa. August 21, 2016
<http://allafrica.com/stories/201608230683.html>
- Berhane, Daniel. “Ethiopia: State of Emergency grants PM sweeping powers.” Horn Affairs English. October 9, 2016
<http://hornaffairs.com/en/2016/10/09/ethiopia-state-emergency-sweeping-powers/>
- Cardona, Helene. “The State of Emergency in Ethiopia and Aid Worker Security.” Relief Web. October 31, 2016
<http://reliefweb.int/report/ethiopia/state-emergency-ethiopia-and-aid-worker-security>
- “Ethiopia: Agency Urges Charities, Societies to Abide By Rules and Regulations.” All Africa. September 30, 2015
<http://allafrica.com/stories/201510010587.html>
- Gebrehiwot, Mamo. “House approves newly revised income tax proclamation.” Ethiosports. July 26, 2016
<http://www.ethiosports.com/2016/07/26/house-approves-newly-revised-income-tax-proclamation/>
- Hailu, Dawit. “Fundraising organized by Ethiopian human rights council interrupted.” Abbay Media. October 24, 2016
<http://abbaymedia.com/fundraising-organized-by-ethiopian-human-rights-council-interrupted/>
- Hailemariam, Yared . “Progressive new CSO law needs tweaks to fully dispel climate of fear.” Ethiopia Insight. December 7, 2018
<https://www.ethiopia-insight.com/2018/12/07/progressive-new-cso-law-needs-tweaks-to-fully-dispel-climate-of-fear/>
- Abiye, Yonas. “Draft bill to lift CSO financing restriction.” Ethiopian Reporter. January 12, 2019
<https://www.thereporterethiopia.com/article/draft-bill-lift-cso-financing-restriction>
- International federation for Human Rights, Press Release. Ethiopia: A new era for human rights organizations? November 02, 2019
<https://www.fidh.org/en/issues/human-rights-defenders/ethiopia-a-new-era-for-human-rights-organisations>

This Philanthropy Law Report was prepared by the International Center for Not-for-Profit Law in partnership with Seife Ayalew and issued in March 2017. It was updated again to reflect changes as of December 2017 and July 2020. The views and information expressed herein are those of the authors and reflect the authors' understanding of laws and regulations currently in effect in Ethiopia, as well as best international practice, and does not constitute a legal opinion or advice.

ICNL

1126 16th Street NW, Suite 400
Washington, DC 20036 USA

 www.icnl.org

 facebook.com/ICNLAlliance  twitter.com/ICNLAlliance