PROCLAMATION No. 798/2013

A PROCLAMATION TO RE-ENACT FOR THE STRENGTHENING AND SPECIFYING THE POWERS AND DUTIES OF THE COUNCIL OF CONSTITUTIONAL INQUIRY OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

WHEREAS, it is believed that the full-fledged implementation of the Constitution of the Federal Democratic Republic of Ethiopia, the supreme law of the land, is a guarantee to the continuation of the ongoing democratic system, development and peace;

WHEREAS, the Council of Constitutional Inquiry is established by virtue of Article 82 of the Constitution of the Federal Democratic Republic of Ethiopia to conduct constitutional inquiries and present its findings to the House of the Federation which is empowered to interpret the Constitution;

WHEREAS, the Council is empowered to investigate constitutional disputes as per Article 84 of the Constitution which necessitates to have better practice and structure to respond to issues related to the interpretation of the Constitution efficiently;

WHEREAS, the Council needs to have its own supporting office so that it can discharge its duties efficiently while maintaining its constitutional independence;

CONTENTS
Proclamation No. 798/2013
Council of Constitutional Inquiry Proclamation

Page 7081
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 “Council of Constitutional Inquiry Proclamation No.798/2013”.

2. Definition
Unless the context otherwise requires, in this Proclamation:

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

2/ “House of the Federation” means the House of the Federation established under Article 53 of the Constitution;

3/ “House of Peoples’ Representatives” means the House of Peoples’ Representatives established under Article 53 of the Constitution;

4/ “Council” means the Council of Constitutional Inquiry established under Article 82(1) of the Constitution;

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

6/ “government organ” means the legislative, executive and judiciary organs of the federal government or states;

7/ “Sub-Inquiry Committee” means a committee composed of at least three members of the Council;

8/ “Office” means the Office of the Council;

9/ “person” means natural or juridical person;

10/ “final decision” means a decision that has been exhausted and against which no appeal lies;

11/ any expression in the masculine gender includes the feminine.
PART TWO

INTERPRETATION OF THE CONSTITUTION

3. Principle

1/ When the unconstitutionality of any law or customary practice or decision of government organ or decision of government official is submitted in writing to the Council, it shall consider the matter. Should the Council, upon consideration of the matter, find it necessary to interpret the Constitution, it shall submit its recommendation thereon to the House of the Federation.

2/ Issue of constitutional interpretation to be submitted to the Council in accordance with sub-article (1) of this Article shall:
   a) if it is justiciable matter of court, when it has been brought to, and heard by, the court having jurisdiction;
   b) if it is justiciable matter of administrative organ, when a final decision has been rendered by the competent executive organ with due hierarchy to consider it;
   c) constitutional interpretation on any unjusticiable matter may be submitted to the Council by one-third or more members of the federal or state councils or by federal or state executive organs.

4. Persons Competent to Submit Constitutional Interpretation on Issues Before Courts of Law

1/ When constitutional interpretation on issues before courts of law arise, the court or the interested party may submit the issue to the Council.

2/ Without prejudice to the generality of sub-article (1) of this Article, the interested party shall, before submitting the issue to the Council, require the court that has being see the case to refer the issue of constitutional interpretation to the Council.

3/ The court being see the case shall refer the issue of constitutional interpretation to the Council when it believes that the interpretation of the constitution is necessary to decide the case.
3. Pending of Cases

Until the Council decides after considering the matter on constitutional interpretation referred to it by court or submitted to it by interested party it may order the case to be pending at the court.

5/ Where any law issued by federal government or state legislative organs is contested as being unconstitutional, the concerned court or interested party may submit the case to the Council.

6. Pending of Cases

Until the Council decides after considering the matter on constitutional interpretation referred to it by court or submitted to it by interested party it may order the case to be pending at the court.

7. Application Procedure for Constitutional Interpretation

1/ The application procedure for constitutional interpretation to be submitted to the Council shall be pursuant to the directive to be issued in accordance with this Proclamation.

2/ Application for constitutional interpretation may be submitted by representation.

5. Submitting Issues of Constitutional Interpretation Outside Courts of Law

1/ Any person who alleges that his fundamental right and freedom provided under the Constitution have been violated due to the final decision rendered by government organ or official may submit his case to the Council for constitutional interpretation.

2/ Issue of constitutional interpretation may be submitted to the Council in accordance with sub-article (1) of this Article, when a final decision has been rendered by government organ having competency to decide on the claim for violation of right with due hierarchy to consider it.

3/ Where any law issued by federal government or state legislative organs is contested as being unconstitutional, the concerned court or interested party may submit the case to the Council.

4/ The court being see the case shall limit with the issue necessary for constitutional interpretation in referring to the Council.
8. Forwarding of Cases

The Chairperson of the Council shall first forward the cases submitted for constitutional interpretation to members of the Sub-Inquiry Committee or experts of the Office for the preparation of professional opinion.

9. Gathering Professional Opinions

1/ The Council may, before it gives decision or submits its recommendation to the House of the Federation on cases submitted to it for constitutional interpretation, call upon pertinent institutions or professionals, to appear before it and give opinions.

2/ When it deems necessary for investigating constitutional cases, the Council may require the presentation of any evidence or professional and examine same.

3/ Any person requested by the Council to produce evidence shall have the obligation to give same immediately.

10. Order of Cases and Manner of Deliberation

1/ Unless the Chairperson of the Council decides for the prior examination of cases due to the existence of special circumstance, cases submitted to the Council shall be examined according to their order of precedence.

2/ The procedure of deliberation and making decision or submitting recommendation shall be determined by directive to be issued by the Council.

3/ Unless there has been a good cause, a case before the Council may not be postponed for repeated appointments.

4/ The Council may hear cases in a public transparent manner according to Article 12(1) of the Constitution. The particulars shall be determined by directive to be issued by the Council.
I. Meeting and Decision Making Procedure of the Council

1. The presence of two-third of the members of the Council shall constitute quorum.

2. The decision or recommendation of the Council shall be passed by a majority vote.

3. In case of a tie, the Chairperson shall have a casting vote.

4. The decision or recommendation of the Council shall include the full names of the members of the Council presented at the meeting, the applicants or their representatives and persons who give opinion as well as details of the case, opinions and other particulars determined by directive to be issued by the Council.

5. Decisions or recommendations of the Council shall be signed by members of the Council presented at the meeting.

II. Decision and Recommendation

1. The Council, after examining the application for constitutional interpretation, shall:
   a) reject the application and notify same in writing to the applicant if it finds there is no need for constitutional interpretation;
   b) submit its recommendation to the House of the Federation together with related information and documents if it believes there is a need for constitutional interpretation.

2. The decision or recommendation of the Council shall clearly show the detailed description of the case, the reason it believes there is a need or no need for constitutional interpretation and its conclusion.

3. The time limit within which the Council notifies its decision to the applicant in accordance with sub-article (1)(a) of this Article or submits its recommendation to the House of the Federation in accordance with sub-article (1)(b) of this Article shall be determined by directive to be issued by the Council.
CHAPTER ONE

STRUCTURE, POWERS AND DUTIES OF THE COUNCIL

PART ONE

1. Structure of the Council

The Council shall have the following eleven members:

a) the President of the Federal Supreme Court;
b) the Vice President of the Federal Supreme Court;
c) six legal experts, appointed by the President of the Republic on recommendation by the House of Representatives, who shall have proven professional competency and high moral standing; d) three persons designated by the House of the Federation from among its members.

2. Powers and Duties of the Council

The Council shall have the following powers and duties:

a) to investigate constitutional issues in accordance with Article 84(1) of the Constitution and should it, upon its own initiative or on the request of the House of Representatives, find it necessary to interpret the Constitution, it shall submit its recommendation of constitutional interpretation to the House of the Federation; and when it finds that the matter does not need constitutional interpretation, it shall make a decision to that effect;

b) the Council may require such decision given to him in writing, and the Head of the Office shall cause same to be given. The authenticity of such written decision shall be approved by the appropriate official of the Office.

c) the interested party disappointed with the decision to be given to him in writing shall be notified.

The interested party may require such decision given to him in writing, and the Head of the Office shall cause same to be given. The authenticity of such written decision shall be approved by the appropriate official of the Office.

3. Fee

Any case of constitutional interpretation submitted to the Council shall be free of service fee.

4. PART THREE

16. Powers and Duties of the Council

17. any case of constitutional interpretation submitted to the Council shall be free of service fee.
17. Term of Office of Members of the Council

The term of office of members of the Council designated by the House of the Federation in relation to constitutional interpretation shall be the same as the term of their presidency and vice-presidency, respectively, at the Federal Supreme Court.

The term of office of members of the Council designated by the President of the Republic shall be six years.

No standing the provision of sub-article (2) and (3) of this Article, members of the Council designated by the House of the Federation and those appointed by the President of the Republic may be re-elected.

1. To approve the organizational structure and working procedure of the Office submitted by the Head of the Office, and follow up the implementation of same;
2. To prepare its budget and submit to the House of People's Representatives, and implement same upon approval;
3. To prepare its rules of procedure and submit to the House of the Federation, and implement same upon approval;
4. To enter into contract, sue and be sued in its own name, own property or possess property in other way;
5. To perform other activities assigned to it by the House of the Federation in relation to the implementation of the constitutional interpretation.

18. Remuneration of Members of the Council

1/ Members of the Council shall be entitled to per-diem and transport allowances commensurate with their attendance of meetings at the Council and their extra service in their capacity as member of the Council. Particulars shall be determined by directive to be issued by the Council.

2/ Notwithstanding the provision of sub-article (1) of this Article, members of the Council designated to serve in Sub-Inquiry Committee may not be entitled to per-diem and transport allowances for their attendance at meetings of the Council and for the service they rendered in their capacity as members of the Council other than as member of the Sub-Inquiry Committee.

19. Removal of Members of the Council

1/ The Chairperson and Deputy Chairperson of the Council may not be removed from their position unless they are removed from presidency and vice-presidency of the Federal Supreme Court, respectively.

2/ With the exception of the Chairperson and Deputy Chairperson of the Council, any member of the Council may be removed from membership by the designating or appointing organ before the end of his term.

3/ Any member of the Council, other than the Chairperson and Deputy Chairperson, may be removed from membership due to the following grounds:
   a) when the member submits tender of resignation to the organ designated or appointed him;
   b) when the member is proven to have committed disciplinary offence or the member significantly lacks work competence and efficiency as confirmed by the Council and the organ designated or appointed him.
20. Powers and Duties of the Chairperson of the Council

1/ The Chairperson of the Council shall have the powers and duties to direct the Council, coordinate the activities of members and take appropriate measures to enable the activities of the Council effective and expeditious.

2/ Without prejudice to the generality of the provision of sub-article (1) of this Article, the Chairperson of the Council:

a) shall call and chair meetings of the Council in accordance with the directive of the Council;

b) shall ensure cases submitted, directly or through Sub-Inquiry Committee, to the Council are properly reached to members;

c) may cause the preparation and presentation of opinion or draft recommendation, as appropriate, from among members of the Council on matters submitted by Sub-Inquiry Committee;

d) shall respect and ensure the observance of directives and rules of procedure of the Council;

e) shall submit for approval by the Council the organizational structure and salary scale of the Office;

f) shall propose for approval by the Council the benefits of members of the Council and employees of the Office;

g) shall nominate, for appointment by the Council, the Head of the Office;

h) shall appoint directors of the Office whose number determined as appropriate;

i) shall request the concerned organ for appointment or designation of member in accordance with this Proclamation in cases when membership of the Council is vacant due to removal of member;
j) shall direct and supervise the Office;

k) shall cause the decisions of the Council to be communicated to the concerned organs;

l) shall submit the annual performance report of the Council to the House of the Federation.

21. Powers and Duties of the Deputy Chairperson of the Council

1/ The Deputy Chairperson of the Council shall act on behalf of the Chairperson in the absence of the latter.

2/ The Deputy Chairperson of the Council shall carry out other responsibilities specifically entrusted to him by the Chairperson or the Council.

3/ In the absence of both the Chairperson and Deputy Chairperson of the Council, the Speaker of the House of the Federation shall assign the acting leader from among the members of the Council.

22. Duties and Responsibilities of Members of the Council

Every member of the Council shall:

1/ attend all meetings convened by the Council unless prevented by good cause;

2/ inform the Chairperson of the Council in advance when unable to attend meeting of the Council due to good cause;

3/ participate in meeting of the Council with adequate preparation on the proposed agenda and exert the necessary effort to discharge his responsibilities;

4/ in obeying and ensuring the observance of the Constitution, discharge his responsibilities in neutral and free conscience;

5/ maintain and cause the maintenance of the reputation and honor of the Council;

6/ comply with the directive and rules of procedures of the Council.
23. Meetings of the Council

1. The Council shall hold regular meeting on a monthly basis.

2. The Chairperson of the Council may call a meeting of the Council within shorter period than provided under sub-article (1) of this Article as necessary.

3. Meetings of the Council shall be held in Addis Ababa; and as necessary it may be held in selected state.

24. Establishment of Sub-Inquiry Committee

1. Sub-Inquiry Committee (hereinafter referred to as the "Sub-Inquiry Committee") is hereby established accountable to the Council.

2. The Sub-Inquiry Committee shall compose at least three members including its chairperson who are assigned by the Council from among its permanent serving members.

25. Duties and Responsibilities of the Sub-Inquiry Committee

The Sub-Inquiry Committee shall have the duty and responsibility to:

1. organize, as directed by the Council, cases of constitutional interpretation in a manner suitable for decision making;

2. without prejudice to the generality of sub-article (1) of this Article, identify cases that need or not need constitutional interpretation, facts relevant for decision making, relevant laws, decisions and, to the extent necessary, relevant experiences and submit same to the Council along with study based clarification.

26. Working Condition and Remuneration of Members of the Sub-Inquiry Committee

1. The working condition of members of the Sub-Inquiry Committee shall be determined by agreement to be entered into by the Council and their employer based on joint employment principle if they are employee or appointee.

2. Members of the Council assigned to serve permanently in the Sub-Inquiry Committee shall be entitled to remuneration and benefits allocated for the assigned work position.
27. Establishment of the Office

1/ Office of the Council of Constitutional Inquiry (hereinafter referred to as the “Office”) is hereby established.

2/ The Office shall have:
   a) a Head appointed by the Council based on the nomination by the Chairperson of the Council;
   b) directors whose number determined according to the necessity of the work; and
   c) the necessary staff.

3/ The Office shall have its head office in Addis Ababa and may have branch offices in cities of the states as necessary.

28. Powers and Duties of the Office

In accordance with the direction of the Chairperson of the Council, the Office shall:

1/ provide general administrative services to members of the Council;

2/ provide research and study services to members of the Council;

3/ communicate notice of meeting to members of the Council and distribute agenda and necessary documents;

4/ arrange translation service where members of the Council or parties attending at meeting of the Council unable to understand the working language of the Council;

5/ ensure the minutes, decisions and other documents of the Council and the Office are kept recorded and organized;

6/ prepare journal and other articles issued by the Council as well as annual reports, and ensure the publication and distribution of same;

7/ issue communiqué or cause the issuance of communiqué from time to time regarding the work and decisions of the Council through the concerned department;
8/ ensure interested parties are treated properly;

9/ provide public awareness activities or cause the provision of public awareness in collaboration with the concerned organs regarding the Constitution, constitutional interpretation and other related subjects by using various means and methods;

10/ provide training to drafters of petition of constitutional interpretation regarding submission of petition;

11/ execute internal and external relations of the Council;

12/ perform other activities necessary for the attainment of the objective of the Council.

29. Powers and Duties of the Head of the Office

The Head of the Office shall:

1/ plan, direct, organize and control the activities of the Office;

2/ oversee the execution of the decision of the Council on administrative affairs;

3/ prepare the budget of the Council and the Office and implement same up on approval;

4/ exercise the powers and duties of the Office provided under Article 28 of this Proclamation;

5/ represent the Office in its dealings with third parties;

6/ employ and administer employees of the Office in accordance with the federal civil service laws;

7/ prepare and submit to the Council the organizational structure and salary scale of the Office and implement same up on approval;

8/ prepare and submit to the Chairperson of the Council the annual work program of the Office and implement same up on approval;
9/ effect expenditure in accordance with the approved budget and work program of the Office following the finance law;
10/ prepare and submit to the Chairperson of the Council the performance and financial report of the Office;
11/ perform other activities assigned to him by the Council and its Chairperson.

30. Administration of the Office

1/ Administration regulation of employees of the Office shall be prepared following the basic principles of the federal civil service laws and implemented up on approval by the Council.
2/ The organizational structure and salary scale of the Office shall be prepared taking into account the economy capacity of the government and implemented upon approval by the Council.

PART FOUR
MISCELLANEOUS PROVISIONS

31. Budget of the Council

1/ The budget of the Council shall be allocated by the government.
2/ The annual budget of the Council shall be prepared by the Office and submitted to the House of Peoples’ Representatives and implemented upon approval.
4/ The books of accounts and financial documents of the Council shall be audited annually by the Auditor General.

32. Duty to Cooperate

Every person shall have the obligation to execute or cause the execution of order issued by the Council.

33. Power to Issue Regulation

The Council may issue directives necessary for the implementation of this Proclamation.

34. Repealed and Inapplicable Laws

1/ The Council of Constitutional Inquiry Proclamation No.250/2001 is hereby repealed.
2/ The provision of sub-article (1) and (2) of Article 4 and the provisions from sub-article (4) to (6) of Article 4 of Proclamation No.556/2008 may not have applicability concerning this Proclamation.

3/ No law or customary practice may, in so far as it is inconsistent with this Proclamation, have applicability in respect of matters covered under this Proclamation.

35. Rights Emanating from Previous Laws

Unless provided otherwise, legal conditions resulting from previous laws before the coming in to force of this Proclamation shall remain effective notwithstanding the requirements under this Proclamation, are different from the previous ones.

36. Effective Date

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

Done at Addis Ababa, this 30th day of August, 2013.

GIRMA WOLDEGIORGIS
PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA