

ETHIOPIA

Ethiopia is committed to fighting terrorism -- it has experienced terrorist attacks orchestrated by Al-Ittihad Al-Islamia, and is firmly committed to preventing further attacks. Following the passage of U.N. Security Council Resolution 1373 (2001), Ethiopia has strived to improve coordination among the different organizations of the Ethiopian government. The Ministry of Justice has prepared a Legal Memorandum aimed at facilitating the “enforcement of the relevant U.N. Conventions related to terrorism in the Ethiopian legal system.”

Criminalizing Terrorist Acts

The Ethiopian Penal Code of 1957 addresses terrorism. Article 273 criminalizes hostile acts against a foreign state. Perpetrators of terrorist acts face severe punishment, including the possibility of death in grave situations. Under Article 32 of the Penal Code, a person may be charged as a co-offender if he willfully provides or collects funds to finance the commission of a criminal act (which serves the objective of terrorism). Alternatively, an individual could be charged as an accomplice under Article 36 of the Penal Code. Articles 32 and 36 apply to all crimes specified in the Penal Code and to all violations of international law, including violations of treaties ratified by Ethiopia. Under Article 37 of the Penal Code, recruitment to terrorist groups for the commission of an offense is a criminal act.

An amendment to the Ethiopian Penal Code has been proposed by the Ethiopian Justice and Legal System Institute which would include a provision criminalizing the commission of a terrorist act. Proposed Article 252 of the Penal Code, provides that:

(1) Whoever commits a terrorist act which may endanger the life, physical integrity or freedom of, or causes serious injury or death to, any person, any person, any number or group of person, or causes or may cause damage to public or private property, natural resources, environment or cultural heritage and is calculated or intended to:

(a) Intimidate, put in fear, coerce or seduce any government body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles; or

(b) Disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or

(c) Create general insurrection in a state;

is punishable with rigorous imprisonment from ten to twenty-five years; or in grave cases, with rigorous imprisonment for life or death.

(2) Any promotion, sponsoring contribution to, command, aid incitement, encouragement, attempt, threat, conspiracy, organizing or procurement of any person, with intent to commit any of the acts referred to in sub-article (1) of this Article shall be punished in accordance with sub-article (1) hereof.

The Penal Code of Ethiopia (Articles 11, 13, 18, 19, and 21) provides for jurisdiction over perpetrators of terrorist activities as long as they are found within Ethiopia’s jurisdiction, irrespective of their nationality or the place of commission of the crime. Article 11 provides for jurisdiction over national and foreigners who commit crimes within the territory of Ethiopia. Article 18 provides for jurisdiction over any person who commit crimes against Ethiopian nationals and Ethiopian nationals who commit crimes against persons in foreign countries. Article 18 applies where the act to be tried is prohibited by law in the foreign country where the act was committed and, by Ethiopian law, the crime was sufficiently grave to justify extradition.

Article 21 provides for extradition of any foreigner who commits an ordinary offence outside the territory of Ethiopia and who takes refuge in Ethiopia, in accordance with provisions of law, treaties or international custom. No Ethiopian nationals may be extradited from Ethiopia, except as otherwise expressly provided by law. Ethiopia has some bilateral extradition treaties in place, and more are currently under negotiation.

Preventing Terrorists From Obtaining Weapons

Articles 475, 763, and 764 of the Penal Code provide that the supply of weapons even for ordinary use is an offense. Individuals found selling arms weapons without a license are subject to imprisonment under Article 41 of the Revised Special Penal Code (Proclamation 214/82). Under Article 41, anyone who “makes, imports, exports, transports, acquires, receives, stores or hides, offers for sale, puts into circulation or distributes” weapons or munitions without proper authorization is subject to rigorous imprisonment of 5 to 25 years imprisonment. Fines of up to 15,000*birr* may also be imposed in addition to imprisonment.

Trade (including import and export) of weapons and explosives is regulated through a series of legislative acts that give the Ethiopian Customs Authority the power and duty to detain, prohibit, restrict goods and take necessary measures in order to control the import and export of firearms and explosives. Any person or entity that wants to import or export firearms, repair arms, or deal or trade in firearms must first obtain a license from the Ministry of the Interior, as per the requirements of Article 6 of Legal Notice No. 229/1960. Article 10 of Legal Notice No. 229/1960 requires that all license holders file a report with the licensing authority once a year. The report must include “the stock of arms on hand and the type and caliber of the same at the beginning and end of said twelve (12) month period.” At all times, license holders must maintain current registers of all day-to-day arms sales, including the name of the buyer or seller and a description of each item purchased or sold, including the serial number.

Measures Concerning Biology

The National Seed Industry Agency regulates seed and agricultural imports and domestic commercial releases of Genetically Modified Organisms. The Ethiopian Agricultural Research Organization coordinates research and development on agro-biotechnology, monitors and evaluates such activities, and finances research projects. Additionally, the mission of the extra-national BIO-EARN Programme is to build capacity in biotechnology in Ethiopia, Kenya, Tanzania, and Uganda and promote appropriate research and related policies. A biosafety manual is being developed within the BIO-EARN Programme as a response to the present situation in East Africa. The BIO-EARN initiative proposes that universities and regulatory authorities in the region would organize their own national biosafety workshops, which would give the countries enough capacity to address emerging issues and fill the most crucial information gaps.

Preventing, Suppressing and Criminalizing the Financing of Terrorism

“The most notable measures thus far taken by the Ethiopian government in line with the implementation of resolution 1373 (2001) include the scrutinization of bank accounts, owned and managed by foreigners as well as nationals, and the closure of financial establishments suspected of having links with terrorist organizations.” The National Bank of Ethiopia bears the responsibility of monitoring banking activities within the country, as detailed in the Monetary and Banking Proclamation No. 83/1984 and 84/1984. “The National Bank of Ethiopia [has] instructed all commercial banks and financial institutions operating in Ethiopia to scrutinize the accounts and transactions of their clients.” No specific provisions in the Penal Code, however, require the reporting of suspicious transactions. Penal Code Articles 438, 439 and 267 do impose on individuals an obligation to report information about the commission or preparation to commit serious crimes.

The National Bank has blocked access to certain individual accounts linked with the Barakat International Companies (BICO), which are known to be involved in the financing of terrorist activities. Ethiopia has also discovered Hawala service providing companies operating within the country. These companies were rendering money transfer services whose proceeds and profits were used for supporting terrorist activities. These services have been shut down. Furthermore, Article 19 of the Revised Special Penal Code of 1982 establishes that illegal transfer of money or property to a foreign country is a punishable offense.

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International Cooperation

The Government of Ethiopia is actively participating in the mutual exchange of information with neighboring countries. The East Africa Police Chief's Committee (EAPCCO) is one such exchange program. In addition, Ethiopia also actively cooperates with Interpol. Ethiopia is also signatory to several legal/judicial assistance agreements between Ethiopia and other countries, particularly neighboring countries. Ethiopia is considering the ratification of the OAU Convention to Prevent and Combat Terrorism.

BIBLIOGRAPHY OF RELATED LEGISLATION

Preventing, Suppressing and Criminalizing the Financing of Terrorism

1. Monetary and Banking Proclamation No. 83/1984 and 84/1984 (Monitoring of banking activities).
2. Monetary and Banking Proclamation No. 84/1994, Articles 12 and 13 (reporting of records by organizations).
3. Revised Special Penal Code of 1982, Article 19 (illegal transfer of money or property to foreign country).
4. Penal Code Articles 438, 439 and 267 (duty to report commission or preparation to commit serious crimes).
5. Penal Code, Article 37.

Preventing Terrorists From Obtaining Weapons

1. Penal Code, Articles 475, 763, and 764.
2. Revised Special Penal Code (Proclamation 214/82), Art. 41 (prohibited traffic in arms).
3. Legal Notice No. 229/1960 (as amended).
4. Special Penal Code Proclamation No. 8/1974.
5. Commercial registration and Business Licensing Proclamation No. 67/1989.
6. Reestablishment and Modernization of Customs Authority Proclamation No. 60/1997.

Criminalizing Terrorist Acts

1. Ethiopian Penal Code of 1957, Article 273.
2. Proposed Article 252 of the Penal Code (Terrorist Act).
3. Penal Code, Articles 32 and 36 (co-offender, accomplice).
4. Penal Code of Ethiopia, Articles 11, 13, 18, 19, and 21 (jurisdiction over terrorists).

International Cooperation

1. 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft (ratified).
2. 1970 Hague Convention on the Unlawful Seizure of Aircraft (ratified).
3. 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Navigation (ratified).
4. 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Servicing International Civil Aviation, supplementary to the Montreal Convention (ratified).
5. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents (undergoing ratification).
6. International Convention on the Taking of Hostages (undergoing ratification).
7. International Convention for the Suppression of Terrorist Bombings (undergoing ratification).
8. International Convention for the Suppression of Terrorist Financing (undergoing ratification).
9. OAU Convention to Prevent and Combat Terrorism (undergoing ratification).