

Administrative Independence of the Judiciary

Description

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The House of Peoples' Representative has enacted a Regulation namely "the Federal Courts Administrative Employees Regulation Number 1/2023", (hereafter referred to as the Regulation). The Regulation is effective from the date of publication in the Federal Negarit Gazette. The Regulation was signed into law by the Speaker of the House of Peoples' Representative Tagese Chafo on October 25/2023. The Regulation consists of 104 provisions. Major new introductions shall be briefly discussed here below.

Human Resource Management Council

The Regulation formed the Human Resource Management Council. The Council shall serve as higher organ, to administer and determine the structure, salary scale, allowances, benefit packages and other human resource management related affairs of the Federal Courts. The Council has also the mandate to issue Directives to implement this Regulation.

Salary Scale

The Council shall propose the salary scale of the Federal Court Administrative Employees taking into consideration Government's financial capacity and taking into account the weight of the work. The salary scale shall become effective when the House of Peoples Representatives approves the recommendation made by the Council.

Employment of Foreigners

Foreigners are made ineligible to be employed in the Federal Courts. The term foreigners however does not include foreign nationals of Ethiopian origin holding the yellow card as provided under Proclamation No.270/2002 namely Providing Foreign Nationals of Ethiopian Origin with Certain Rights to be Exercised in their Country of Origin.

Probation to New Recuritees

The period of probation of the Federal Courts employee on the position of his/her appointment shall be for 6(six months). However if the performance result is below average, the probation period may be extended for an additional period of three months.

Regular Working Hours

Regular working hours of Federal Courts shall be determined on the basis of each condition of work and may not exceed 39 hours a week; from Monday to Friday. The regular office hours of an employee shall be from 8:30 AM to 5:30 PM. However, an employee assigned to a bench related position shall be obliged to work until the completion of the proceeding of the bench concerned.

Annual Leave

An employee of the Federal Court shall be entitled to annual leave of 20 working days for his first year of service. An employee having a service of more than a year shall be entitled to additional leave of one working day for every additional year of service. However, the duration of annual leave shall not exceed 30 working days. Previous service rendered in any Federal or regional government institution shall be taken into account for the application of service years.

Maternity and Paternity Leave

A pregnant employee shall be entitled to a period of 30 consecutive days of prenatal leave preceding the presumed date of her confinement date. She will get a period of 90 consecutive days after her confinement. The pregnant woman shall receive a total 120 days of maternity leave with pay. Any employee shall be entitled a paternity leave with pay for 10 working days at the time of his wife's delivery. Paternity leave shall also be applicable to irregular unions when the proof of which is priorly attached in the employee's personal record or any other admissible evidence produced by the employee.

Affirmative Actions

The Regulation introduced affirmative action for female employees, employees with disability and nations and nationalities having lesser representation. Female employees shall be entitled to affirmative actions in recruitment, promotion, transfer, redeployment, education and training. Persons with disabilities shall be entitled to affirmative actions in undergoing of recruitment, promotion, transfer, redeployment, education and training. Also nations, nationalities and peoples having lesser representation in Federal Courts shall be given the advantage of affirmative actions in the implementation of recruitment, promotion, transfer, redeployment, education and training.

Equitable Representation

The placement of employees in Federal Courts shall take into account equitable representation of nations, nationalities and peoples.

Obligations of Employees

The Regulation lists down 17 obligations. Among the obligations some of them are a) to refrain from any activity reflecting the employees personal belief, religion or political opinion at the workplace; b) to preserve confidential matters of the court disclosed to the employee by reason of his work; c) to avoid discriminatory treatment of clients on the basis of gender, language, ethnicity, religion, political opinion, disability or on any other grounds; and d) not to solicit or accept any gift or a present having a value in consideration of the service the employee renders or expected to render as an employee.

The Right of Appeal

Any party aggrieved by the administrative decisions of higher officials of Federal Courts may lodge an appeal to the Federal High Court within 30 days upon receipt of the administrative decision. The Federal High Court shall render a decision on appeals submitted to it after making necessary examinations on both questions of law and fact. The Federal High Court shall render a decision within 30 days on appeals submitted to it. The Federal High Court shall establish a separate bench presided by three judges to adjudicate cases between Federal Courts and employees. Any party dissatisfied by the decision of the Federal High Court may lodge an appeal to the Federal Supreme Court within 30 days. The decision rendered by the Federal Supreme Court in its appellate jurisdiction on questions of fact shall be final. Nonetheless, any party claiming that the decision of the Federal High Court and Federal Supreme Courts has an error of law may submit an application for review to the Federal Supreme Court Cassation Bench within 30 days upon the receipt of the decision.

Conclusion

The above highlights of the Regulation is to show briefly the major contents of the Regulation. The Regulation is an indication of the independence of the judiciary. It is enshrined in the FDRE Constitution that Federal Courts are entrusted with full institutional independence and impartiality, both structural and administrative. Hence, this Regulation is one manifestation of the administrative independence of the judiciary, in terms of administration of its own employees.

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