

COVID-19 Legal Task Force
Ethiopian Law Key Issues

State of Emergency Update

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In cooperation with
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Tameru Wondm Agegnehu Law Office in cooperation with BonelliErede has prepared this document to assist clients in looking at key legal issues that arise in light of the current challenges of the Covid-19 global pandemic relating to the following matters:

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Banking and Liquidity

Issue	Points for consideration
Are there measures taken by government to ensure liquidity during Covid-19 outbreak?	The National Bank of Ethiopia is directed to avail 15 Billion ETB liquidity to private banks in order to provide debt relief and additional loans to their customers that are in need.
Do the measures taken include foreign currency allocation to business?	Due to the pending crisis, the Government has directed banks to give priority in allocation of foreign currency to enterprises that import goods input materials that will be used for the prevention of the spread of Covid-19.
Are there any restrictions eased due to the Covid-19 outbreak?	The National Bank of Ethiopia will lift the price cap set on flower exporters. The Government owned Commercial Bank of Ethiopia, the biggest bank in Ethiopia, will increase the amount of money allowed to transfer through mobile banking, so that customers will decrease using cash. Under the existing allowance, the maximum amount is set 200,000 ETB for transfers to another account that belongs to the customer, and 100,000 ETB for transfer to other customer.

Consumer Protection

Issue	Points for consideration
Is there a legal set up to protect consumers during the Covid-19 outbreak?	The trade competition and consumers protection proclamation No. 813/2013 protects the rights of consumers. In particular, the proclamation has assigned the ministry of trade and industry to inspect and take measure against hoarding and diverting of goods and regulate prices of basic goods.
Are there any actions taken since the start of the outbreak?	So far, the Addis Ababa city administration, Oromia and Amhara National regional governments have taken measures on various business enterprises that have refused sale and hoarded items expecting price increase. Consumer cooperatives are also encouraged to actively work to offer food and sanitary products at or below market prices using the tax break they enjoy.
What is expected with regards to the future?	The macro-economic subcommittee under the office of the Prime Minister has directed the Ministry of Trade and Industry to strengthen and continue taking measures to protect consumers, and to supply when there is a shortage in provision of basic goods.

Employment

Issue	Points for consideration
What is the obligation of the employer under the outbreak of Covid-19?	In general, the Ethiopian Labor Proclamation 1156/2019, hereinafter Labor Proclamation, obliges employers to take necessary measures to protect the health and safety of their workers.
Can Covid-19 be determined as occupational disease?	According to the Labor Proclamation, endemics and epidemics are not included as occupational disease, unless the very nature of the work involves combating such disease.
Can the employer terminate employment contract or reduce work force due to Covid-19 outbreak?	<p>Under normal circumstances, termination of contract by the employer shall be based on the workers conduct or performance, and occupational and organizational requirements.</p> <p>Even though the Labor Proclamation provides permanent cessation of operation and workers activity and demand fall of the employer's products, which lead to reduction of work or profit, as a valid grounds for reduction of work force, the state of emergency regulation approved by the Government, which will be discussed in detail in following sections, has prohibited reduction of work force and termination of employment contract except for cases governed by the procedure to be laid out by Ministry of labor and social affairs.</p>
Could there be a ground for suspension of employment contract due to Covid-19 outbreak?	The Labor Proclamation allows suspension of employment contract during an occurrence of an event that constitutes force majeure and financial problem not attributable to the employer. The employer must inform the ministry or other appropriate organ about its decision to suspend in writing within 3 days. The ministry will then decide to approve or decline the suspension. Where the ministry or other appropriate organ doesn't respond within 3 days, it will be considered as the suspension is allowed. The authorities will fix the duration of the suspension; however, the suspension must not be longer than 90 days. The Labor Proclamation does not define force majeure, the concept is defined by the civil code Article 1792 and 1793, and it includes occurrence of natural catastrophe. We have also learned due to the outbreak, the inspection that was supposed to be undertaken by the appropriate organ to determine the existence of good cause for suspension will not take place, the employer must notify in writing to the nearest labor and social affair bureau, mentioning valid and justifiable grounds for the suspension.
Are there any legal and administrative recommended by the Public bodies?	The Ministry of Labor and Social Affairs adopted a protocol aimed at providing options that may be taken in agreement between employer, employee and trade unions, by tailoring the recommendation in accordance to the need of the organization. The protocol is a non-binding document, and further it must be applied in line with the labor proclamation, as the labor proclamation is the primary legislation in governance of labor relation.

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	<p>The protocol recommends:</p> <ol style="list-style-type: none"> a. the ability of withstanding crisis and response may vary from organization to organization, and from sector to sector, therefore, other than originating measures from within, employers and employees are recommended to adhere to the third-party recommendation; b. Organizations shall bring about workers to take their unused annual leave and accord additional period from the annual leave of the next year at least in half for workers that have used their annual leave, with full pay; c. cease conducting any unfinished negotiations on collective agreements for 12 months; d. salary increase which have not been effective yet shall remain ineffective for the next 12 months; e. suspend payments of hardship allowance, transport allowance, housing allowance, bonus, product sampling, commission and any other payments that are not considered as a salary, until the crisis has been fully resolved; f. revise and apply the wage scale, the salary scale that arose from consultation of workers union and employers in pursuit of maintaining the operation and solvency of the organization; g. suspend contracts with non-essential workers furnishing loan and a guarantee letter that they will return to work when conditions improve; h. as much as possible workers and employer's union shall work in collation in pursuit of organizations adherence to social responsibility.
<p>Are there any precautionary measures recommended by Public Bodies?</p>	<p>The Ministry of Labor and Social Affairs recommends employers, workers and safety officers/committees adhere to the following actions:</p> <p>1. Precautions that must be taken by employers</p> <ol style="list-style-type: none"> a. to provide water and sanitary items; b. to provide masks that cover the out and nose of workers and, furthermore, present the proper use of masks; c. to establish a committee lead by the owner/manager, member of trade union and employee; d. if workers are used to work in close quarters, the employer shall abolish or introduce new ways of working together; e. to ensure employees transport provisions by vehicles owned by the employer will be cleaned with disinfectant, avoid cramming of workers and ensure all the windows of the vehicle are opened during commute;

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	<ul style="list-style-type: none"> f. to provide information to employees on safety and preventive measures in the language they know by using posters, audio and visual materials; g. organizations that have workers canteens shall provide the service for longer hours in order to decrease close contact of the workers; h. to avoid meetings as much as possible and to use phone calls and online communication as an alternative; i. to furnish self-isolation quarters to employees that exhibit symptoms of Covid-19 until they are transported to health centers; j. to furnish lockers that are cleaned regularly with disinfectants; k. to set up a reporting mechanism in consultation with workers union and management. <p>2. Precautions that must be taken by workers</p> <ul style="list-style-type: none"> a. Workers shall thoroughly wash their hands with soap or alcohol; b. workers should avoid handshake and other forms of physical contact; c. workers shall cover their mouth with tissues or their elbow while sneezing or coughing; d. workers shall not share their assigned emergency equipment; e. workers that exhibit symptoms of Covid-19 shall notify their employer through a phone call and seek medical assistance; f. workers shall keep their protective gears and work clothes clean and tidy and use properly; g. workers shall remain calm and continue follow direction of the management in the event of learning the infection of a coworker; h. the cleaning crew of the organization clean must take the necessary caution and clean equipment and places touched by employees; i. cleaning crew of the organization must dispose tissues and other sanitary items used by employees without any hand contact. <p>3. Precautions to be taken by safety offices/safety committee</p> <ul style="list-style-type: none"> a. Safety offices must conduct a screening of the organization premises and follow conditions which may be conducive for the transmission of the virus; b. safety officers shall work with management to follow the conditions of absent employees; c. in the event an employee is found to have the virus, the safety worker in collaboration with health officer of the organization, if there is any, must: i) physically isolate the worker and follow the guidelines put in

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	<p>place by the organization and report the situation, and make sure the worker gets assistance; ii) isolate other employees that had contact with the worker that has already showed symptom and clean the premises with assistance of public health institute;</p> <ul style="list-style-type: none"> d. the safety officers shall undertake a strict follow up on workers that are most exposed to infection due to the nature of their work; e. the safety officer shall monitor sanitary materials are sufficiently furnished in day and night shifts, in organizations that work in both shifts; f. safety officers shall provide workers with latest information pertaining Covid-19.

Tax

Issue	Points for consideration
Has the government passed decisions that have implication on tax exemptions?	So far there hasn't been any general waiver or exemption for taxpayers. However, the macro-economic subcommittee under the office of the prime minister has announced there will be tax exemption for import of materials to be used in prevention of spread Covid-19 virus.
Did the government pass decisions particularly related with VAT?	The Government has directed ministry of revenue to expedite VAT refund to support business with cash flow.

State of emergency

Issue	Points for consideration
<p>Did the Government declare a state of emergency?</p>	<p>The Ethiopian Government has declared a state of emergency by the virtue of proclamation 3/2012 in order to combat the spread of Covid-19 and mitigate its consequences. Following, the Council of Minsters has issued a regulation to implement the proclaimed state of emergency by introducing a list of prohibitions and obligations.</p> <p>A ministerial committee is established to oversee the implementation of the proclamation and introduce or suspend measures as it deems necessary during the state of emergency.</p> <p>The state of emergency will last 5 months and any individual that infringes upon the declared measures may face a simple imprisonment up to 3 years, or pay a fine from 1,000 ETB to 200,000 ETB</p>
<p>What are the prohibitions which are relevant in terms of social distancing and doing business?</p>	<p>The prohibitions that require attention in context of doing business under the state of emergency are:</p> <ol style="list-style-type: none"> a. handshaking is prohibited; b. either it is for religious, social, governmental, political or related purpose, it is prohibited to gather up to 4 or more individuals at worshipping places, government institutions, hotels or any meeting halls; c. landlords who rent houses or business establishments shall not increase rent or evict tenants without mutual agreement; d. private organizations who govern employees covered under proclamation 1156/2019, shall not terminate employment contract of employees except for cases to be governed by the procedure to be laid out by Ministry of Labor and Social affairs; e. it is prohibited to stand or sit within two meters from others in banks, markets, stations, shops, pharmacy, and any places that render public service.
<p>What are the obligations which are relevant in terms of social distancing, travels, health protection measures, doing business, safety measures on the workplace, manufacturing of sanitary items?</p>	<p>Obligations imposed by the state of emergency, which have significant effect in terms of doing business in Ethiopia are:</p> <ol style="list-style-type: none"> a. any individual suspected of carrying the Covid-19 virus or any traveler that arrive to the country will be obliged to stay under quarantine and undertake a test for Covid-19; b. the traveler must cover his own expenses during quarantine; in case a traveler is unable to cover the costs, the traveler will be quarantined in places arranged by the government for this purpose; c. anyone who has tested positive for Covid-19 will be obliged to be quarantined in places arranged by the government; d. each individual is obliged to report a person who is suspected to carry Covid-19 to the Ministry of Health or to the police;

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	<ul style="list-style-type: none"> e. each individual shall wear a face mask in banks, markets, stations, shops, pharmacy and any places that render public service or accommodate a sizable crowd; f. the face masks may be masks made by factories that make masks for the purpose of speed of the virus, homemade masks made from any kind of fabric or any kind of clothes; g. all public bodies or private service providers shall furnish sanitary items to their visitors and ensure the visitors have undertaken due care; h. all public bodies or private establishments shall mark a standing position that is at least 2 meters apart for their visitors; i. all public bodies and private organizations shall provide information to their employees about Covid-19 using various means, provide soap and water or other sanitary items at the entry and exit or any other places which they deem necessary and furnish preventive equipment's as much as possible; j. all public bodies and private establishments are obliged to set up different shifts or arrange ways for employees to work from home in order to decrease the number of people working in one room, or using transportation at the same time and place in pursuit of maintaining social distance; k. all public bodies and private establishments that have employees covered by labor proclamation 1156/2019 shall arrange transportation service for their employees who require transportation l. every owner of a house, hotel, apartment, vehicle, hall or owner of any kind of property, shall hand over such property for the purpose of combating the spread of the virus, and mitigating the consequence of Covid-19 when it is decided/requested by the ministerial committee or any assigned public body; m. the state of emergency obliges manufacturers and service providers to provide necessary services, expand necessary services, produce, increase size of production, produce new line of item or sale its products with reasonable price, to the government, cooperatives and follow the order of the government or assigned bodies in order to combat the spread of covid-19 and mitigate its consequence

Miscellaneous

Issue	Points for consideration
Did the Ethiopian Government impose travel restrictions?	The only travel restriction so far is on travels made inland via all Ethiopian borders except Ethiopian citizens. Furthermore, the national flag carrier – Ethiopian Airlines – has suspended its flights to 80 destinations across the globe. However, the cargo service will keep flying to all destinations. The airline has also continued to operate all domestic flights.
Did the Government impose restrictions on carriage of goods?	<p>Travel restrictions above does not apply to freight transport and logistics.</p> <p>The only restriction so far imposed applies to the carriage of goods through land borders, which has been limited to the essential goods.</p> <p>Cargo flights and related activities are fully operational. Freight transport by sea is operational too, but at limited capacity due to congestion in Djibouti.</p>
Which Government organ is managing the crisis?	<p>Ethiopia is a republic arranged as a federation by a constitution that distributes power among Federal and Regional Government.</p> <p>The Prime Minister and a ministerial committee established by state of emergency proclamation are overseeing the management of the crisis.</p> <p>However, residents and travelers are advised to pay attention to decisions passed by each regional government which involve their work and travel, because restrictions are also being imposed at the level of regional government, which will affect intra and inter regional inland transport.</p>
Did the Government introduce measure that may affect administrative services?	The government has directed its work force to work from home with exception of few that are essential for day to day operation of the organization, hence the decision will affect the services that are usually given by various administrative bodies.
Did the Government introduce any measure to ensure the supply of protective equipment?	<p>The Ethiopian Food and Drug Administration has issued a directive which creates a new line of certifications of competence for businesses that want to engage in production, import and distribution of protective gears against Covid-19 namely, gloves, masks and hand sanitizer</p> <p>As it stands, import trade is exclusively reserved to domestic investors. On a side note, Ethiopia adopted the most recent investment proclamation on April 2nd ,2020 and it is expected that the council of ministers will follow to adopt a new regulation which will introduce a revision on the list of areas allowed for foreign investors.</p>

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	<p>Overall, the aim of the directive is to:</p> <ol style="list-style-type: none"> a. Avail to the public safe and qualified equipment to protect the them against the spread of covid-19; b. To ensure that trade is undertaken by individuals and business with professional integrity. <p>The directive set up a mechanism which will only be effective provisionally.</p> <p>The scope of application covers new businesses that have interest in engaging in the market and existing establishments.</p> <p>The directive requires manufacturers and suppliers to obtain a six-month temporary certificate from the authority before starting production or supply.</p> <p>The directive covers manufacturers and importers:</p> <ol style="list-style-type: none"> 1. Manufacturers To obtain the certificate: <ol style="list-style-type: none"> a. manufacturers shall ensure production quality through a production manager, a quality control division manager and a technical head that holds a bachelor’s degree and has competencies in the following fields: i) health care, ii) biology, iii) chemistry or iv) chemical engineering; b. manufacturers of masks and gloves shall set up a mechanism for quality assurance and submit technical specifications: <ol style="list-style-type: none"> i. if the product is a surgical mask, the document must show that the raw material has the necessary filters; ii. if the manufacturer produces N95 masks and gloves, or above, the applicant shall submit a quality assurance certificate from a 3rd party laboratory or must submit a document ascertained by its own laboratory. 2. Importers To obtain the certificate: <ol style="list-style-type: none"> a. technical management and store management roles must be led by individuals holding a qualification in: i) health care, ii) biology, iii) chemistry or iv) chemical engineering. b. To the sole gloves and face masks, importers must ensure that the product has: CE marking or provide documents that ensure their quality; c. Importers of sanitizers shall provide quality assurance certificates of the product.

Issue	Points for consideration
Did the actions taken by the Government affect dispute resolution?	Federal supreme court has announced Federal courts will be partially closed starting from March 19,2020. Until the restriction is lifted, Federal courts will only preside over matters involving national security

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