

PROCLAMATION NO ----- /2024

ASSET RECOVERY PROCLAMATION

WHEREAS, no one shall obtain any kind of benefit from an illegal act and it becomes necessary to establish a legal framework that prevents and suppresses the detrimental effect of the economic crimes on the economy of the country,

WHEREAS, it is essential to ensure for the promulgation of comprehensive asset recovery laws for all kinds of crimes generating proceeds that covers asset identification, investigation, freezing, seizure, confiscation and asset management as the existing laws outlined in different proclamations lack sufficient provisions to adequately address the fundamental legal and practical issues,

WHEREAS, it becomes necessary to issue the law as unexplained asset has a negative impact on the country's tax system, foreign currency, financial flow, foreign direct investment and the existing legal framework lacks the possibility of preventing and suppressing unexplained wealth as the applicability is only limited to public servants and public organization employees,

WHEREAS, it is necessary to establish a legal framework that not only aligns with the standards set forth in international agreements ratified by Ethiopia on asset recovery and management but also facilitates the practical implementation of these standards.

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 “Asset Recovery Proclamation No.....2024”

2. Definitions

In this proclamation unless the context otherwise requires:

- 1) **“Asset”** means any movable, immovable, money, tangible or intangible assets including legal instruments in any form evidencing title to or interest in such assets such as bank credits, traveler’s cheques, bank cheques, money orders, virtual asset, securities, shares or bonds or any other document similar to that and includes, interest, dividend or other income or value generated by such asset;
- 2) **“Proceeds of crime”** means asset directly or indirectly obtained from a crime and it includes income or profits from the proceeds or the instrumentality of a crime
- 3) **“Instrumentality of a crime”** means any asset used or intended to be used in any manner, wholly or in part, to commit any offense;
- 4) **“Victim”** means a person who does not have any participation in the crime but loses the assets, the right or benefit on such assets, or suffers economic damage due to a crime committed by suspects;
- 5) **“Asset Recovery”** means survey, identification, tracing, freezing, seizure, investigation, asset management and confiscation of assets obtained through or related with crime or unexplained asset.
- 6) **“Confiscation”** means the permanent deprivation of ownership rights upon the asset based on the decision of the court or any authority authorized by the law;
- 7) **“Conviction based Confiscation”** means confiscation of an asset following the conviction of an accused by a court of law;
- 8) **“Non-Conviction based Confiscation”** means confiscation of an asset pursuant to this proclamation despite the accused is not convicted of any crime;

- 9) **“Freezing”** means prohibiting the transfer, conversion, disposition, or movement of the asset on the basis of, and for the duration of the validity of the decision of the court;
- 10) **“Seizure”** means prohibiting the transfer, conversion, disposition, or movement of the asset on the basis of, and for the duration of the validity of the decision of the court while the administration of such asset is under the control or possession of the prosecutor or the asset manager;
- 11) **“Virtual Asset”** means a digital representation of value that can be digitally traded or transferred, and can be used for payment or investment purposes. However, this does not include digital representation of fiat currencies, securities and other negotiable instruments.
- 12) **“Whistleblower”** means a person who agrees to give or gives information related to assets obtained from a crime or unexplained asset at the time of investigation or during the trial;
- 13) **“Investigator”** means an investigation expert who conducts asset investigation;
- 14) **“Investigation”** means an investigation that is carried out to recover an asset;
- 15) **“Ministry or Minister”** means Ministry of Justice or the Justice Minister respectively;
- 16) **“Person”** means any natural or legal person;
- 17) Any expression in the masculine gender includes the feminine.

3. Scope of Application

- 1) This proclamation shall be applicable to asset recovery cases in which Ethiopia has jurisdiction to prosecute the crime under the criminal law or other applicable laws.
- 2) This proclamation shall be applicable to asset recovery cases on unexplained asset.

4. Asset Recovery on Legal Persons

1. Notwithstanding Article 34 of the Criminal Code, legal persons other than government institutions are subjected to asset recovery laws pursuant to this Proclamation if there is evidence indicating that they obtain or procure for another

undue advantage of an asset from any criminal activity or cause damage to the interest of other persons.

2. Without prejudice to sub article (1) of this article, institutions and organizations that the provisions of this proclamation regarding unexplained asset may not be applicable shall be decided by directive to be issued by the ministry.

PART TWO

RECOVERY OF UNEXPLAINED ASSET

5. Unexplained Asset

Without prejudice to the accountability of persons responsible for unexplained asset under the Anti-Corruption Proclamations No 881/2007, any person:

- 1) who is directly or indirectly in control of an asset or maintains a lifestyle disproportionate to the legitimate income from his present or past occupation or other legal means and when there is a reasonable suspicion for a crime, unless he proves to the satisfaction of the court how he was able to maintain such standard of living or how such asset came under his control, the assets shall be confiscated.
- 2) Without prejudice to sub article (1) of this Article, whosoever has no legally registered means of proving income or persons exempted from tax payment because of their low income but directly or indirectly controls an asset or maintains a lifestyle disproportionate to the legitimate income from his present or past occupation shall be confiscated, unless he proves to the court about how such asset or life style is obtained.
- 3) For the purpose of sub-article (1) of this Article “direct or indirect control of asset” means an asset found in his name or an asset to which he effectively controlled for the benefit of himself or an asset he consumed or disposed or an asset transferred through sale, donation or on any other means.

6. Pretrial Hearing of the Unexplained Asset

- 1) Where the prosecutor requests any person to disclose details of assets and the means of acquisition thereto in writing for suspicion of unexplained asset, the requested person shall give a written response with evidence within one month from the receipt of the request.
- 2) The requested person shall only submit legal evidences to prove the legitimate source of the asset.
- 3) The time limit provided under sub article (1) of this article may be extended due to compelling situations requested by the party but it may not exceed six months.
- 4) When the requested party fails to disclose the evidence requested as per sub-article 1 of this Article, the prosecutor will apply the case to the court presuming that the property is unexplained wealth.
- 5) Any evidence obtained pursuant to sub-article (1) of this Article can be used as evidence in unexplained asset proceeding.

7. Self-incrimination

- 1) Self-incriminating evidence obtained to the compliance of such unexplained asset disclosure shall not be presented against the person before a court of law in criminal proceedings.
- 2) If a person, who is requested to explain the source of the asset, presents a forged document cannot use any right in accordance with sub-article (1) of this provision.
- 3) Without prejudice to sub-article 1 of this Article, the prosecutor shall not be prohibited to prove the crime by evidence obtained through other means.

8. The time and threshold for unexplained asset claim

- 1) Asset recovery claim on unexplained asset may be brought to the court on assets obtained back 10 years from the promulgation of this proclamation or from the effective date of this proclamation.
- 2) Unexplained asset recovery claim pursuant to sub article 1 of this article when the claim is on 10 years back to this proclamation shall be brought to the court when the amount of unexplained asset is more than 10 million birr.

PART THREE

ASSET INVESTIGATION

9. Starting Investigation

The public prosecutor or the investigator may initiate an asset recovery investigation when any of the following conditions are met:

1. information or evidence comes from crime investigation authorities mandated by law or from government or private institutions;
2. reasonable and reliable information comes from any whistleblowers;
3. information or evidence comes from financial intelligence services or other financial institutions;
4. there is a sufficient reason to begin an asset recovery investigation on its own initiative or in any circumstances;

10. General Investigation Techniques

Without prejudice to the investigation techniques recognized by the Criminal Procedure Code and other laws, the public prosecutor or the investigator may apply the following techniques for asset investigation:

- 1) financial transaction documents and virtual asset investigation;
- 2) customs and tax documents investigation;
- 3) trade registration and license investigation;
- 4) immovable, movable or real estate investigation;
- 5) travel documents, passport, vital events registration documents investigation;
- 6) asset registration documents investigation;
- 7) capital market documents investigation;
- 8) other techniques that may be relevant for asset recovery investigation

11. Special Investigation Techniques

- 1) For the purpose of obtaining evidence regarding the existence of any property related to crime or proceeds of crime, a prosecutor or investigator may collect evidence in collaboration with relevant institutions using the following special investigation methods:

- a. To monitor bank accounts and other similar accounts;

- b. to access computer systems, networks and servers;
 - c. to place under surveillance or to intercept postal communication, letters, telephone, fax, radio, internet or any other communication systems
 - d. to take audio or video recordings of acts, behaviors, conversations or lifestyle or take photograph;
 - e. to conduct undercover operation; and
 - f. to conduct controlled delivery
- 2) The investigation techniques stipulated under sub article (1) of this article may only be used by the investigator or prosecutor when the court believes and approves the necessity of the techniques.
 - 3) The techniques mentioned in sub-article 2 of this article shall only be authorized if the public prosecutor or investigator can demonstrate reasonable grounds that such evidence cannot be obtained through alternative investigative methods.
 - 4) Without prejudice to the provisions of sub article 2 of this article, in urgent situations, the prosecutor or investigator may collect evidence through special investigation techniques without court authorization upon permission by the Minister or the head represented by the Minister.
 - 5) Pursuant to sub article 4 of this article, the prosecutor or investigator shall submit the reason and the permission in writing to the court within 48 hours starting the collection of evidence. The court examines the relevancy of the request and may accept or reject it.

12. Power to Require Production or Disclosure of Evidence

- 1) When the public prosecutor or investigator has reasonable doubt about the existence of proceeds of crime or instrumentalities of crime, it may ask any person in writing to provide or disclose such evidence regarding property that is in the possession or ownership of any person.
- 2) If the evidence required as per sub-article 1 of this Article is found in any government institution, the public prosecutor or investigator may request such evidence.

- 3) Pursuant to sub article 1 or 2 of this article, any person, governmental or non governmental institutions requested to provide or dislose evidence about the reguested matter shall be obliged to provide or dislose the evidence as it is availabel.
- 4) The written request made by the public prosecutor or investigator for the production or disclosure of evidence may include to:
 - a. produce or disclose evidence at such time and place specified;
 - b. answer questions at such time and place specified;
 - c. permit the investigator to have access to and investigate or provide verified copies of any documents, archives, and electronic data containing the required information.

13. Prohibition of Tipping-off

- 1) Any person who gets information or evidence while performing his duties under this Proclamation may not disclose or transfer it to any party unless;
 - a. for the purpose of conducting the duties in proper way according to this Proclamation;
 - b. ordered by the court and;
 - c. granted written permission from the Minister
- 2) Any person who is found in violation of sub-article 1 of this Article shall be liable according to relevant criminal law provisions.

14. Standard of Proof

- 1) Unless otherwise provided in this Proclamation, any kind of asset recovery or confiscation shall follow Civil Procedure and the standard of proof shall be civil standard.
- 2) Any evidence obtained in the crime investigation or criminal proceeding shall be used as evidence for asset recovery proceedings.
- 3) When a conviction is given in a criminal proceeding, the evidence adduced in the process, without re-evaluating, shall be considered as final evidence for the purpose of asset recovery proceedings.

- 4) Without prejudice to sub-article 3 of this Article, adducing additional evidence, which was not part of the criminal proceeding is not prohibited.

PART FOUR

ASSET FREEZING AND SEIZURE

15. Freezing or Seizure

- 1) Where there is an investigation that may lead to asset confiscation, a charge is filed, conviction is obtained, or where there is any other sufficient reason, application for freezing or seizure may be made to the court by the public prosecutor or the investigator.
- 2) The Minister or the head delegated by the Minister may give a freezing order on the asset for three working days when it's believed that the assets might be squandered or the economic value of the asset may vanish.
- 3) Unless otherwise a court order is requested within the three working days, the freezing order given under sub-article 2 of this Article shall be ceased.
- 4) Where the public prosecutor or investigator has submitted an application to the court within the three working days, the freezing order shall stand until a decision is to be given by the court.
- 5) Pursuant to sub article 4 of this article, the public prosecutor or investigator shall inform the institution that has received the freezing order about the submission of the application to the court.
- 6) The court that receives an application for the freezing order shall give a decision within fifteen days after the date of application.
- 7) When the court does not give an order within the days specified under sub-article 6 of this Article, it may postpone the freezing order for additional days that it deemed appropriate.

16. Condition to Request for Freezing or Seizure

- 1) In the process of asset recovery, the prosecutor or the investigator may request the court for freezing order in any of the following conditions:
 - a. when it would not be damaged under anyone's possession, or

- b. where it is important to the economic value of the asset, or
 - c. where it is necessary due to the nature of the asset.
- 2) In the process for confiscation, a seizure order may be given under any of the following conditions when:
 - a. there are suspicious grounds to believe that the suspect may damage the asset, hide it or commit further crime using the asset;
 - b. there is prima facie evidence that indicates the asset is the proceeds or instrumentalities of the crime;
 - c. the proceeds of the crime cannot be found or transferred, the proportional value of the suspect's legal asset
 - d. it is impossible to prevent any kind of damage on the asset through freezing.
- 3) In addition to the property in the name of the accused or the suspect, an application may be submitted for the freezing of proportional value of the asset in the name of the spouse, the partner under irregular union or children.
- 4) Notwithstanding to sub-article 3 of this Article, an application may be brought to the court for the freezing or seizure of any person's asset suspected to have connection with the proceeds or instrumentalities of the crime.

17. Application for Freezing or Seizure

Application for the freezing or seizure orders shall be accompanied by an affidavit and shall include:

- 1) The asset investigation material facts, measures taken in each phase, and the status of the case if a charge is not opened;
- 2) Sufficient reasons that demonstrate the asset is obtained from crime or proceeds of crime, instrumentality of crime or damaged caused due to the alleged crime that has initiated an investigation;
- 3) Details of the address of the assets when it is known

18. Conditions for Freezing or Seizure Orders

- 1) The court to which an application has been made to seize or freeze the asset shall examine the application submitted and give order:

- a. for the freezing of the asset either partially or in full;
 - b. for the seizure of the asset or to be placed under the control of the Ministry either partially or in full;
 - c. for the appointment of the asset manager or;
 - d. other appropriate measures
- 2) The public prosecutor or investigator shall notify the court order given pursuant to sub-article 1 of this Article to the legally recognized owner of the asset.

19. Registration of Court Orders

Where there is a legal requirement for asset registration, the freezing or seizure order issued by the court must be expeditiously registered by the appropriate authority upon receiving the order.

20. Validity Period of Freezing or Seizure Orders

- 1) A freezing or seizure order issued in accordance with Article 18 of this Proclamation may be revoked after three years from the date of the decision, considering the prosecutor's or investigator's opinion, unless a criminal charge pertaining to the asset or a confiscation process has been initiated.
- 2) The court may withdraw the freezing or seizure order pursuant to sub article 1 of this article after considering the opinion of the prosecutor or the investigator.
- 3) Pursuant to sub-article 1 of this Article, even if the withdrawal of the freezing or seizure order may be given, in the interest of justice, the court may sustain the order for an additional period deemed appropriate by the court.

21. Appeal on Freezing or Seizure

- 1. When the court decides for the withdrawal or amendment of the order pursuant to Article 20 (2) of this provision, the prosecutor or investigator has the right to appeal on the decision of the court.
- 2. The freezing or seizure order shall remain in force until a final decision is given by the appellate court if an appeal is made pursuant to sub article (1) of this article where the prosecutor or the investigator submits the evidence to the court within five working days.

3. The court may release the asset frozen or seized if the prosecutor or investigator does not submit the evidens about the request for appeal pursuant to sub article (2) of this provision.
4. The five days time limit shall be counted after the day when the public prosecutor recieves the copy of the court decision.

22. Exempted Assets

- 1) Without prejudice to provisions about freezing and seizure in this proclamation, the court may not give freezing or seizure orders on the following assets:
 - a. The tools essential for the suspect's, accused's, or their dependent family members' daily livelihood or professional work, as well as their household appliances,
 - b. where the suspect, accused and his dependent family members do not have assets other than the frozen or seized assets as a source of income, such amount of money that the court deems sufficient to be deducted and paid to provide for their necessities;
 - c. such amount of money or assets necessary for the daily life of the suspect, the accused or his family for a maximum of six months, or for a period determined by the court on exceptional circumstances.
- 2) Notwithstanding to sub article 1 (a) of this article, the court may order for the payment of maintenance to suspect or accused or to the dependants of the suspect or the accused for their basic needs if they don't have any other income other than the asset that has been frozen or seized.
- 3) Notwithstanding sub-article 1 (a) of this Article, the court may give order of freezing or seizure on any assets made from precious metals, high value artisan souvenirs and artifacts.
- 4) Notwithstanding sub-article 1 of this Article, the suspect, the accused or his families may not have the right to use the assets where sufficient evidence is provided by the prosecutor or the investigator indicating that such assets are the proceed of crime.

PART FIVE

ASSET CONFISCATION

23. General Provisions

- 1) An asset directly or indirectly related to a criminal act shall be confiscated based on the provisions provided in this proclamation.
- 2) Notwithstanding to the criminal code or other criminal provisions that do not provide asset confiscation as a punishment, any person who has obtained or procured for others an asset or causes damage to the assets of another due to a crime shall be subject to recovery and confiscation according to this proclamation.
- 3) Without prejudice to asset confiscation provisions in this proclamation, the Ministry shall determine through a directive about the condition of bargaining to recover an asset obtained for oneself or procured for others; or compensate the damage caused on another's asset.

24. Joint and Several Liability on Asset Confiscation

- 1) When confiscation claim is brought against co-offenders, confiscation of an asset will be sought from each of the participants for damage caused or undue advantage obtained.
- 2) Notwithstanding sub (1) of this article, co-offenders shall be jointly and severally liable when it is not possible to obtain sufficient asset to recover from each of them.
- 3) If the asset is confiscated pursuant to sub-article 2 of this Article, the person whose asset has been confiscated shall have a right of subrogation to claim their share of liability from other perpetrators.

25. Assets Subject to Confiscation

- 1) The court to whom a conviction or non-conviction based confiscation claim brought shall issue an order of confiscation as per the claim for the confiscation of :-

- a. assets constituting the proceeds of the crime, intermingled with or exchanged assets for such proceeds;
- b. any income or other benefits obtained from the proceeds of the crime;
- c. instrumentalities of a crime or any income or profit thereof;
- d. without prejudice to the right of good faith third party:
 - i. assets;
 - ii. proceeds of crime or its proportionate value;
 - iii. intermingled or exchanged assets;
 - iv. income from proceeds of crime or instrumentalities of the crime that are transferred to other parties in order to escape confiscation;
- e. asset of the accused to the proportional values of the proceeds of the crime, income from the proceeds, intermingled or exchanged assets or instrumentalities of the crime.

- 2) An application for confiscation or the court's decision regarding confiscation, will not be accepted unless the contestant demonstrate to the court's satisfaction that they were unaware of the unlawful origin of the asset and that they acquired it by paying a fair price at the time of transfer of the asset or providing services in proportion to its value.
- 3) The court may also order confiscation of assets belonging directly or indirectly to a person convicted of a crime which were acquired during a period of five years prior to being charged with the offence, if there are reasonable grounds indicating that such assets are the results of the offence of which the person was convicted, and the person failed to prove that the asset was obtained legally.
- 4) The court may invalidate any legal instruments, the purpose of which is to avoid the confiscation of any property pursuant to sub-article 2 of this Article; provided

however, that if the invalidated legal instrument is entered into for the value, the acquired party acting in good faith shall be reimbursed only for the amount actually paid from confiscated asset.

- 5) A prior request for confiscation by the prosecutor on an identified asset or value cannot be a reason to prohibit a new confiscation claim on an asset identified subsequently.
- 6) If the criminal proceeding is suspended or criminal charges cannot be filed due to the disappearance of the accused or the suspect, such person cannot defend asset recovery proceedings represented either by a lawyer or through an agent.
- 7) As per Article 1 (e) of this provision where proceeds of crime is an intermingled asset, the asset to be confiscated shall be equal to the value of the intermingled asset.
- 8) Notwithstanding to sub-article 7 of this provision where intermingled asset is to be confiscated in its proportion, the total intermingled assets are subjected to confiscation by the decision of the court where;
 - a. the proceed of the crime is proportional value to the legal asset;
 - b. the value of the proceed of the crime is of a lesser value than the legal asset but has a substantial or functional role to the legal asset or
 - c. the legal asset is used to launder the proceeds of the crime

26. Reapplication for Asset Confiscation

- 1) When a new asset is identified that relates to the crime before or after a final confiscation decision is delivered by the court, the prosecutor could bring a new confiscation application on the newly identified asset.
- 2) Pursuant to sub-article (1) of this Article, the court to which the application is made shall accept the application when it confirms that there was no prior evidence on the newly identified asset when the first application was made or for any other sufficient reason.

27. Asset Recovery of Exempted Witnesses

- 1) Whoever is exempted from prosecution and turned in to a witness pursuant to other laws shall return any assets obtained from the crime of his participation or shall compensate the damage.
- 2) Without prejudice to sub-article 1 of this article, the exemption shall not apply to plea bargaining agreements

28. Appeal on confiscation

- 1) Anyone aggrieved by the decision of the court on confiscation has the right to appeal to the relevant higher court.
- 2) If the court decides not to confiscate the asset that has been frozen or seized and an appeal or petition for cassation has been filed against this decision, the freezing or seizure order will remain in force until a final decision is given to the appeal or petition.
- 3) If the court decides not to confiscate the asset that has been frozen or seized, the decision may stand unless the prosecutor submits a written evidence about the appeal within fifteen days from the appellate court.
- 4) The fifteen days time limit shall be counted after the day when the public prosecutor receives the copy of the court decision.

29. Conviction-based Confiscation

- 1) Whoever is convicted for a crime by the court and obtains assets from such crime, the prosecutor shall apply to the court for the confiscation of the asset in accordance with this Proclamation.
- 2) Any sentenced person who has been granted a pardon or amnesty, whose penalty is suspended or released on parole cannot object to an asset recovery claim brought against him pursuant to sub-article 1 of this article.

- 3) The period of limitation for the application of asset confiscation against the convicted person shall take the period set by the criminal law or other criminal law provisions for the execution of the penalty.
- 4) Upon the approval of the court, the prosecutor can amend the asset confiscation application at any time before a final decision is given by the court.

30. Non-Conviction Based Confiscation

- 1) Whoever is not convicted of a crime but obtains assets from such act, the prosecutor shall apply to the court for non-conviction-based confiscation pursuant to this Proclamation.
- 2) Application for non-conviction-based confiscation shall be made to the court upon the fulfillment of any of the following conditions, when:
 - a. the suspect or the accused dies, absconds, or unavailable by the reason of flight, or when the perpetrator remains unknown;
 - b. a conviction could not be obtained due to period of limitation;
 - c. there is reasonable suspicion to establish that the proceeds were generated from a criminal activity but such evidence is not sufficient to meet the criminal burden of proof;
 - d. The evidence collected against the accused at the time of investigation is inadmissible or because of this the accused is acquitted from the crime;
 - e. the charges against the accused is discontinued due to amnesty or for any other reasons;
 - f. the asset to be confiscated is under the ownership or possession of the third party but directly or indirectly related with the person convicted for the crime;
 - g. the suspect has the right to immunity from prosecution

- h. the legal person has obtained proceeds of crime but cannot be charged for the crime excluding government and religious institutions;
- i. a person who has been exempted from prosecution and turned into a witness is not willing to return the proceeds of the crime.

PART SIX

ASSET MANAGEMENT

31. Appointment of Asset Manager

Upon the initiation of the court, the prosecutor, the suspect or third party with vested interest can apply for the appointment of an asset manager and the court shall give such order when it deems necessary.

32. Condition for Appointment Asset Manager

- 1) Any natural or legal person could be appointed as an asset manager.
- 2) While appointing the asset manager, the court shall ensure the absence of conflict of interest.
- 3) Upon appointment of the asset manager, the court shall hear opinion of the public prosecutor and whenever possible, the property rights holders.

33. Duties and Functions of the Asset Manager

- 1) Any asset manager appointed by the court under this proclamation shall:
 - a. carryout all the appropriate and reasonable management works depending on the nature of the asset in order to keep the economic and other values of the asset according to the law;
 - b. have the right to sue or be sued in a court of law in relation to the asset appointed to manage;
 - c. collect rents, profits, or any other income thereof;

- d. have all the powers that an owner has except to use the assets for mortgage or transfer to third parties;
 - e. without prejudice to sub-article 1 (d) of this Article, when it is necessary to use the asset as a mortgage either partially or in full or transfer such assets to third parties, such request shall be submitted to the court for approval;
- 2) When a request is made in accordance with Article 1 (e) of this Article or a report is submitted as per Article 34 (4) of this proclamation, the court shall consider the opinion of the prosecutor and, whenever feasible, the property's rightful owner. The court shall then determine whether to accept, amend, or dismiss the application.
 - 3) In matters essential for the proper execution of asset management duties, any government institution, private organization, or individual has an obligation to cooperate with the asset manager.

34. The duties of the Asset Manager

An asset manager who is appointed as per Article 31 of this Proclamation shall have the following duties:

- 1) to furnish a security or surety to be responsible for the asset he is appointed to manage;
- 2) to handover the required income generated from the asset management as determined by the court and;
- 3) to take responsibility and pay for any damage caused to the asset due to his own gross negligence or intentional misconduct.
- 4) submit financial and other report to the court every three months about the management of the asset and every measure taken in the process.

35. Remuneration for the Asset Manager

- 1) The court shall determine the remuneration of the asset manager.

- 2) When determining the remuneration for the asset manager, the court shall consider the nature of the work, the complexity of the management tasks, the required capital, the success achieved in the work, and other relevant factors. In doing so, the court shall consider the opinions of the asset manager, the prosecutor, and, whenever feasible, the input of the asset owner.

36. The Responsibilities of the Prosecutor in Asset Management

The public prosecutor shall have the following responsibilities in the asset management process:

- 1) apply for the appointment or revocation of the asset manager;
- b. free the asset from the third party and hands it over to the asset manager;
- c. conduct regular supervision and regulation of the asset for which a freezing or seizure order has been issued;
- 2) Notwithstanding sub-article 1 (c) of this Article, when necessary, the prosecutor may conduct unexpected supervision and regulation without a court warrant between 6 AM to 6 PM.
- 3) After a regular or surprise visit, the prosecutor can ask for the replacement of the manager or for the taking of corrective measures.

37. Utilization of Confiscated Asset

- 1) The appropriate authority shall open an account that can be used to deposit confiscated cash or cash obtained from the sale of confiscated assets as per this Proclamation
- 2) When there is a victim, the asset obtained from the crime will be returned to the victim when it is found in kind, and when it is found to be changed, transferred or intermingled, the actual value of the damage will be paid in cash.
- 3) Without prejudice the asset to be returned to the victim as per sub-article 2 of this Article, all the remaining assets shall be confiscated.

- 4) Any asset confiscated in kind or cash deposited as per sub-article (1) of this Article shall be used to support the justice administration institutions and such amount shall be determined by the Ministry in cooperation with the appropriate authority.
- 5) As per sub-article 4 of this Article, the Council of Ministers shall issue a regulation about the assets to be used for the justice administration institution.
- 6) Without prejudice to this proclamation, the victims fund established pursuant to the Prevention and Suppression of Trafficking in Persons, Smuggling of Persons and Prevention, and Suppression of Terrorism Crimes shall remain in force.

PART SEVEN

International Cooperation on Asset Recovery

38. General Provisions

1. For the purpose of this Proclamation, the Ministry shall be the Central Authority on International Cooperation.
2. The Ministry and other Competent Authorities shall provide cooperation to the request made by competent authority of other states for the purposes of Mutual legal assistance in connection with asset recovery, joint investigation, freezing or seizure, conviction bases and non conviction bases confiscation, asset management and repatriation.

39. Requests for Mutual Legal Assistance

1. Upon application by a foreign state, requests for mutual legal assistance on asset recovery shall be executed in accordance with this part.
2. Mutual legal assistance regarding asset recovery may include:
 - a. taking evidence or statement from persons regarding the asset;

- b. assisting in making detained persons or voluntary witnesses available to the judicial authority of the requesting state in order to give evidence or assist in investigation;
- c. effecting service of judicial documents;
- d. executing searches, seizure, freezing or other temporary measures orders;
- e. providing information, evidentiary items and expert evaluation;
- f. providing original or certified copies of relevant documents and records including government, bank, financial, institutions or business records;
- g. identifying or tracing the proceeds of crime, instrumentalities, instrumentalities entended to use, property of corresponding value or other things for evidentiary or confiscation purposes;
- h. confiscation of assets;
- i. any other forms of mutual legal assistance not contrary to the laws of Ethiopia.

40. Requests for Investigative Measures

1. Investigative measures shall be undertaken in conformity with the procedural rules of Ethiopia unless the competent authority of the requesting state requested a specific procedure not contrary to such rules.
2. A public official authorized by the competent authority of the requesting state may be allowed to attend the execution of the investigative measures.

41. Request for Provisional Measures

1. Provisional measures requested by the requesting state shall be undertaken in accordance with the applicable laws of Ethiopia and if the request is worded in general terms, the most appropriate measures provided by law shall be used.
2. Where the applicable laws of Ethiopia do not provide for the measures requested, the competent authority may substitute those measures provided for in law whose effects correspond most closely to the requested measures.

3. The provisions relating to the lifting of temporary measures as laid down of this Proclamation shall be applicable; provided, however, that before lifting the provisional measures applied, the competent authority of the requesting state shall be informed thereof.

42. Request for Confiscation

1. In the case of a request for mutual legal assistance seeking the execution of a confiscation order, the Ministry shall either recognize and enforce the confiscation order made by the court of the requesting state or shall submit the request to the court for the purpose of getting recognition of a confiscation order and if such order is granted, enforce it
2. Where the department recognizes and enforces a confiscation order issued by the court of the requesting state, it shall be bound by the findings of fact on which the order is based.
3. The confiscation order shall apply to assets referred to in this Proclamation and situated in the territory of Ethiopia.

43. Language of Communication

1. Request for mutual legal assistance and supporting documents shall be in writing and in federal languages.
2. In case of urgent matters, mutual legal assistance requests may be submitted orally but a request that fulfills all the requirements shall be submitted in writing within ten days.

44. Request by Multiple Countries

When a mutual legal assistance request is submitted by more than one country on a particular asset, priority shall be given to countries with bilateral agreement, international cooperation and principle of reciprocity respectively.

45. Costs for Mutual Legal Assistance

1. Unless otherwise agreed, the cost of cooperation will be covered by the country requesting cooperation.
2. The cost of cooperation requested by Ethiopia will be covered by the federal government.
3. The cost of cooperation which is covered by Ethiopia shall be determined according to the federal government's financial law and system.

46. Refusal to Mutual Assistance Requests

- 1) A request for mutual legal assistance may be refused if:
 - a. the request is not made in accordance with this Proclamation or other appropriate laws of the country;
 - b. its execution is likely to prejudice the law and order, sovereignty, security, public interest, moral or other essential interests of Ethiopia;
 - c. the offense to which it relates is the subject of criminal proceedings or has already been the subject of a final judgment in the territory of Ethiopia;
 - d. there are substantial grounds for believing that the request is directed solely on account of the individual's race, religion, nationality, political opinion or gender;
 - e. under the legislation of Ethiopia, the measures requested or any other measures having similar effects, are not permitted with respect to the offences referred to in the request;
 - f. the decision rendered abroad was issued under conditions that did not afford sufficient protection with respect to the rights of the defendant;
 - g. the request for cooperation is based on an inconsiderate amount of assets.

- 2) The Ministry shall promptly inform the competent authority of the requesting state about the grounds for refusal to execute the request.

47. Disposal or Repatriation of Assets

- 1) The asset may be disposed or returned to the mutual legal assistance requesting authority on the following grounds:
 - a) as per the bilateral agreement with the requesting state or based on international conventions;
 - b) in the absence of a bilateral agreement or international convention, based on case by case arrangements.
- 2) If confiscation is directly or indirectly the result of coordinated law enforcement actions, the Ministry can enter in to an agreement for sharing the confiscated asset.
- 3) When the asset to be returned is cash, the requesting country shall provide details of the bank account to the competent authority.
- 4) When the asset is movable or immovable, the process of its return or disposal shall be in accordance with the laws of Ethiopia.

PART EIGHT

MISCELLANEOUS PROVISIONS

48. Reward for Whistleblowers

- 1) Where a person has given information about the sources or the whereabouts of the asset recovered or confiscated based on this Proclamation, shall be entitled to a reward based on the directives issued by the Ministry, if recovery is possible upon the information.
- 2) A whistleblower that gives information as per sub-article 1 of this Article shall not include persons who are investigators, prosecutors, experts, managers, or any other person who accesses such information due to his professional engagement.
- 3) An award shall not be given to anyone who gives information and evidence indirectly obtained from persons categorized under sub-article 2 of this Article.

49. Establishment of the Department

- 1) The Ministry shall establish a department that comprises prosecutors, investigators, and other experts with necessary special skills that are entrusted to asset recovery.
- 2) The department works in cooperation with the police as per the Criminal Procedure Code to call upon suspects, detain, search, freeze, seize, confiscate, or manage assets or other necessary duties during the asset recovery process.
- 3) Investigators and other experts with special skills employed under sub-article (1) of this provision shall be subjected to Public Prosecutors' Administration regulation.

50. Conditions to file a claim for asset recovery

- 1) If the proceeds of a crime is the property of a government office, public enterprise or public organization or any individual. the appropriate organ may give its permission or delegate for organs or individual to initiate civil action against the suspected person for the recovery of the assets.
- 2) The Ministry shall have the duty to follow up the result of such action by the other organs.

51. Court Jurisdiction

- 1) The court that has jurisdiction over the crime suspected or committed by the offender shall have first instance jurisdiction on the asset recovery.
- 2) In the case of non-conviction-based confiscation, the court that has jurisdiction on the crime that causes non-conviction-based confiscation shall have first instance jurisdiction on the asset recovery case.
- 3) The court jurisdiction on unexplained asset shall be determined based on laws governing civil matters.

52. Criminal Liability

- 1) Any person who refuses to disclose or adduce any evidence requested as per the provisions of this Proclamation shall be punishable with imprisonment for a minimum of one year to a maximum of three years unless a higher penalty is imposed in other laws in addition to the order given to disclose the evidence.
- 2) Anyone who concealed, gives falsified evidence, destroys the evidence or violates confidentiality of the requested evidence shall be punishable with imprisonment for a minimum of three years to a maximum of five years unless a higher penalty is imposed in other laws.
- 3) Any person who violates the order of freezing, seizure, confiscation or management issued by the court pursuant to this Proclamation and commits an act contrary to the order, without prejudice to the penalty to pay fine from 10% to 15% of the extent to the damage caused or the advantage obtained, shall be punishable with simple imprisonment from one year to three years.
- 4) As per sub article 3 of this article, when the order is violated by a legal person, the fine shall be from 20% to 30%.

53. Power to Issue Regulation and Directive

- 1) The Council of Ministers may issue regulations necessary for the implementation of this Proclamation.
- 2) The Ministry may issue directive necessary for the implementation of this Proclamation or regulation issued by the Council of Ministers.

54. Applicability of other Laws

- 1) Unless it contradicts with this proclamation, the Civil Procedure Code and other appropriate laws shall be applicable as necessary.
- 2) Notwithstanding to sub article (1) of this article this proclamation shall not affect the application of the Prevention and Suppression of Financing of the Proliferation of Weapons of Mass Destruction Proclamation No 1132/2019 and

Procedure for Freezing of Terrorist Assets Council of Ministers Regulation No 306/2014.

55. Repealed and Inapplicable Laws

1) For the purpose of asset recovery, the provision in the following proclamations on asset recovery, freezing, seizure, asset management and confiscation are repealed:

- a. The Revised Anti-Corruption Special Procedure and Rules of Evidence Proclamation 434/2005
- b. The Revised Anti-Corruption Special Procedure and Rules of Evidence (Amendment) proclamation 882/2015
- c. Prevention and Suppression of Money Laundering and Financing of Terrorism 780/2013
- d. Prevention, and Suppression of Terrorism Crime 1176/2020
- e. Prevention and Suppression of Trafficking in Persons, Smuggling of Persons 1178/2020

2) Any proclamation or customary practice in contradiction with this proclamation shall not be valid.

56. Transitional Provisions

Pending cases on asset recovery before the issuance of this Proclamation shall proceed in accordance with the preexisting laws.

57. Effective Date

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

Done at Addis Ababa, this.... day of.....2023

SAHILEWORK ZEWEDE
PRESIDENT OF THE FEDERAL
DEMOCRATIC REPUBLIC OF ETHIOPIA