PROCLAMATION No. 943/2016

A PROCLAMATION TO PROVIDE FOR THE ESTABLISHMENT OF THE ATTORNEY GENERAL OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

WHEREAS, it has been found necessary to establish one strong law enforcement public prosecution institution which can comprehensively protect public and government interest and deliver uniform, effective and efficient service;

WHEREAS, it has been found necessary to re-organize institution which enforces rule of law and ensures that laws are properly organized and government works are conducted in accordance with the law;

WHEREAS, it has been found necessary to organize public prosecution institution governed by professional, institutional and public accountability, that works with transparency, participation and serves with full institutional and professional independence and win public trust;

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 “Federal Attorney General Establishment Proclamation No. 943/2016”.

2. Definition
In this Proclamation unless the context otherwise requires:

1/ “constitution” means the Constitution of the Federal Democratic Republic of Ethiopia;

2/ “federal government offices” means bodies having legal personality and administered fully or partially by the federal government budget and includes institutions administered under Addis Ababa city and Dire Dawa city administration budget and federal government public enterprises;

3/ “federal government laws” means proclamations, regulations and directives issued by federal government organs empowered and includes international agreements ratified and acceded by Ethiopia;

4/ “criminal law” means the provision of criminal law enacted on a proclamation by the House of Peoples Representatives;

5/ “region” means any regional state referred to in Article 47 (1) of the Constitution and includes Addis Ababa and Dire Dawa city administrations;

6/ “Attorney General” means head of the Federal Attorney General appointed by the House of Peoples Representatives;
7/ “deputy attorney general” means deputy head of the Federal Attorney General appointed by the Prime Minister;

8/ “public prosecutor” means lawyer appointed by the Attorney General and administered by public prosecutors administration regulation and includes the Attorney General and the deputy attorney generals appointed in accordance with Article 7 (1) of this Proclamation;

9/ “international agreement” means an agreement concluded between Ethiopia and other State or states or an international organization in a written form whether embodied in one or more related instruments and whatever its particular designation may be and governed by international law and includes treaties, conventions, and protocols;

10/ “police” means federal or regional police having the authority;

11/ “person” means a physical or juridical person;

12/ any expression in the masculine gender includes the feminine.

PART TWO
ORGANIZATION, POWERS AND DUTIES

3. Establishment

1/ The Federal Democratic Republic of Ethiopia Attorney General (hereinafter called the “Federal Attorney General”) is hereby established as an autonomous federal government ministerial office having its own legal personality.

2/ The Federal Attorney General shall be accountable to the Prime Minister and the Council of Ministers.
4. **Head Office**
   The head office of the Federal Attorney General shall be in Addis Ababa and may have branch offices in the regional states, as may be necessary.

5. **Objectives**
   The Federal Attorney General shall have the following objectives:
   
   1/ respecting and enforcing the constitution and the constitutional order;
   2/ ensuring rule of law;
   3/ enforcing criminal law;
   4/ enforcing civil interest of the Federal Government and the public.

6. **Power and duties**
   The Federal Attorney General shall have the following power and duties:
   
   1/ prepares criminal justice policy by coordinating relevant bodies; coordinate, follows up and ensures its implementation when adopted;
   2/ works as principal advisor and representative of the federal government regarding law;
   3/ regarding criminal matters:
      a) save the powers given to the police by other laws, causes criminal investigation to be started on cases falling under the jurisdiction of federal courts, follow up report to be submitted on an ongoing criminal investigation, the investigation to be completed appropriately, orders discontinuation or restart of discontinued investigation on the basis of public interest or when it is clearly known that there could be no criminal liability, ensures that investigation is conducted in accordance with the law, gives the necessary instruction;
b) a criminal investigation which has been started by the police needs to be notified to it; makes the necessary follow up in the course of investigation; may seek support from the police in the process of giving decision on an investigation file; informs the relevant police about decisions given on criminal case files by the public prosecutor and court; receives and gives decision on appeals presented by the police against decisions given at different level of the public prosecution;

c) reviews completed investigation files based on evidence and law and gives no case or closing decision where condition provided under the criminal procedure law are met;

d) determines guilty plea, conducts plea bargaining, decides alternative actions to be taken, follows the implementation;

e) institutes criminal case charges by representing the federal government, litigates, withdraws charge when found necessary in the interest of the public, resumes withdrew charge. However issues directive concerning the withdrawal of cases having national interest with consultation of the Prime Minister;

f) follows the implementation and enforcement of judgments and orders given by courts under criminal case, applies to the court that gave judgments and orders and makes corrective action to be taken where they have not been implemented or their implementation is contrary to law;
g) organizes or ensures the establishment of systems for the proper execution of criminal punishments imposed by the court of law;

h) presents death penalty decisions to the President of the Federal Democratic Republic of Ethiopia, follows the execution.

4/ regarding civil matters:

a) litigates, enforces, causes enforcement, follows and controls the process of enforcement within the federal government offices by acting as an agent of rights and interest of the public and government government;

b) advises and participates with concerned bodies in contract preparation and negotiation of mega government projects; participates or advises concerned bodies in other contract preparation and negotiation when it believes that public and government interest could be affected;

c) institute civil suits on behalf of the federal government office; represent them in civil litigation where they sue or sued, represent them in an ongoing civil litigation by its own or together with them; gives direction to government offices on the management of the litigation; cause execution of judgment in accordance with law;

d) give decision for settlement of disputes arising between federal government offices through judicial means or out of court alternative dispute settlement mechanisms, and ensures the execution of the decision;
e) conducts litigation by representing citizens who do not have financial capacity to institute civil action under federal courts specially women, children, disabled and the elderly;

f) represent victims of crime who do not have financial means in litigations or negotiations for their compensation, reinstatement and protection of their civil interests emanated from the damage sustained;

g) represent the government in litigations and conduct negotiations in consultation with concerned bodies at international judicial or quasi judicial bodies where the Government of the Federal Democratic Republic of Ethiopia sues or is sued, and enforce the decision thereto.

5/ regarding legal drafting:

a) perform preparation of draft laws to be promulgated by the federal government; ensure that draft laws prepared by government organs are consistent with the Constitution and federal laws; provide legal opinion to concerned bodies; assist in the preparation of draft laws when so requested by the regional states;

b) undertake legal reform studies and carry out codification, compilation and consolidation of federal laws; collect regional laws and consolidate them as necessary;
c) ensure that international agreements to be signed or adopted by Ethiopia are in consonant with the Constitution, and other laws of the country and are acceptable in view of the standards of national interest;

6/ ensure the implementation of laws enacted by federal government and the consistency of their implementation; and that the offices of executive federal government perform their business in accordance with the law;

7/ provide or cause to provide, where necessary, training on matters of law, to officials, appointees, elected officials and employees of the federal government and actors of private sector with the view to ensure observance of rule of law;

8/ regarding human rights:

a) design strategy for provision of free legal aid, follow up implementation of same, coordinate bodies engaged in the sector;

b) prepare national human rights action plan together with the concerned bodies, follow up implementation of same, coordinate the concerned bodies at national level; submit report to the relevant bodies;

c) pay visit to persons under custody at police stations and correction facilities, ensure their handling and stay is carried out in accordance with the law, cause unlawful act to be corrected; take measures or cause measures to be taken based on the law against people who are found to have transgressed the law;
d) provide, through various means, human rights education and legal awareness training; coordinate the concerned bodies operating in the sectors;

e) follow up the implementation of international and regional human rights treaties ratified or adopted by Ethiopia; give reply, in consultation with the relevant bodies, to concerns raised in connection with the implementation the treaties; prepare in collaboration with relevant bodies, national report on the implementation of treaties.

9/ regarding legal research and training:

a) undertake researches and studies for an effective and efficient performance of its business;

b) establish, and enforce a system that enables the collection, organization, analysis and dissemination of criminal justice information;

c) provide training or cause provision of training and education at every level for continuous development of the attitude, knowledge and skill of public prosecutors;

10/ ensure that the directive issued by the Attorney General with the view to ensure consistent application of discretion and provision of decision of the public persecutors is enforced;

11/ supervise and administer advocates practicing at federal level and services provided by them; based on the law, license the same and renew, suspend, or revoke the license granted to them;

12/ without prejudice to Anti-terrorism Proclamation No. 652/2009 and the power and duty of Ministry of Foreign Affairs, undertake international
relation and cooperation in criminal and civil matters;

13/ organize inspection department and investigate that decisions passed by public prosecutors are in accordance with the law, identify defects based on studies and take corrective measures on the bases of findings to rectify the problems; when necessary, take measure or cause measures to be taken, based on a law, against those who are found to have breached laws and disciplinary rules, scale up good practices;

14/ exercise the common powers and duties provided for under the Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia proclamation No. 916/2015;

15/ own and possess property, enter into contracts, sue or be sued in its own name;
16/ perform other activities that help to achieve its objectives or carry out its power and duties given by law.

7. Organization of the Federal Attorney General

The Federal Attorney General shall have:

1/ an Attorney General appointed by the House of Peoples Representatives up on recommendation by the Prime Minister and Deputy Attorney Generals appointed by the Prime Minister;

2/ line divisions;

3/ Management Committee;

4/ Federal Public Prosecutors Administration Council;

5/ public prosecutors appointed by the Attorney General upon the recommendation by the Public Prosecutors Administration Council;

6/ necessary staffs.
8. **Powers and Duties of the Attorney General**

1/ The Attorney General shall be the head of the Federal Attorney General and lead and administer the Federal Attorney General professionally and in accordance with the law.

2/ Without prejudice to the generality of sub-article (1) of this Article, the Attorney General shall have the powers and duties to:

   a) exercise the powers and duties of the Federal Attorney General stipulated under Article 6 of this Proclamation;

   b) exercise the criminal investigation and prosecution powers and duties given to the Commissioner of the Federal Ethics and Anti-corruption Commission under its establishment Proclamation No 433/2005 (as amended by Proclamation No. 883/2015) and the Revised Anti-corruption Special Procedure and Evidence Proclamation No. 434/2005 (as amended by Proclamation No. 882/2015) and other laws; and the criminal investigation and prosecution power given to the Director General of the Ethiopian Revenues and Customs Authority under its establishment Proclamation No. 587/2008 and Customs Proclamation No. 859/2014;

   c) present to the Council of Ministers the draft federal public prosecutors administration regulation prepared by the Federal Public Prosecutors Administration Council and, implement same upon approval;

   d) appoint, administer and dismiss public prosecutors in accordance with the regulation issued by the Council of Ministers;
e) revoke, change, modify, suspend, approve the
decision of deputy attorney generals or refer
the case for re-examination or revision by the
one that has given the decision;

f) hire, administer and dismiss supporting staff
of the Federal Attorney General in accordance
with the federal civil service laws;

g) cause participation of freelance advisors
having sufficient knowledge and experience,
in accordance with directive issued, for the
achievement of the objectives of the Federal
Attorney General;

h) prepare strategic plan and budget of the
Federal Attorney General, and implements
same upon approval;

i) effect payment in accordance with the budget
approved and work program of the Federal
Attorney General;

j) represent the Federal Attorney General in its
dealings with third parties;

k) prepare and submit to the Government
performance and financial report of the
Federal Attorney General;

l) perform other activities given to him by law.

3/ The Attorney General may:

a) delegate part of his powers and duties to deputy
attorney generals, public prosecutors and
employees to the extent necessary for effective
and efficient performance of the activities of the
Federal Attorney General;
b) delegate his powers and duties, as may be necessary, to other bodies based on pre-determined system of execution, follow up and support.

9. **Power and Duties of the Deputy Attorney Generals**

Deputy attorney general:

1/ shall assist the Attorney General in planning, organizing, leading and coordinating in exercising his powers and duties;

2/ shall lead and administer the line divisions to which they are assigned;

3/ shall perform specific duties given to them by the Attorney General;

4/ in the absence of the Attorney General, without giving delegation, the senior Deputy Attorney General shall represent and perform the duties of the Attorney General;

5/ may delegate part of their powers and duties to public prosecutors and employees, to the extent necessary, for efficient and effective performance of activities.

10. **Removal from position**

The Attorney General and the Deputy Attorney Generals may be removed from their position by the decision of the Prime Minister.

11. **The Administration of Public Prosecutors**

1/ The administration of public prosecutors shall be determined by regulation to be issued by the Council of Ministers.

2/ The appointment of public prosecutors shall be based on the following basic principles;

a) obedience to and belief in the Constitution, Constitutional order and rule of law;
b) public servant;
c) balanced representation of nations, nationalities and peoples;
d) Ethiopian nationality;
e) strict ethical condition;
f) having law education and skill necessary for prosecution work;
g) successful completion of pre-service training given for the sector;
h) commitment to undertake the responsibility that public prosecution demands; and
i) impartiality from conditions that may influence decision making of public prosecutors.

3/ The internal administration of public prosecutors shall be based on the following principles:

a) the position that public prosecutors are to be assigned shall be based on: the type of work, the process the business is administered, the expected result and the necessary organizational structures which are clearly identified and based on systems that are laid down for public accountability;

b) the performance of public prosecutors shall be based on systems in relation to: measured and assigned activity, efficiency and effectiveness, positive influence and public trust and other criteria determined by Public Prosecutors Administration Council;

c) ethical condition of public prosecutors shall be based on: constitutionality, respect for the law, impartiality and accountability;
d) the superior and subordinate relationship between public prosecutors shall be based on systems laid down by considering: cooperation and support, work legality, ensuring efficiency, knowledge and skill sharing;

e) promotion, demotion, salary and benefits of public prosecutors shall be based on: performance, effectiveness and ethical condition;

f) the internal transfer of public prosecutors shall be based on: the work, personal conditions, impartiality and choice of the public prosecutor;

g) the provision of privilege education, training and conference participation public prosecutors shall be based on: the closeness to the public prosecutor position and work, performance, composition of nationality, sex and disability, contribution for the enforcement of the powers and duties of the Federal Attorney General; contribution for effective and efficient service provision, knowledge and skill value addition to the trainee and other relevant conditions;

h) public prosecutors independence shall be based on systems that ensure adequate protection for public prosecutors against direct and indirect harm as a result of conducting their work;

i) public prosecutors dismissal shall be based on a system that is put in place by considering low performance, ethical violation, medical condition, wish and retirement.
12. **Federal Public Prosecutors Administration Council**

1/ The Federal Public Prosecutors Administration Council accountable to the Attorney General is hereby established in accordance with this Proclamation; the members, working procedures and the details of which shall be determined by regulation to be issued by the Council of Ministers.

2/ The Federal Public Prosecutors Administration Council shall have duty to prepare and submit to the Attorney General draft regulation that includes public prosecutors appointment, transfer, leave, service period, position, ethics, organization, structure, salary, benefits and similar matters.

13. **Public Accountability**

1/ The Federal Attorney General shall ensure public accountability and public participation when conducting its powers and duties.

2/ The Federal Attorney General shall prepare a public forum quarterly whereby the following sections of the society participate:

   a) community organizations selected by the Attorney General;

   b) business organizations and charitable organizations and associations selected by the Attorney General;

   c) law schools of higher education institutions selected by the Attorney General;

   d) stakeholders;

   e) other individuals or individuals to be delegated from legal persons which are believed to be important by the Attorney General;

   f)
3/ The public forum shall discuss problems and gaps observed on the performance of the Federal Attorney General, ethical defects, strategic and annual plans and reports on performance of plan.

4/ The Federal Attorney General shall conduct investigation based on the opinion and inputs, takes corrective actions or rectify and informs the public forum about the status.

14. Budget
The Federal Attorney General shall be administered by budget allocated by the Government.

15. Books of Accounts
1/ The Federal Attorney General shall keep complete and accurate books of account.
2/ The books of accounts and financial documents of the Federal Attorney General shall be audited annually by the Federal Auditor General or by an auditor designated by him.

PART THREE
INDEPENDENCE AND ACCOUNTABILITY

16. Public Prosecutors Professional Independence
1/ The Federal Attorney General shall discharge its powers and duties based on law independently free from any person or body’s interference.
2/ Without prejudice to directive issued by the Federal Attorney General, public prosecutors shall perform their work based on the law.
3/ Without prejudice to accountability of public prosecutors provided for in the provisions of this Proclamation or other law, the Federal Attorney General and public prosecutors shall not be held legally accountable for damages caused as a result of performing their power and duty in accordance with law.
17. Accountability and Responsibility

1/ The Attorney General shall be the head of public prosecutors.

2/ Public prosecutors shall be accountable to their superior and division heads.

3/ Public prosecutors shall be accountable by law for defects in their work performance and ethics.

18. Right to Lodge Complaint

1/ Any person who has grievance against the decision of public prosecutor has the right to lodge complaint to superior public prosecutor at different levels. A superior received complaint shall expeditiously investigate and give decision.

2/ A superior received complaint may form a committee containing relevant professionals to investigate the case.

3/ A superior considering the complaint may suspend, change, modify, revoke or approve the decision of the subordinate prosecutor or remand the case to the section that saw the case previously by stating his legal and factual reasons.

19. Right to Inform or Present Suggestion

1/ Any person may inform or present suggestion to the Federal Attorney General in any way on any matter which falls under the power and duty of the Federal Attorney General which he believes should be corrected and rectified or his claim of ethical and legal violation which has been committed.

2/ The Federal Attorney General shall lay down working system whereby suggestion and complaints are received, investigated and corrective measures are taken and notified to the public.
PART FOUR
MISCELANEOUS PROVISIONS

20. Attorney Generals’ Joint Council

1/ The Attorney Generals Joint Council (hereinafter called the “Joint Council”), whereby the senior management of the Federal Attorney Generals and regional public prosecution institutions work in collaboration and jointly, is hereby established in accordance with this Proclamation.

2/ The Joint Council shall issue joint plan on common and similar matters of the justice sector to make their performance effective, efficient and uniform.

3/ The Attorney General shall be the chairperson of the Joint Council and heads of regional public prosecution institutions shall participate as member.

4/ The Joint Council shall determine its meeting and working procedure.

5/ The Attorney General shall facilitate the works and meetings of the Joint Council.


1/ The Council of Ministers may issue regulations necessary to enforce this Proclamation.

2/ The Federal Attorney General may issue directives necessary for the enforcement of this Proclamation and regulations issued pursuant to sub-article (1) of this Proclamation.

3/ The Federal Attorney General shall published and distributed directives issued by it with any mass media that has wider circulation.
22. Transfer of Rights and Duties

1/ The powers and duties given to the Ministry of Justice under the Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation No. 916/2015 and other laws are hereby transferred to the Federal Attorney General pursuant to this Proclamation.

2/ The prosecution power given to the Federal Ethics and Anti-corruption Commission under its establishment Proclamation No 433/2005 (as amended by Proclamation No. 883/2015) and the Revised Anti-corruption Special Procedure and Evidence Proclamation No. 434/2005 (as amended by Proclamation No. 882/2015 and other laws are hereby transferred to the Federal Attorney General.

3/ The corruption crime investigation power given to the Federal Ethics and Anti-corruption Commission under its establishment Proclamation No. 433/2005 (as amended by Proclamation No. 883/2015) and the Revised Anti-corruption Special Procedure and Evidence Proclamation No. 434/2005 (as amended by Proclamation No. 882/2015 and other laws are hereby transferred to the Federal Police Commission.

4/ The prosecution power given to the Ethiopian Revenues and Customs Authority under its establishment Proclamation No. 587/2008 and other laws are hereby transferred to the Federal Attorney General.

5/ The tax and customs crime investigation power given to the Ethiopian Revenues and Customs Authority under its establishment Proclamation No. 587/2008 and other laws are hereby transferred to the Federal Police Commission.
6/ The prosecution power given to the Trade Competition and Consumers Protection Authority under the Proclamation No. 813/2013 and other laws are hereby transferred to the Federal Attorney General.

7/ The crime investigation power given to the Trade Competition and Consumers Protection Authority under Proclamation No. 813/2013 and other laws are hereby transferred to the Federal Police Commission.

8/ The powers, rights and duties given to the Special Public Prosecution under the Special Public Prosecution Office Establishment Proclamation No. 22/1992 are hereby transferred to the Federal Attorney General.

23. Duty to Cooperate

1/ Any person who is requested to cooperate with the Federal Attorney General and public prosecutor in the execution of their powers and duties has a duty to cooperate if it is not beyond his capacity and does not cause danger.

2/ Leaders and employees of public prosecution institutions who have been in charge before the coming into force of this Proclamation have duty to cooperate with and assist the transition based on this Proclamation.

3/ Any member of the police shall have duty to respect and execute final and legal decision of the public prosecutor.

24. Criminal Liability

1/ Any person who interferes against the Federal Attorney General and public prosecutors not to perform their work independently shall be punished with rigorous imprisonment from one year up to five years.
2/ Any person who does not respect and enforce the decision of the Federal Attorney General and public prosecutors; or violates the duty to cooperate shall be punished with simple imprisonment not exceeding one year or fine not exceeding Birr 3000.

3/ Any member of the police who resists and fails to execute the final and legal decision of the public prosecutor shall be punished in accordance with relevant law.


1/ The regulations issued by the Council of Ministers, directives or manuals issued by the Ministry of Justice, Ethiopian Revenues and Customs Authority, Federal Ethics and Anti-corruption Commission and Trade Competition and Consumers Protection Authority which are relevant for the enforcement of the powers and duties of the public prosecution shall continue to be applicable until replaced by other regulations, directives or manuals.

2/ The Public prosecutors working for the Federal Ethics and Anti-corruption Commission, the Ethiopian Revenues and Customs Authority, Ministry of Justice and the Trade Competition and Consumers Protection Authority who are transferred to the Federal Attorney General upon satisfying the criteria shall be considered as public prosecutors appointed pursuant to this Proclamation and continue their work.

3/ Public servants, working in the Federal Ethics and Anti-corruption Commission, Ethiopian Revenues and Customs Authority, Ministry of Justice and Trade Competition and Consumers Protection Authority as support staff for prosecution
departments, who are transferred to the Federal Attorney General shall continue their work as employees of the Federal Attorney General pursuant to this Proclamation.

4/ The criminal and civil cases falling under the jurisdiction of the federal public prosecutors but pending in the hands of different federal government offices or regional public prosecutions shall continue to be heard in a manner they were started until the Federal Attorney General takes them over within six months.

5/ Cases against public prosecutors pending under the discipline committee or other public prosecutors administration councils shall be transferred to the public prosecutors administration council established in accordance with this Proclamation;

6/ The files, documents, seized properties and properties found under Federal Ethics and Anti-corruption Commission, Ethiopian Revenues and Customs Authority and Trade Competition and Consumers Protection Authority which are related to matters transferred to the Federal Attorney General shall be transferred it.

26. Repealed and Inapplicable Laws

1/ A public prosecutors Proclamation No.74/1993 is hereby repealed by this proclamation.

2/ No laws, in so far that they are inconsistent with this Proclamation, shall be applicable with respect to matters covered under this Proclamation.
27. Effective Date

This Proclamation shall enter into force on the date of publication in the Federal Negarit Gazette.

Done at Addis Ababa, this 2nd day of May, 2016.

MULATU TESHOME (DR.)

PRESIDENT OF THE FEDERAL DEMOCRATIC
REPUBLIC OF ETHIOPIA
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