

Important Points on Document Authentication and Registration

Description

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Authentication and Registration of Documents Proclamation No 922/2015 provide the details in which documents are authenticated and registered. Authentication involves signature and affixing of seal while registration involves giving identification number and deposit of the document. A look into the document authentication and registration process shall be made here below.

Organs Vested with Authentication and Registration of Documents

Different government organs are vested with the authentication and registration of documents. The Federal Document Authentication and Registration Agency (FDARA) established under Regulation No 379/2016 takes the primary role of document authentication and registration task under the Federal Government. Ethiopian Embassies and Consular Offices authenticate documents to be sent to Ethiopia. The Ministry of Foreign Affairs (MoFA) authenticates documents stamped by Ethiopian Embassies and Consular offices. MoFA also authenticates documents authenticated by Embassies and Consular Offices of foreign countries in Ethiopia. Moreover documents that are sent abroad and require authentication under the law of the receiving country will be authenticated by MoFA. The other organs vested with the power to authenticate and register documents are Commanders of Divisions of the Defense Force. The commanders authenticate documents submitted by members of the defense force who are in **active duty**. Commanders of Divisions of the Federal Police Commission shall also authenticate documents submitted by members of the federal police force who are on **active duty**. The Ethiopian Investment Commission (Commission) under the Investment Regulation No 474/2020 is given by law under Article 18 a one-stop-service to register memorandum of association and articles of association and their amendments for investments registered under the Commission. Last but not least, the Industrial Park Regulation No 417/2017 provides under Article 15 a one-stop-shop service including authentication of documents including memorandum of association, articles of association and amendments thereof.

Mandatory Authentication and Registration

Under Proclamation No 922/2015, documents that SHALL be authenticated and registered include power of attorney or revocation of power of attorney, memorandum of association and articles of association and their amendments of business organizations and other associations, documents that shall be required to be authenticated and registered by law. These may include contracts of transfer of immovable properties, contracts to establish collateral or guarantee rights on immovable properties and public wills. Other than the above documents, authentication happens upon request by clients. The notary shall authenticate and register where parties to a document request for authentication and

registration.

Types Documents presented for Authentications and Registration

Authentication involves not only new documents submitted for authentication but also documents that are already signed and need authentication and registration. More so copies of documents to be ascertained vis-a-vis the originals can be presented for authentication. Ascertaining the legality of documents, ascertaining the capacity and authority of signatures of a document and ascertaining the conditions of ownership and the owners of certain properties are also documents that are presented for authentication.

Prohibitions against the Notary

Apart from ascertaining its legitimacy, a notary shall not have power to change or cause to be changed the **contents** of a document submitted for authentication.

Oath and Hearing of Witnesses

Any person may declare the truth of the contents of a document under oath before a notary. In such a case the notary shall write down on the document that he caused the said person to sworn before he made the declaration. Furthermore, a notary shall take the testimony of a witness where he is ordered by a court.

Requirement of Witnesses on a Document

Not all documents presented for authentication and registration require the appearance and signature of witnesses. Contracts of transfer of ownership of immovable properties via selling or donation or contracts to establish collateral or guarantee rights on immovable properties and public will shall have two witnesses. Other than the above 3(three) types of documents, other documents may be authenticated and registered without being signed by witnesses.

Confidentiality

A notary shall not give to THIRD PARTIES information which comes into his possession in the course of performing his duties, unless ordered by a court or by a body empowered by law.

Legal Effect of Authentication and Registration

A document authenticated and registered in accordance with the Proclamation shall be **Conclusive Evidence** of its contents. The document can be challenged only for GOOD CAUSE by the PERMISSION of a court. In addition to this, any document authenticated and registered by Federal or Regional institution **shall** be accepted by any federal or regional governments.

Suspension of Authenticated and Registered Document

The Agency, if it is provided with adequate evidence, may pass temporary order of suspension on improperly authenticated and registered document. Such suspension shall be given within 5(five) working days from the date of submission of the petition or from the date examination commenced if the suspension is initiated by the institution. During suspension, the document shall be considered as not authenticated and registered.

When a document is suspended, the concerned person SHOULD institute a case in court within one month from the date of order of suspension. The court may approve, amend or repeal the order of suspension. Order of suspension shall be discarded if the court invalidate the order of suspension or if the concerned person DO NOT institute proceedings in a court WITHIN ONE MONTH of the date of suspension.

To sum up, authentication and registration of documents is conducted by government entities. FDARA branches are swarmed by customers. Dissatisfaction is apparent. Besides those that require ascertaining ownership or injunction orders like contracts of transfer involving immovable excluding lease, contracts involving transfer of special-movables, and power of attorney and cancellation of the same, the rest can be done privately. There is a need to outsource or create public-private- partnership or assign part of document authentication and registration by law to private entities. Qualified persons to do the job are licensed attorneys. This will elevate the function of FDARA and contribute to ease of doing business in Ethiopia.

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Date Created

June 6, 2021

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