

Accessibility of Directives on Websites of Administrative Agencies

Description

By DMLF Team

One of the issues in the promulgation of the Administrative Procedure Proclamation was the fact that Directives were not accessible to end users. Moreover, directives were not issued in a timely manner and due such fact administrative tasks were kept on hold. The Federal Administrative Procedure Proclamation No 1183/2020 (the Proclamation) is issued to address these and other issues. The Proclamation defines Directives on Article 2(2) as *"a legislative document that is issued by an administrative agency based on delegation of Power bestowed upon it by the Legislator which affects people's Rights and Interests"*. Thus Directives are laws. In the hierarchy of laws Directives can be put as the lowest form of legislation after Proclamation and Regulation. Directives are issued by administrative agencies and the Proclamation defines Administrative Agencies as *'Executive Organ of the Federal Democratic Republic of Ethiopia duly established by law and includes the Executive Organs of City Administrations accountable to the Federal Government'* (Article 2(1)).

When should a Directive be Issued?

If the Directive is mandatory, the administrative agency has to adopt a directive indicated in the mother law within 90 days. The aim is to prevent procrastination by administrative agencies in coming up with a working Directive. If the Directive is not mandatory, the administrative authority should ratify within a reasonable period of time. In any case, an administrative authority cannot deny service or shy away from giving an administrative decision for failure on the part of an administrative agency to issue Directives legally empowered to adopt.

Filing of Old Directive

All administrative agencies, within three months after the coming into force of this Proclamation, are obliged to file Directives they have adopted previously. The agencies should send copies to the Federal Attorney General(now the Ministry of Justice). The Proclamation came into force around April 2020. Thus all administrative agencies by now are assumed to have duly filed their existing directives with the Ministry of Justice. Otherwise a directive that has not been filed this way may not **be enforced**. For newly adopted directives as per the Proclamation, the administrative organ should send the copies of the Directive and accompanying explanatory statement to the Ministry of Justice. The Ministry will give a serial identification number and record the Directives. Then the Ministry will immediately inform the administrative agency about the status of registration.

Accessibility of Directives

Customers or interested parties have access to the Directives online or can acquire them in hard copy. The Ministry of Justice and the administrative organ shall post directives on their own website. In addition to this, the administrative organ should print and disseminate the registered Directive to Governmental and other Stakeholders. Any person who is interested can request to have a look and

observe the Directive in the office of the administrative organ or may get a copy of the directive subject to payment of expenses. Otherwise a directive that has not been posted on the website of the administrative agency may not **be enforced**.

To sum up, administrative agencies are obliged to timely enact directives, follow the legislative procedure indicated in the Proclamation, file old and new Directives to the Ministry of Justice and upon registration, post them on their websites. Failure to file to the Ministry or failure to post the Directives on their websites shall render the Directive or directives unenforceable. Impliedly Administrative agencies including the Ministry of Justices are required to have working websites and Directives and other relevant laws governing their administrative tasks should be posted on those websites. Administrative agencies leaders should make their agencies abide by the Administrative Procedure Proclamation and guarantee transparency and accountability.

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