



Addis Ababa University  
አዲስ አበባ ዩኒቨርሲቲ



**ADDIS ABABA UNIVERSITY  
COLLEGE OF LAW AND GOVERNANCE STUDIES  
SCHOOL OF LAW**

**The provisions of THE NEW commercial  
code on PLC in comparison to the  
provisions on PLC in THE FORMER  
commercial code: Any betterment?**

**A THESIS SUBMITTED TO THE SCHOOL OF LAW, ADDIS ABABA  
UNIVERSITY, IN PARTIAL FULFILLMENT OF MASTER OF LAWS  
DEGREE (LL.M) IN BUSINESS LAW**

**By:**

**Anduaem Taye Gebrie**

**Addis Ababa  
June, 2024**

**ADDIS ABABA UNIVERSITY**  
**COLLEGE OF LAW AND GOVERNANCE STUDIES**  
**SCHOOL OF LAW**

**The provisions of THE NEW commercial  
code on PLC in comparison to the  
provisions on PLC in THE FORMER  
commercial code: Any betterment?**

**A THESIS SUBMITTED TO THE SCHOOL OF LAW, ADDIS ABABA  
UNIVERSITY, IN PARTIAL FULFILLMENT OF MASTER OF LAWS  
DEGREE (LL.M) IN BUSINESS LAW**

**By:**

**Andualem Taye Gebrie**

**ADVISOR:**

**Zekarias Keneaa (Associate Professor)**

**Addis Ababa  
June, 2024**

**Addis Ababa University  
College of Law and Governance Studies  
School of Law**

**The provisions of THE NEW commercial code on PLCs in  
comparison to the provisions on PLCs in THE FORMER  
commercial code: Any betterment?**

**By:**

**Andualem Taye Gebrie**

**Approved by Board of Examiners:**

<b>Zekarias Keneaa (Associate Prof.)</b> Advisor	_____ <b>Signature</b>	_____ <b>Date</b>
---	---------------------------	----------------------

<b>Fekadu Petros (Assistant Prof.)</b> Examiner	_____ <b>Signature</b>	_____ <b>Date</b>
--	---------------------------	----------------------

<b>Yazachew Belew (Assistant Prof.)</b> Examiner	_____ <b>Signature</b>	_____ <b>Date</b>
---	---------------------------	----------------------

**Addis Ababa  
June, 2024**

## **Declaration**

I, Andualem Taye Gebrie, hereby declare that this work is original and has not been presented in any other institution before. This thesis represents my work and contains no material which has been previously submitted for a degree or diploma at Addis Ababa University or any other institution, except where due acknowledgment is made.

Name: Andualem Taye Gebrie

---

## **Verification**

I, Zekarias Kaneaa, have read this thesis and approved it for examination.

Advisor: Zekarias Kaneaa

---

**Addis Ababa**  
**June, 2024**

## *Acknowledgment*

Before anything else, I would like to kneel myself before God, the Almighty, who allowed me to begin and complete this course of study.

I would also like to express my sincere gratitude to my thesis advisor, Associate Professor Zekarias Kaneaa, who from the inception of the idea of the title relentlessly guided me throughout this research work.

I want to express my sincere appreciation and blessings to everyone who contributed in any manner to the research.

Finally, but importantly, I want to express my gratitude to my loving family for their unwavering support during my study.

### *List of acronyms*

AACCSA	Addis Ababa Chamber of Commerce and Sectoral Associations
AGM	Annual General Meeting
AOA	Articles of association
Art/Arts	Article / Articles
BOD	Board of directors
CC	Commercial Code
CR	Commercial Register
CRBLP	Commercial Registration and Business Licensing Proclamation
DARS	Documents Authentication and Registration Service
EOGM	Extraordinary General Meeting
ETB	Ethiopian Birr
FDRE	Federal Democratic Republic of Ethiopia
FSCCB	Federal Supreme Court Cassation Bench
HOPR	House of People's Representatives
IPO	Initial Public Offering
MOA	Memorandum of association
MOTRI	Ministry of Trade and Regional Integration
OGM	Ordinary General Meeting
PLC	Private Limited Company
SC	Share Company
SHGM	Shareholders' general meeting
SR	Share Register

## **Abstract**

*Private limited companies (PLCs) are the most popular and prevalent form of company in Ethiopia. As economic machines the formation, governance and management of PLCs must be conducive to the economic growth and development of the country. PLCs in Ethiopia, however, have been surrounded by problems. Many of the problems are believed to be related with the provisions of the 1960 CC governing PLCs in Ethiopia. With the aim of alleviating the problems, bridging insufficiencies, filling gaps and facilitating commerce, the new 2021 CC came up with changes (improvements, deletions, and inclusion of new ideas) on PLC provisions.*

*A comparative exploration of the changes and identification of betterments, deficiencies & gaps on PLC provisions as well as evaluation of how much PLCs have used the betterments and its implications are not yet sufficiently done.*

*After an article by article exploration of the provisions of the new CC on PLCs in comparison to the provisions on PLCs in the former CC, and after evaluation of the practical application of the betterments and its implications, the researcher unveils and concludes that, in comparison, the new CC came up with up to date betterments but there still are deficiencies and gaps. Moreover investors in PLCs are not yet sufficiently using the betterments made on PLC provisions in the new CC. Therefore the researcher recommends organizing awareness creation forums on the betterments on PLC provisions in the new CC and the legislature has to amend the CC to correct the noted deficiencies and to fill the gaps to minimize agency problems and improve protection of minority shareholders and facilitate commerce.*



2.4.1.2.3	The requirement of capital being fully paid and deposited in a bank .....	14
2.4.1.2.4	Valuation of contributions in kind, if any.....	15
2.4.1.3	<b>Incorporation: Separate legal personality and Limited liability .....</b>	<b>16</b>
2.4.1.3.1	Separate legal personality .....	16
2.4.1.3.2	Limited liability .....	17
2.4.2	<b>Shares of PLCs .....</b>	<b>17</b>
2.4.2.1	Form and Types of Shares .....	18
2.4.2.2	Transfer of Shares.....	19
2.4.2.2.1	Transfer of Shares among members .....	19
2.4.2.2.2	Transfer of Shares outside the Company .....	20
2.4.2.2.3	Transfer of Shares through execution.....	21
2.4.2.2.4	Transfer (devolution) of Shares by succession .....	22
2.4.2.2.5	Pledge or Usufruct resulting in transfer of shares .....	23
2.4.3	<b>Governance and Management of PLCs .....</b>	<b>24</b>
2.4.3.1	Shareholders' General Meeting.....	24
2.4.3.2	Board of Directors.....	27
2.4.3.3	Managers .....	28
2.4.3.3.1	Appointment and dismissal of managers.....	28
2.4.3.3.2	Powers of managers .....	29
2.4.3.3.3	Liability of managers.....	30
2.4.3.4	Auditors .....	31
2.4.4	<b>Dissolution, Liquidation and Winding-up.....</b>	<b>32</b>
<b>CHAPTER THREE: ANY BETTERMENT IN THE FORMATION OF PLCs?35</b>		
3.1	Instrument of formation.....	35
3.2	Requirement of minimum number of members .....	40
3.3	Payment and deposit of Capital.....	40
3.4	Valuation of contribution in kind.....	42
<b>CHAPTER FOUR: ANY BETTERMENT IN GOVERNANCE and</b>		
<b>MANAGENENT OF PLCs? .....</b>		<b>43</b>

<b>4.1 Shareholders' General Meeting .....</b>	<b>43</b>
<b>4.2 Board of Directors .....</b>	<b>44</b>
<b>4.3 Managers .....</b>	<b>45</b>
<b>4.4 Auditors .....</b>	<b>45</b>
<b>CHAPTER FIVE: CONCLUSION and RECOMMENDATIONS .....</b>	<b>47</b>
<b>5.1 Conclusion.....</b>	<b>47</b>
<b>5.2 Recommendations .....</b>	<b>51</b>
<b>Bibliography.....</b>	<b>52</b>

## **CHAPTER ONE: RESEARCH PROPOSAL**

### **1.1 Background of the Study**

At last Books one (Traders & Businesses), two (Business Organizations) & five (Bankruptcy & Schemes of arrangement) of the 1960 CC of Ethiopia<sup>1</sup> are repealed & replaced by the new 2021 CC.<sup>2</sup> The preamble of the new CC stated that many things have changed in the six decades since the promulgation of the former Code on 5 May 1960. Commerce & the flow of capital significantly changed, since 1991 Ethiopia started to pursue market-led economic system, gaps & insufficiencies have surfaced & the Code has proved to be inadequate for the level of economic activity in Ethiopia today.<sup>3</sup>

From among parts of Book Two of the former CC that has undergone changes is the one that relates to PLC. The 1960 CC provisions governing PLC were sketchy & limited only to 34 articles.<sup>4</sup> These articles simply require a statement that the capital is fully paid be shown in the MOA & there is no provision dealing with the manner of ensuring the full payment of initial capital leading to conflicts & litigations as well as leaving creditors of the company without adequate protection. The mandatory requirement of two persons for the formation of a PLC has been acting as a legal hurdle forcing entrepreneurs looking for a straw man to create a PLC. At times such requirement may also lead to dissolution if disagreement arises & when one of them decides to withdraw.<sup>5</sup> PLC provisions impose restriction on share transfer; do not provide sufficient protection for minority shareholders. SHGM is dependent on the number of members, there exists no OGM & EOGM, there is no clarity about quorum, there is no explicit permission or prohibition of BODs, dismissal of managers is the most disputed, appointment of auditors for PLCs consisting of twenty or less than twenty members is optional & liability is unclear in case

---

<sup>1</sup> CC of the Empire of Ethiopia, Negarit Gazeta-Extraordinary Issue No.3, Proc. No.166/1960, year 19, No.3, (Addis Ababa, 1960)

<sup>2</sup> CC of the FDRE, Federal Negarit Gazeta-Extraordinary Issue No.23, Proc. No.1243/2021, Year 27, No. 23, (Addis Ababa, 12<sup>th</sup> April 2021)

<sup>3</sup> Ibid, Preface

<sup>4</sup> CC of 1960 (n 1) Arts 510 - 543

<sup>5</sup> In this regard the FSCCB, in *Sister Meaza Yosef v. Dr Yosef Deneke PLC* case, confirmed the dissolution of a PLC because of the reduction of the number of members below the legal minimum based on Arts 510(2) & 511 of the 1960 CC. FSCCB of Ethiopia, *Cassation Decisions, File No. 50537, 02/09/2003E.C* Vol.12, 529 - 534.

of bankruptcy where the managers & members may show that they have acted with due care & diligence.

In comparison to the vast problems arising in association with PLCs in Ethiopia the 34 meager provisions & only a few cross-references made to SC provisions<sup>6</sup> proved to be insufficient.<sup>7</sup> As a result court practice proves that gaps in PLC provisions have been filled with frequent recourse to SC provisions.<sup>8</sup>

In comparison to the 1960 CC the new 2021 CC on the other hand has incorporated 39 provisions<sup>9</sup> in addition to vast cross-references made to SC provisions as well as other relevant parts of the code.<sup>10</sup> Abolition of AOA as an incorporation document, the increase of par value of a share from 10 to 100 ETB, the recognition of the right of members of a PLC to form a BODs, the recognition of conducting meetings via video conference, the recognition of preemption right for shareholders of a PLC when an offer is made by a non-shareholder, the recognition of the right of a PLC to buy back its own shares, improvement of minority shareholder protections, regulation of group of companies & the introduction of one-person PLC<sup>11</sup> are some of the changes associated with PLC provisions of the new CC.

## **1.2 Statement of the Problem**

Considering the vast problems associated with PLC provisions of the 1960 CC both quantitative & qualitative changes are made in the 2021 CC that are aimed to solve the problems, improve the formation, governance and management of PLCs in Ethiopia. Therefore within the current framework of change amendments & deletions are made, inclusion of new ideas that did not exist as part of the former code are now included in the new CC.

---

<sup>6</sup> The 1960 CC makes express reference to SC provisions as a gap filling mechanism in Art 518 referring to Art 314 with regard to AOA, in Art 520(3) referring to Art 324 with regard to effects of publicity, in Art 538(4) referring to Art 374 with regard to duties of auditors.

<sup>7</sup> Fekadu Petros, *Ethiopian Company Law* (3<sup>rd</sup> edition, 2014 E.C) 270

<sup>8</sup> Ibid

<sup>9</sup> CC of 2021(n 2)Arts 495 – 533

<sup>10</sup> Art 295 in Art 495(3), Art 186 in Art 501, Arts 273-275 in Art 512, Art 296, Arts 297-298, Arts 300-312 and Arts 314-330 in Art 513, Arts 337-339 in Art 515, Arts 343-354 in Art 518, Arts 392-403, Arts 442-446, Arts 448-451, Arts 453-461, Arts 462-470 in Art 527, Arts 425-441 in Art 530, Art 181 in Art 531, Arts 473-491 in Art 533, totally 99 Articles are the cross-references made in the new Code.

<sup>11</sup> The introduction of a one-person PLC into the CC of Ethiopia was recommended in 2008. AACCSA, *Recommendations and Position paper of the Business Community on the revision of the CC of Ethiopia* (July 2008) 20

As the 2021 CC is a new one exploration of the changes on PLC provisions in the new CC in comparison to PLC provisions in the former CC will be vital for identifying betterments, deficiencies & gaps, if any. Moreover evaluation of how much PLCs have used the betterments made in the law and its implications will help to identify practical challenges and the current status of implementation of the law. Such matters are not yet sufficiently done.

Betterments refer to changes and improvements made in the new CC PLC provisions that may contribute to ease of doing business by simplifying the law, minimizing agency problems and improving protection of the interests of shareholders in general and that of minority shareholders in particular, improving protection of creditors of the company, perpetuity of the company, etc It, therefore, requires an article by article comparative and systematic investigation to identify the new, innovative & specific betterments, and to identify deficiencies & gaps in PLC provisions of the new CC. In addition to the inward looking investigation to the provisions an outward looking evaluation of the practical application of the law and its implications is necessary to understand if the betterments in the law are being used.

Thus, the main focus of the thesis will therefore be to explore the changes and identify betterments, deficiencies & gaps in PLC provisions of the new CC and to evaluate the practical application of the betterments made in the law and its implications.

### **1.3 Objectives of the Study**

**1.3.1: General Objective:-**The main objective of the study is:

- To explore the changes and identify betterments, deficiencies & gaps on PLC provisions in the new CC & to evaluate the practical application of the betterments and its implications.

**1.3.2: Specific Objectives:-**

- To explore comparative changes and identify betterments, deficiencies & gaps on PLC provisions in the new CC
- To evaluate the practical application of the betterments in the formation of PLCs and governance and management of PLCs and its implications.

### **1.4 Scope of the study**

The scope of the research is limited to making a comparative exploration and identifying betterments, deficiencies & gaps on PLC provisions of the 2021CC and to evaluate the practical application of the betterments in the law and its implications. To this effect data from MOTRI and DARS are used.

## **1.5 Research Questions**

### **1.5.1 The main questions of the research are:-**

- 1- What are the betterments, deficiencies and gaps on PLC provisions in the new CC?
- 2- What are implications of the betterments made on PLC provisions in the new CC?

### **1.5.2 The Specific questions of the study are:-**

- What are the betterments on PLC provisions in the new CC?
- Are there deficiencies, gaps on PLC provisions in the new CC?
- What are the implications of the betterments made in the law?

## **1.6 Significance**

1. Information on betterments, deficiencies and gaps on PLC provisions as well as on implications of the practical application of the law can provide some insights to policy makers and the legislature to identify points of intervention, to consider insufficiencies and gaps in their endeavor to minimize agency problems, improve protection of minority shareholders and protection of creditors of the company; and to the executive bodies to improve/facilitate the uniform and effective application of the law.
2. The finding of this research will help any interested parties by adding knowledge.
3. It will also be used as a reference / basis for further research undertakings in the area.

## **1.7 The Research Method**

To answer the research questions both doctrinal & non-doctrinal approaches are employed. As to the doctrinal approach primary sources (Codes, Proclamations, Regulations, Directives, etc) and secondary sources (Books, Journal articles, Cassation decisions, Minutes of deliberation, etc) are used as a source of information.

With regard to the non-doctrinal approach primary data is collected through open ended questionnaire and interviews were conducted with the Office Head of DARS and the Head of Licensing Desk 2 of MOTRI who were selected by purposive sampling method. MOAs of 36(thirty six) PLCs entered in the CR are used as secondary sources.

To address the questions raised in the study & meet objectives of the study analysis, synthesis & interpretation of PLC provisions of the new 2021 CC against the former 1960 CC and evaluation of MOA of 36(thirty six) PLCs formed after the promulgation of the 2021 CC are made. The 36 MOAs are selected by Simple Random Sampling (SRS) method from the years 2014E.C, 2015E.C and 2016E.C and 12 MOAs are picked from each year.

Consequently the data collected from primary and secondary sources are presented and interpreted to arrive at reasoning, justifications & logical arguments and to draw inferences. Therefore a qualitative analysis method is used.

### **1.8 Limitations of the Study**

The reluctance of governmental institutions to give information & supply relevant documents was a challenge in the resource & data collection process. Besides shortage of materials on the topic, inaccessibility of minutes of parliamentary debate, non-availability of properly sorted data on PLCs & inaccessibility of court decisions was another limitation to the research. There is shortage of domestic literature on Ethiopian company law in general & on PLC in particular. Especially as the 2021 CC is a new one yet there is no sufficient literature that specifically focuses on PLCs and the practical application of PLC provisions of the new CC. Such limitations may have compromised the quality of the research findings.

### **1.9 Organization of the paper**

This research paper is organized into five chapters. The first chapter deals with the research proposal. Hence it provides background of the study, statement of the problem, objective of the study, research questions, scope of the study, research methodology, limitations and significance of the study. Chapter two makes a comparative analysis of the 2021 and 1960 PLC provisions. Chapter three deals with analyzing how much PLCs have used the betterments made in the law and its implications in connection with formation of PLCs. Likewise Chapter four of the study deals with analyzing how much PLCs have used the betterments made in the law and its implications in connection with governance and management of PLCs. The last chapter, which is chapter five, will draw conclusion and recommendations.

## **CHAPTER TWO: COMPARISON OF PLC PROVISIONS IN THE NEW (2021) and THE FORMER (1960) COMMERCIAL CODES**

### **2.1 Introduction**

This chapter deals with the inward looking aspect of comparative investigation to PLC provisions of the 2021 CC and 1960 CC. More focus is given to scrutinizing and pin pointing betterments and identification of deficiencies & gaps in PLC provisions of the new CC in comparison to the former CC.

### **2.2 The beginning of PLCs in Ethiopia**

The beginning of PLCs in most countries including Ethiopia had its origin in European custom and law.<sup>12</sup> In Ethiopia the establishment of Bank of Abyssinia on 16 February 1906<sup>13</sup> following the signing in 1905 of a 50-years-concession agreement between British owned National Bank of Egypt and Ethiopia heralded the beginning of companies in general.<sup>14</sup> PLCs could be traced back to 1909, when the first Ethiopian private company was formed in the name of Agricultural and Commercial Development Company.<sup>15</sup>

Nevertheless, the first law of business organizations (company law) inspired in its main points by French legislation was enacted later in 1933, with 137 articles.<sup>16</sup> Nearly three decades after the promulgation of the bankruptcy law & company law in 1933<sup>17</sup> there was a need for a new law in response to the economic expansion, development & the increased inflow of foreign investment. This new law, the CC of 1960, created a comprehensive law of business organizations in the country.<sup>18</sup> PLC in its modern form was introduced in Ethiopia in 1960 when the country adopted a comprehensive CC for the first time. The 1960 CC of Ethiopia has recognized six forms of business organizations<sup>19</sup> among which PLC is the most popular & prevalent business form.

---

<sup>12</sup> Fekadu Petros (n 7) 266

<sup>13</sup> Solomon Abay, *Financial Market Development, Policy and Regulation: The International Experience and Ethiopia's Need for Further Reform* (University of Amsterdam, April 2011) 11

<sup>14</sup> Solomon Abay (n 13) 11 citing Bahru Zewde, 2002, at pp. 101-102; and NBE, 2001

<sup>15</sup> Tony Addison and Alemayehu Geda, *Ethiopia's New Financial Sector and Its Regulation*, <<http://www.wider.unu.edu/publication/ethiopias-new-financial-sector-and-its-regulation>> accessed 14 June 2023

<sup>16</sup> Peter Winship, *Background Documents of the Ethiopian Commercial Code of 1960*, (1974) 15

<sup>17</sup> CC of 1960 (n 1) paragraph 3, item number 3 of the preamble refers back to this law.

<sup>18</sup> Getahun Seifu, 'Revisiting Company Law with the advent of Ethiopia Commodity Exchange(ECX): An Overview' (March 2010) (Volume 4, No. 1) (Mizan Law Review) 103

<sup>19</sup> CC of 1960 (n 1) Article 212

### 2.3 Features of PLCs under the 1960 Commercial Code

The specific features of PLCs are not identical throughout the world. There are similarities & differences in formation & management of PLCs between & among countries. Its characteristics such as number of members, minimum amount of share capital, transfer of shares, appointment & dismissal of management, auditing requirements, etc may vary.<sup>20</sup>

For instance the specific features of PLCs in the two leading countries of the continental legal system (code-based) viz Germany & France differ. The equivalent of Ethiopian PLC in French law is *Societe a Responsabilite Limitee* (SARL) & in German law is *Gesellschaft mit beschränkter Haftung* (GmbH). Whereas both individuals & legal entities could be members, the number of members required to form a SARL in France is minimum one & maximum 100 while that of a GmbH in Germany is minimum one & no maximum limit. The duration of a SARL in France is 99 years with the possibility of renewal while no specific duration is provided for a GmbH in Germany. There is no statutory minimum or maximum amount of capital for a SARL while the minimum amount of capital for a GmbH is 25,000 Euro. In both SARL & GmbH restrictions on share transfer such as company's or shareholders' prior approval, preemption rights, etc. are freely set in the by-laws.<sup>21</sup>

The text of the 34 articles of PLCs in the 1960 CC were inspired by the French law of 1925 which was carefully prepared after studying the German & Austrian models.<sup>22</sup> PLC, as per Article 510 of the Code, is a company formed by having not less than two or more than fifty members, who are liable only to the extent of their contributions. Furthermore such company shall not issue transferable securities in any form. PLC is thus a hybrid of SC & partnership. The following are main characteristics of PLCs under the 1960 CC:

- 1- Number of members: A PLC must have a minimum of two (2) members, while the maximum members limit is fifty (50).<sup>23</sup>

---

<sup>20</sup> The various types of corporate legal entities in France and Germany, < <http://zgsavocats.com/en/the-various-types-of-corporate-legal-entities-in-france-and-germany/>> accessed 14 June 2023

<sup>21</sup> The various types of corporate legal entities in France and Germany (n 20) and Comparative table of the legal structure of the main companies <<https://www.frenchbusinessadvice.com/comparative-table-of-the-legal-structures-of-the-main-companies/>> accessed 14 June 2023

<sup>22</sup> Peter Winship (n 16) 69

<sup>23</sup> CC of 1960 (n 1) Art 510(2)

- 2- Capital: A PLC need to have a minimum capital of 15,000 birr<sup>24</sup> and as per article 512(2) the par value of a share cannot be less than ten (10) birr.<sup>25</sup> On the basis of article 512(1) of the Code persons who decide to form a PLC must raise at least 15,000 ETB.
- 3- Prospectus: A PLC shall not issue transferable securities in any form.<sup>26</sup> A PLC is, as inferable from its name, a private company. It, therefore, cannot issue a prospectus to invite the public to subscribe its shares.
- 4- Limitation of liability: The liability of all members of a PLC is limited only to the extent of their contributions.<sup>27</sup> Investors in the PLC are not liable for the debts of the company for more than the amount they contribute. Managers shall be liable individually or jointly & severally, as the case may be, to the company & to third parties for any breach of their duties under the Code and/or the AOA.<sup>28</sup>
- 5- Name: The firm-name of a PLC must have the words 'PLC' after its firm-name.<sup>29</sup>
- 6- Transferability of Shares: Unless otherwise provided in the AOA, there shall be no restriction on the transfer of shares between members.<sup>30</sup> However, transfer of shares outside the company shall be approved by a majority of the members representing at least three-quarters of the capital, unless a larger majority or unanimity is fixed in the AOA.<sup>31</sup>
- 7- Governance and management: A PLC shall be managed by one or more managers.<sup>32</sup> Where there are more than twenty members, decisions shall be taken at meetings of the members & auditors shall be appointed. But where there are twenty or less members the members may not be bound to hold meetings & appoint auditors.<sup>33</sup>

---

<sup>24</sup> Ibid Art 512(1)

<sup>25</sup> It was originally agreed that the minimum par value of a share to be 50 birr. However a change in the minimum par value of a share from 50 to 10 birr appeared on the promulgated text of Article 512. Peter Winship, (n 16) 76 and 188

<sup>26</sup> CC of 1960 (n 1) Art 510(3)

<sup>27</sup> Ibid Art 510(1)

<sup>28</sup> Ibid Art 530

<sup>29</sup> Ibid Art 514(2)

<sup>30</sup> Ibid Art 523(1)

<sup>31</sup> Ibid Art 523(2)

<sup>32</sup> Ibid Art 525 (1)

<sup>33</sup> Ibid Art 525 (2 and 3)

8- Perpetual Life: As opposed to partnerships a PLC enjoys the benefit of perpetual life of companies.<sup>34</sup>

Ever since its promulgation on May 5, 1960 the former CC has been implemented, tested, & experimented. The process had revealed that the Code provisions were lagging behind the development of commerce. Hence there have been a number of efforts made since 1979E.C. (1986/87G.C.) to identify problems, prepare draft revised version & amend the 1960 CC of Ethiopia. Since then research works have been conducted by governmental bodies & other stakeholders & drafts were prepared by the Ministry of Justice as well as by the Justice and Legal System Research Institute.<sup>35</sup>

Finally in 2012E.C. (2019/20G.C.) the Attorney General (now Ministry of Justice) submitted a draft CC with 825 Articles which passed through discussions & debates and finally got approved by the HOPR as Proclamation Number 1243/2021.<sup>36</sup>

At the time of the drafting of the 1960 CC only 34 articles were said to be sufficient to regulate PLCs.<sup>37</sup> However the practical application of the provisions for the last 60 over years revealed that in comparison to 206 SC provisions<sup>38</sup> the 34 provisions governing PLCs<sup>39</sup> were only sketchy, and were not sufficient to properly regulate PLCs and their operations.<sup>40</sup> Moreover in comparison to PLC provisions in other countries the 1960 CC provisions governing PLCs were less in number and were insufficient to address & solve the myriad of problems associated with PLCs.<sup>41</sup> As a result, the insufficiency has been frequently manifesting itself through the court practice of

---

<sup>34</sup> CC of 1960 (n 1) Art 542(3), Fekadu Petros (n 7) 29

<sup>35</sup> Minutes of meeting of Trade and Industry and Legal, Justice and Democracy Standing Committee of HOPR with stakeholders on the draft CC (23/04/2013 E.C) 6

<sup>36</sup> From May 5, 1960 to April 12, 2021 it took over 60 years to amend the CC of Ethiopia. Because of instantly developing and changing trade practices that develop to the status of commercial custom countries are forced to frequently amend and change commercial law and thereby avoid being obsolete. After the promulgation of the 1960 CC until 2006 England had amended its commercial law nine times (1967,1974,1980,1981, 1982, 1985, 1989,2002, and 2006) and France had amended its commercial law seven times (1972, 1985, 2000, 2001, 2003, 2004, and 2005) Fekadu Petros (n 7) 4

<sup>37</sup> Peter Winship (n 16) 69

<sup>38</sup> CC of 1960 (n 1) Article 304 – 509

<sup>39</sup> Ibid Arts 510 – 543

<sup>40</sup> AACCSA, (n 11) 34

<sup>41</sup> Fekadu Petros (n 7) 270

resorting to SC provisions in search of solutions to the problems and to fill the gaps left by the law.<sup>42</sup>

## **2.4. Comparison of PLC provisions: 2021 v 1960**

### **2.4.1. Meaning, Formation and Incorporation of PLCs**

#### **2.4.1.1. Meaning of a PLC**

A PLC, according to Art 495 of the new 2021 CC, is ‘a business organization whose capital is fully paid in advance, divided up into shares & members are not liable for the debts of the company provided that they have paid up their contributions.’<sup>43</sup> The writer feels that the correct formulation ought to have been “A PLC is a business organization whose capital is fixed in advance, divided into shares and whose capital is fully paid before registration. Members are not liable for the debts of the company provided they have fully paid up the par values of their shares.”

On the other hand a PLC, per Art 510 of the 1960 CC, was defined as ‘a company whose members are liable only to the extent of their contributions.’<sup>44</sup> A comparative scrutiny of the elements of the two definitions do show that the new 2021 CC has made much more clarified changes & betterments on the definition of a PLC. We will hereunder consider the elements in the definition article one by one.

#### **2.4.1.1.1. The requirement of capital being fixed in advance, divided into shares and to be fully paid before registration.**

Capital<sup>45</sup> is crucial in the formation of companies with limited liability, and is deemed to be a general security for the payment of debts of the company. A close look at & comparison of the provisions of Art 510(1) of the former and Art 495 of the new Code shows that the new CC has incorporated the idea of fixing the capital in advance, divide the pre-fixed capital into shares and the capital is fully paid in the definition part of a PLC. The capital is not only fully paid but also must be paid in advance presumably, before the registration of the company. The cumulative

---

<sup>42</sup> Such an approach may not always be correct. In case an issue may not be covered by PLC provisions from Arts 510 to 543 of the Code priority ought to have been given to the MOA and AOA, then, based on the circumstances of the case, to share company provisions and partnership provisions. This is because PLC is a hybrid of both SC and partnership. Fekadu Petros (n 7) 270

<sup>43</sup> CC of 2021(n 2) Art 495

<sup>44</sup> CC of 1960 (n 1) Art 510(1)

<sup>45</sup> Capital is defined as the original value of the elements put at the disposal of the undertaking by the owner or partners by way of contributions in cash or in kind under Art 80(1) of the 1960 CC. However this important definition is missed in the new 2021 CC. Fekadu Petros (n 7) 278

reading of Art 495 and 499 implies that a PLC may be formed only after its capital is fully paid in advance and the par value of shares which are sold in cash are deposited in a bank account opened in the name of the company under formation before the registration of such company.

The former Code simply required inclusion of a statement in the MOA indicating that the capital is fully paid.<sup>46</sup> In consequence the issue of full payment of capital contributions before the formation of a PLC has been one of the sources of serious feud & litigation among members of PLCs in Ethiopia.<sup>47</sup> Thus, it can be asserted that with the intention of addressing the problem the new definition included a safety valve to assure the full payment of capital in advance & avoid the inclusion of false statements in the MOA, & above all to offer sufficient protection to third party creditors who transact with PLCs.

#### **2.4.1.1.2. Capital fixed in advance and divided into shares**

Under the 1960 CC both Art 510(1) which defines a PLC & Art 512 which deals with the capital of a PLC did not directly & expressly provide for the idea of the capital of a PLC being fixed in advance and divided into shares. It should be noted that it would be impossible to imagine the capital of a PLC being divided into shares unless the capital is fixed in advance. Although the idea that has now cropped up in the new Code was not clearly dealt with in the former Code, nevertheless, the provision in the former Code that the par value of a share should not to be less than 10 ETB<sup>48</sup> implies that the idea of dividing the capital of the company into shares was there.

As opposed to the former the new definition of a PLC in Art 495 of the 2021 CC expressly incorporated the phrase “divided into shares”. A share refers to a portion of capital of the company contributed by a person.<sup>49</sup> The share is the interest of the shareholder in the company measured by a sum of money, for the purpose of liability in the first place, & of interest in the second.<sup>50</sup>

Comparatively the new Code came up with the explicit determination that the shares of PLCs shall have par value<sup>51</sup> and also increased the minimum par value of a share from 10 to 100 ETB.<sup>52</sup>

---

<sup>46</sup> CC of 1960 (n 1) Arts 516 and 517(g)

<sup>47</sup> FSCCB of Ethiopia, *Cassation Decisions*, File No. 151590, 30/11/2010E.C (unpublished) ;

<sup>48</sup> CC of 1960 (n 1) Art 512(2)

<sup>49</sup> Susan McLaughlin, *Unlocking Company Law* (2<sup>nd</sup> Edition, 2013) 157

<sup>50</sup> Nicholas Bourne, *Principles of Company Law* (3<sup>rd</sup> edition, 1998) 81

<sup>51</sup> CC of 2021(n 2) Art 496(2), 499(2), 526(1), Fekadu Petros (n 7) 288

<sup>52</sup> Ibid Art 496(2)

In both Codes it is provided that a PLC may not have less than two (2) or more than fifty (50) members & the capital of a PLC may not be less than fifteen thousand (15,000) ETB.<sup>53</sup>

#### **2.4.1.1.3. Liability of members**

As per Art 510(1) of the 1960 CC members of a PLC are liable only to the extent of their contributions. Art 495(1) of the 2021 CC has reiterated the principle & made it clear that members are not liable for the debts & liabilities of the company provided that they have paid up their contributions. The caveat “provided they have paid up their contributions” doesn’t seem to be necessary in the face of the requirement set by the new Code that the capital has to be fully paid before incorporation and would have only been necessary if the par value of shares were to be fully paid over a fixed period of time after incorporation and only an initial amount having been paid pre-incorporation.

By way of exception, as per Art 495(3) of the new Code, a member with a decisive vote shall be jointly & severally liable with the company for the debts and liabilities of the company pursuant to Art 295 of the Code even if the member has fully paid his contributions. However, the phrase “a member with a decisive vote” is not defined and hence what it means is not clear. The simplest meaning the phrase could be given may be that the concerned member owns more than half of the shares of the company.

In contrast to the 1960, the 2021 CC, has, therefore, created an exception and imposed on a shareholder with a decisive vote to be jointly & severally liable with the company where he is found to have committed an unlawful act that jeopardizes the interests of the company, shareholders or creditors of the company.<sup>54</sup>

---

<sup>53</sup> CC of 1960 (n 1) Art 510(2), Art 512(1) and CC of 2021(n 2) Art 495(4), 496(1)

<sup>54</sup> Any shareholder with a decisive vote shall be jointly and severally liable with the company where he is found to have committed one of the following: (1) intentionally commits an unlawful act that jeopardizes the interests of the company, shareholders or creditors of the company; (2) intermingles the property of the company with that of the shareholder; (3) blurs the distinction between the identity of the company and that of the shareholder or uses the company as a façade to pursue his own interests and goals or those of third parties (4) deliberately releases, regarding the financial status of the company, information that can mislead the creditors of the company; (5) makes use of the assets of the company for himself or the benefit of a third party without making an arm’s length payment or without the knowledge or decision of an appropriate management body and (6) causes the payment of dividends in excess of that permitted under the law. CC of 2021(n 2) Art 295

## **2.4.1.2. Formation of PLCs**

### **2.4.1.2.1. Instrument of formation**

Under the 1960 Code a PLC is formed by a contract called MOA & according to Art 314 the AOA which governs the operation of the company shall be drawn up by the founders & such AOA shall be deemed to form part of the MOA & shall be attached thereto.<sup>55</sup>

Also according to Art 500 of the 2021 CC a business organization is formed through a MOA. The Code has repealed AOA as an instrument to be attached to the MOA implying that the only formation instrument would be MOA.<sup>56</sup> Of course as it is practically possible to include detailed issues into the MOA, having a single instrument than two instruments that may contain redundant and contradictory provisions may be considered as a betterment in the new Code compared to the former.

### **2.4.1.2.2. Requirement of minimum number of members**

Both Art 510 (2) of the 1960 CC & Art 495(4) of the 2021 CC require a minimum of two & a maximum of fifty members. Thus no change is made in this regard. However, the Codes completely differ in the effects of the reduction of members below the legal minimum. The position of the 1960 CC is so rigorous that reduction below the legal minimum may entail dissolution of a PLC unless the company makes necessary arrangements to comply with the legal requirements within reasonable time though what is meant by ‘reasonable time’ is not clearly defined.<sup>57</sup>

The 2021 CC rather focuses on perpetuity of PLCs. According to Art 498(1) of the new Code where the number of members of a PLC is reduced below two & a new person does not join such company as a member within six months, the PLC shall be dissolved. The law, however, paving the way for perpetuity of a PLC clearly stipulates that the company whose members are reduced below two may be registered as a-one-person PLC within six months.<sup>58</sup>

---

<sup>55</sup> CC of 1960 (n 1) Arts 516,517 and 518

<sup>56</sup> The existence of AOA could help to include detailed issues that are not expressly or sufficiently provided under the law. For instance issues of loan granted by members, whether members or managers could enter into contracts with the PLC, whether members have withdrawal right, if a non-member can be a board member or not. Fekadu Petros (n 7) 286

<sup>57</sup> CC of 1960 (n 1) Art 511

<sup>58</sup> CC of 2021 (n 2) Art 498(2)

Considering the practical problem associated with the ‘two member’ requirement the new Code came up with a new ingenious idea of PLC which could be formed by one person. A-one-person PLC is a business organization incorporated by the unilateral declaration of a single person.<sup>59</sup>

#### **2.4.1.2.3. The requirement of capital being fully paid and deposited in a bank**

The founders<sup>60</sup> of PLCs are not legally allowed to make IPOs.<sup>61</sup> According to Art 510(3) of the 1960 CC a PLC is prohibited from issuing transferable securities in any form.<sup>62</sup> Likewise under Art 495(5) of the 2021 CC a PLC may not issue transferable securities. This does not apply to the shares the companies themselves issue as company stocks or shares also fall in the category of “transferable securities”. The prohibition seems to relate to the issuance of debentures which are also treated as transferable securities under the law applying to negotiable instruments.<sup>63</sup> Shares of the PLCs are not made open for public subscription.<sup>64</sup> Thus a PLC does not attract & collect huge amount of capital as there is no public subscription for its formation. The capital of a PLC will, therefore, be restricted to the contributions made by its members.<sup>65</sup>

As per Art 516 of the 1960 CC, a PLC could be formed when the MOA setting up the company is signed by all the members & authenticated. With regard to payment of contributions members of PLCs are expected to pay their contributions fully and a statement that the capital is fully paid is

---

<sup>59</sup> Ibid Art 534(1)

<sup>60</sup> CC of 1960 (n 1) Art 316

<sup>61</sup> Tikikil Kumlachew, ‘Regulation of IPO of Shares in Ethiopia: Critical Issues and Challenges.’ (August 2011) (Vol. 4) (Ethiopian Business Law Series) 3

<sup>62</sup> There has been a discrepancy between the English & Amharic versions of Art 510(3) of the 1960 Code. Whereas the English version of Art 510(3) provides as “The Company shall not issue transferable securities in any form.” the Amharic version provides as “ማሕበሩ በማናቸውም ፎርም ቢሆን ሚተላለፉ የንግድ ወረቀቶችን (ሰነዶች) ማውጣት አይችልም”. The English version is talking about transferable securities such as shares / stocks, bond, debenture; the Amharic version on the other hand is talking about Commercial instruments (ሚተላለፉ የንግድ ወረቀቶች) such as Bills of exchange, promissory notes, checks, travelers’ checks and warehouse goods deposit certificates. Such contradictions between the English & Amharic versions of the former code are now rectified & reconciled in Art 495 (5) of the new CC referring only to transferable securities (የሚተላለፉ የግዴታ ወረቀቶች).

<sup>63</sup> CC of 1960 (n 1) Art 715

<sup>64</sup> CC of 2021(n 2) Art 495(2)

<sup>65</sup> Although the capital of a PLC is the contributions made by its members the working capital of the PLC may be greater than its actually collected capital. In practice PLCs may allot budgets above their capital and take loans to subsidize the difference. Fekadu Petros (n 7) 312

to be shown in the MOA pursuant to Art 517(g) of the 1960 Code. However, there was no provision dealing with the manner of ensuring the full payment of capital.

According to Art 499 of the 2021 CC, however, a PLC is instituted only when its capital is fully paid & the MOA is entered in the CR and the par value of shares which are sold in cash are deposited in a bank account opened in the name of the company under formation before the registration of such company in the CR. The new Code, therefore, has come up with a betterment which addresses the problem of full payment of initial capital contributions & thereby guaranteed the security for third party creditors.

#### **2.4.1.2.4. Valuation of contributions in kind, if any**

In the 1960 CC in cash and in kind capital contributions were acceptable for the establishment of a PLC.<sup>66</sup> The 2021 CC, on the other hand, allows all contributions enumerated under Art 186 of the Code as acceptable for the establishment of PLCs with the exception of skill contribution.<sup>67</sup> Thus according to Art 186 of the new Code a contribution in the form of money, movable or immovable property, trademark, good will, patent, lease right, usufruct or other contributions are permissible. This shows that under the new Code more options are made available to potential investors to contribute and involve in PLCs.

However, before a PLC may issue shares in exchange for contribution in kind it must obtain the valuation of the contribution in kind.<sup>68</sup> Unfortunately, without the help of an expert valuation report<sup>69</sup> it may not be easy for the members to make valuation of assets in general & of incorporeal properties in particular. The inclusion of contribution of incorporeal properties without a sound valuation method presents a challenge due to its difficulty in valuation.

As regards contribution in kind Art 502 sub Arts 1, 2 & 4 of the 2021 CC are verbatim copies of Art 519 sub Arts 1, 2 & 4 of the 1960 CC. Where there is contribution in kind the nature & the valuation of contribution in kind, the price accepted by the other members & the number of shares allocated to the member in return for the contribution has to be shown in the MOA.<sup>70</sup> The law has left the method of valuation to be determined by the members that may be held jointly & severally liable to third parties for the accuracy of the valuation. Where it is shown that a contribution in

---

<sup>66</sup> CC of 1960 (n 1) Art 80 cum Art 510(1)

<sup>67</sup> CC of 2021(n 2) Art 501

<sup>68</sup> Ibid Art 502

<sup>69</sup> Ibid Art 257(1)

<sup>70</sup> CC of 1960 (n 1) Art 519(1) and CC of 2021 (n 2) Art 502(1)

kind has been overvalued; the contributing member shall pay the difference in cash. All members shall be jointly & severally liable for the payment of the difference irrespective of the fact that they were unaware of the overvaluation.<sup>71</sup>

Where it is shown that a contribution in kind has been overvalued & the contributing member did not pay the difference the principle applied as per Art 315(4) of 1960 Code and Art 257(6) of the new Code is reduction of the capital of the company accordingly. However Art 502 (4) of the new Code did not consider the idea of reduction of the share of the contributor and the simultaneous reduction of the capital of the company which is very crucial in maintenance of capital of the company.

The biggest betterment made in the new Code which was absent in the former Code is that Art 502 (5) which provides that the manager & the members of the BODs, if any, shall ensure, where appropriate, the registration of contributions in kind & issuance of a title deed in the name of the company.

### **2.4.1.3. Incorporation: separate legal personality and limited liability**

#### **2.4.1.3.1 Separate legal personality**

Art 520 and the cross-referred Arts 219 - 224 and 324 of the 1960 CC make it clear that a PLC would acquire legal personality through deposit of documents, registration in the CR & publication in the Official Commercial Gazette. However the publication requirement has never been consistently applied in practice & has been frequently changing in law.

In recognition of the problem the CRBLP (Amendment) Number 376/2003 had abolished the publication requirement as a prerequisite for the acquisition of legal personality.<sup>72</sup> The issuance of Proclamation Number 376/2003 brought about a total policy shift & dispensed with the requirement of publication. The successor Proclamation Number 686/2010 also followed suit.<sup>73</sup> Nevertheless, Proclamation Number 980/2016 once again reverted back to the requirement of publicity during pre-2003.<sup>74</sup> The 2021 CC finally settled & put an end to the publication

---

<sup>71</sup> Fekadu Petros (n 7) 311 and Michael P. Porte, 'Unlimited and Limited Liability in the Commercial Code of Ethiopia' (1998), (Volume 4) ILSA Journal of international and comparative Law, 1100

<sup>72</sup> CRBLP(Amendment), Number 376/2003, Federal Negarit Gazeta, Year 10, No. 9, (Addis Ababa, 13<sup>th</sup> November 2003) Article 8

<sup>73</sup> CRBLP, Proc No. 686/2010, Federal Negarit Gazeta, Year 16, No. 42, (Addis Ababa, 24<sup>th</sup> July 2010), Article 9

<sup>74</sup> Article 7(2) of the Proclamation provides that business organizations shall be publicized on a newspaper having nationwide circulation at the time of their establishment. Although it does not provide for the consequences of

requirement. Thus under the 2021 CC a PLC acquires legal personality up on deposit of the MOA & registration in the CR.<sup>75</sup>

#### **2.4.1.3.2 Limited liability**

Pursuant to Art 510(1) of the 1960 CC the liability of members of a PLC is limited to the extent of their contributions. Similarly, and without losing sight of the provisions of sub-article 3, Art 495(1) of the 2021CC also provides that members are not liable for the debts & liabilities of the company provided that they have fully paid up their contributions. If that amount has been paid to the company, a shareholder is under no further obligation to contribute.<sup>76</sup> The language used by Art. 495(1) of the 2021 CC, however, is not compatible with the idea of shares. Accordingly, the last limb of Art 495(1) needs to be amended to read: "...they have fully paid the par values of their shares."

However, it is important to note that the limited liability of the members is not absolute and not without its exceptions. When the members abuse the corporate privilege the veil of incorporation may be lifted & unlimited liability may result from overvaluation of contribution in kind and/or from bankruptcy of a PLC.<sup>77</sup> Unlike the 1960 Code the new Code also included an exception to the limited liability privilege and a member with a decisive vote shall be jointly & severally liable with the company for the debts & liabilities of the company provided the criteria set in Art 295 of the Code are fulfilled.<sup>78</sup>

#### **2.4.2 Shares of PLCs**

A share refers to a portion of the capital of a company contributed by a person, the bundle of rights & duties, which make up the membership interest in the company.<sup>79</sup> Under PLC provisions of the 1960 CC there were only four (4) provisions that were aimed to deal with shares.<sup>80</sup> By contrast under the 2021 CC there are ten (10) provisions<sup>81</sup> in addition to Art 512 which makes

---

non-publication it proves the revival of the former publication requirement. CRBLP, Proc No.980/2016, Federal Negarit Gazeta, Year 22, No. 101, (Addis Ababa, 5<sup>th</sup> August 2016)

<sup>75</sup> CC of 2021 (n 2) Art 175 and 499

<sup>76</sup> Susan McLaughlin (49) 69

<sup>77</sup> CC of 1960 (n 1) Art 519(4) & 531(1)) and CC of 2021 (n 2) Art 502(4) & 516(2)

<sup>78</sup> CC of 2021 (n 2) Art 495(3) and Art 295

<sup>79</sup> Susan McLaughlin (n 49) 157, Nicholas Bourne (50) 81

<sup>80</sup> CC of 1960 (n 1) Arts 521-524

<sup>81</sup> CC of 2021(n 2) Arts 503-512

cross-references to Art 273-275 of SC provisions.<sup>82</sup> We shall below see the betterments of the new provisions compared to the former ones.

#### **2.4.2.1. Form and Types of Shares**

Two forms of shares were recognized by the 1960 CC. They are either registered in the name of the shareholder or to bearer.<sup>83</sup> The only basic difference between registered & bearer shares is in the way they are transferred.<sup>84</sup> Nevertheless, PLC provisions of the 1960 CC neither mentioned provisions pertaining to their transfer nor made cross-references to SC provisions that pertain to forms of shares and their transfer.

Although the law provides for registered & bearer forms of shares in practice there has never been bearer form of share in Ethiopia. In this regard Fekadu Petros argues that ‘although both registered & bearer forms of shares are permissible by the law SCs in Ethiopia have made it a practice to issue only registered shares.’<sup>85</sup> On the other hand, after recognizing that bearer shares are not common in Ethiopia Jetu Edosa claims the reason for non-issuance of bearer shares is based on the prohibition made under Art 10(4) of the Banking Business Proclamation number 592/2008.<sup>86</sup> Now the new 2021 CC in Art 267 expressly did away with bearer shares and declared their extinction from the Ethiopian Companies.

Art 521(1) of the 1960 CC dealt with SR. It provided that all shares in PLCs have to be entered in a register consisting of the names of the members, the value of all contributions made, all transfers of shares and all amendments to these particulars. Otherwise it did not contain a provision expressly dealing with forms or types of shares. Moreover there is also no provision dealing with the issue of share certificate. Rather, and awkwardly, Art 510(3) of the 1960 Code puts an express prohibition on PLCs not to issue any form of shares, registered or bearer.

In contrast the 2021 CC has made a fundamental change and included a new provision in this regard. In Art 503 with the title ‘Form of shares’ it is provided that the company may issue only

---

<sup>82</sup> Art 273 deals with Contents of a share certificate, Art 274 with Register of shareholders and Art 275 with Purchase by the company of its own shares.

<sup>83</sup> CC of 1960 (n 1) Art 325(1)

<sup>84</sup> Ibid Arts 340(1) and 721(1)

<sup>85</sup> Fekadu Petros, *Ethiopian Company Law* (2<sup>nd</sup> edition, 2008 E.C) 118

<sup>86</sup> Jetu Edosa Chewaka, Legal Aspects of Stock Market Development in Ethiopia: Comments on Challenges and Prospects (December 2014) (Vol. 8, No. 2) (Mizan Law Review) 449, Banking Business Proclamation No 592/2008, Federal Negarit Gazeta, Year 14, No. 57, Addis Ababa, 25<sup>th</sup> August 2008. Article 10(4) provides “Any transfer of shares that is not recorded in the register of share shall be null and void.”

shares registered in the name of the members. A new provision dealing with a share certificate & what its contents should be is also included under Art 506 of the new Code. The head office of the company, as per Art 507, is entrusted to keep a SR which must contain legally required particulars either in paper format or electronic form.

The Codes, both the former and the new, have a very strong position in strictly keeping a SR. Art 521(3) of the 1960 CC and 507(5) of the 2021 CC similarly provide that the directors, if any or the managers of the company shall be jointly and severally liable for any loss occasioned due to inaccuracy in the keeping of the SR or the lists.

The different types of shares provided in both the 1960 and the 2021 CCs are ordinary shares, preference shares and dividend shares.<sup>87</sup> Unlike the 1960 Code the 2021 CC in Art 278(1) provides that the MOA or an amendment thereto may provide for the setting-up of classes of shares with different rights.

Since PLCs, as per Art 510(3) of the 1960 Code, were prohibited from issuing of transferable securities in general they did not issue any types of shares. Now PLCs are legally allowed to issue registered form of shares proved by a share certificate & the registered shares to be issued pursuant to Art 503 will therefore be ordinary shares.

## **2.4.2.2. Transfer of shares**

### **2.4.2.2.1. Transfer of shares among members**

Basically both Art 523 (1) of the 1960 CC and Art 508(2) of the 2021 CC do agree that there is no restriction on the transfer of shares among members. However members may put restriction in the MOA prohibiting transfer of shares even among members. Such restrictions are usually imposed to keep the voting balance between members.<sup>88</sup>

Unlike the former Code the new Code has included further procedural betterments as to how a member disposes of his share.<sup>89</sup> The law imposes an obligation on a member to give an opportunity to other members to purchase such share by revealing to them the price offered to him. He should give the Right of First Refusal (ROFR) to the other members to purchase the share at the price offered to him & under the same condition prior to disposing of his share to a person outside the company.<sup>90</sup> Once the offeror-member has given the opportunity to the other

---

<sup>87</sup> CC of 1960 (n 1) Art 345, 336, 337 and CC of 2021 (n 2) Art 279, 280, 273(5)

<sup>88</sup> Fekadu Petros (n 7) 297

<sup>89</sup> CC of 2021(n 2) Arts 508(3) and 508(4)

<sup>90</sup> Ibid Art 508(3)

members inside the company & where the offeree-members has failed to accept the offer within fifteen (15) days from the receipt by the manager of the PLC of the notice of the offer the offeror-member appears to be liberated & may accept the offer made to him by a person outside the company.<sup>91</sup> However the law immediately puts a lock-up provision in the subsequent article by providing that a transfer of shares outside the company shall be approved by members representing at least three-quarters (75%) of the capital, unless a larger majority or unanimity is fixed in the MOA.<sup>92</sup>

In contrast to the former the new Code has made more ingenious changes. The law came up with a betterment which allows a member to officially make efforts & deal on the price of his shares in an attempt to convert shares into cash & withdraw. Once a member knew the market price & raised his bargaining power the law compels the member to give an opportunity (ROFR) to other members to purchase such share by revealing to them the price offered to him. Thus there is a balancing effort between the right to transfer shares by sale for a better price & the preemption right of members inside the company. However, it still lacks more options such as redeeming the price of the share from reserve funds or the capital through reduction of the capital of the PLC.<sup>93</sup>

#### **2.4.2.2.2. Transfer of shares outside the Company**

In both the 1960 & 2021 CCs PLCs' shares are transferable outside the company on condition of approval by members representing at least 75% of the capital unless a larger majority or unanimity is fixed in the MOA.<sup>94</sup> Even where the company is in liquidation such approval shall apply.<sup>95</sup> Whereas the 1960 CC mandatorily required the approval to be entered in the CR<sup>96</sup> such requirement of entering in the CR is not included in Art 509 of the 2021 CC. Hence it is repealed. Rather Art 508(1) of the 2021 Code requires transfer of shares to be made in writing and entered in the SR to have effect in relation to third parties.

The condition of approval is so rigorous that, as per Art 508(4), even if the offeror-member may intend to accept the offer made to him by a third person outside the company, he/she as per Art 509(1) must still get approval by members representing at least 75% of the capital to transfer the shares outside of the PLC. A clear betterment is that the offeror-member, after exhaustion of the

---

<sup>91</sup> Ibid Art 508(4)

<sup>92</sup> Ibid Art 509

<sup>93</sup> Fekadu Petros (n 7) 298

<sup>94</sup> CC of 1960 (n 1) Art 523(2) and CC of 2021(n 2) Art 509(1)

<sup>95</sup> Ibid Art 523(4) and Ibid Art 509(2)

<sup>96</sup> Ibid Art 523(3)

Right of First Refusal (ROFR), may be allowed to sell his share to a person outside of the company and leave. However in a situation where the other members (non-selling shareholders) neither purchase the shares nor give approval for a person outside of the PLC to be a member the law leaves the offeror-member (the selling shareholder) without a remedy. Such a stalemate may be a source of dispute and litigation.

#### **2.4.2.2.3. Transfer of shares through execution**

Just like any property PLC shares may be pledged to secure debt or attached for the execution of judgments. Transfer of share through execution under Art 510 of the 2021 CC basically refers to a judgment creditor person who is outside the company. The former code Art 523(5) provides that where execution is levied on a member's share, the purchaser shall obtain the consent of the other members. The provision was not clear as to what the fate of the purchaser would be if he cannot obtain the consent of the other members.

The 2021 CC Art 510, however, came up with an elaborate procedural solution. Hence where execution is levied on a member`s share in favor of a person who is outside the company, such person, to become a member, shall obtain the approval by members representing at least 75% of the capital. But where members representing 75% of the capital have failed to agree to admit the person who bought the share of the member against whom execution had been levied, such share shall be transferred to any interested member of the company. In the absence of a member interested in purchasing the share, the company shall pay the price of the shares to the judgment creditor.<sup>97</sup>

Therefore, where the company purchases the share the payment shall be effected from reserve funds which may be distributed. Where the share cannot be purchased owing to lack of reserve funds the purchase shall be effected from the capital. The capital shall be reduced accordingly & simultaneously the shareholders shall be jointly & severally liable, to the extent of the reduction in capital, to persons who concluded contracts with the company prior to such reduction.<sup>98</sup>

In comparison to the 1960 CC the 2021 Code provision has brought about a detailed betterment & solution to the problem of transfer of shares through execution. Where the company purchases the share, in addition to allowing payment to the judgment creditor the law in Art 510(4) has also made protection of the capital by reduction & protection to creditors of the company who

---

<sup>97</sup> CC of 2021(n 2) Art 510(2)

<sup>98</sup> Ibid Art 510(4)

concluded contracts with the company prior to the reduction by imposing joint and several liability on the shareholders.

#### **2.4.2.2.4. Transfer (devolution) of shares by succession**

Now the issue is whether the membership of the deceased member is transferable to his heirs or not.<sup>99</sup> Article 511(1) of the 2021 CC provides that unless otherwise provided in the MOA, the shares of a deceased member shall devolve upon his heirs. Art 511(1) of the new Code is a verbatim copy of Art 524(1) of the 1960 CC. However Art 524(2) of the former Code which deals with the right of a member to leave his shares to the heir he wishes is left out & not mentioned under Art 511 of the new Code.

A close examination of the Amharic version of Art 511(1) of the 2021 Code and Art 524(1) of the 1960 Code reveal a difference on the issue of an heir becoming a member. Whereas Art 524(1) of the 1960 Code provides ‘በማሕበሩ የመተዳደሪያ ደንብ የተነገሩ ተቃራኒ የሆኑ ድንጋጌዎች ከሌሉ በቀር የአንድ ማሕበረተኛ ወራሾች ለሚቹ አክሲዮኖች በደንብ ወራሾች ይሆናሉ’ ሲል Art 511(1) of the 2021 Code provides ‘በማሕበሩ መመስረቻ ጽሁፍ ተቃራኒ ድንጋጌ ከሌለ በስተቀር አንድ ባለአክሲዮን ሲሞት ወራሾቹ ባለአክሲዮን የመሆን መብት ይኖራቸዋል’ በማለት ይደነግጋል። Both provisions allow otherwise agreement in the MOA preventing membership of the heirs. However as opposed to the vague Amharic version of Art 524(1) of the 1960 Code the Amharic version of Art 511(1) of the 2021 Code expressly stipulates that the heirs shall have the right to be members and even the other members cannot prevent it. Thus, whether to proceed as members or not would be a choice left to the heirs.<sup>100</sup>

The more visible inclusion and betterment with regard to devolution of share by way of succession is Art 511(2) of the 2021 Code. Where the heirs are not willing to be members, the law allows them the right to get paid on the basis of the final balance sheet from the reserve fund to the extent of the deceased's shares representing the assets of the company. However where there is no sufficient reserve fund that may be distributed between the members, the right to get paid may not apply.<sup>101</sup> Thus the heirs are compelled to be members of the company against their will and the other members also do not have the right to prevent the membership of the heirs. At this point the law disregards that the personal element (*jus fraternitatis*) in PLC membership is

---

<sup>99</sup> Fekadu Petros (n 7) 298

<sup>100</sup> Ibid 299

<sup>101</sup> CC of 2021(n 2) Art 511(3)

very crucial. Furthermore when the stance of the legislature under 510 (3 and 4) of the new Code for judgment creditors is compared to its stance under 511 (3) of the new Code for heirs, it has given more weight to the protection of the right of judgment creditors than the heirs.<sup>102</sup>

#### **2.4.2.2.5. Pledge or usufruct resulting in transfer of shares**

The 1960 CC PLC provisions did not provide for pledging of shares or giving in usufruct. Hence it did not provide for the relevant rights of voting at meetings, preferential right of subscription, and liability for calls on shares. It did not either make cross-reference to Art 329 of SC provision of the Code.

In contrast the 2021 CC came up with a new addition to PLC provisions in Art 505 which deals with shares pledged or given in usufruct. As per Art 505 where a share is pledged or given in usufruct, the right to vote at meetings shall, unless otherwise agreed, be exercised only by the pledger or the person who gave it in usufruct. The provision focuses only on the right to vote at meetings. Art 505 does not sufficiently provide for the effects of pledging of shares or giving in usufruct.<sup>103</sup> There is a gap with regard to preferential right of subscription and liability for calls on shares.

The 2021 CC is silent on the right to collect interest and profit on shares pledged.<sup>104</sup> However Civil Code Art 2868(1) provides that the pledgee shall collect the interest on the claim pledged with him and all other periodical payments due from the debtor under his claim. The pledgee does not collect the interest & the profit for free. Rather he shall apply the proceeds successively to the expenses he incurred, to the interest due and to the capital of the debt guaranteed.<sup>105</sup>

In relation to transfer of PLC shares in general, the law has provided for a formal requirement. Thus any transfer of shares whether it is inside or outside of the PLC shall be made in writing and must be entered in the SR to have effect in relation to third parties.<sup>106</sup> Art 508(1) of the 2021 Code does not require the contract of transfer of shares to be made before the notary. However since transfer of shares result in amendments of MOA<sup>107</sup> the contract of transfer of shares should

---

<sup>102</sup> Fekadu Petros (n 7) 299

<sup>103</sup> Ibid 301

<sup>104</sup> Fekadu Petros (n 7) 301

<sup>105</sup> Civil Code of the Empire of Ethiopia, Negarit Gazeta-Extraordinary Issue, Proc. No.165/1960, Year 19, No.2, (Addis Ababa, 5<sup>th</sup> May 1960) Art 2868(2), see also Fekadu Petros (n 7) 115 and 301

<sup>106</sup> CC of 2021(n 2) Art 508(1)

<sup>107</sup> Fekadu Petros (n 7) 294

be made before the notary and entered in the CR<sup>108</sup> to have effect in relation to third parties. Thus Art 508(1) appears to contradict with Art 9(1)(C) of Proclamation number 922/2015,<sup>109</sup> and Art 526(4) of the 2021 Code which requires amendments to the MOA to be entered in the CR. In this regard the binding interpretation of Article 522 and Art 523(3) of the 1960 Code by the FSCCB reveals that for a transfer of share to have effect in relation to third parties it must be entered in the CR.<sup>110</sup>

## **2.4.3 Governance and Management of PLCs**

### **2.4.3.1. Shareholders' General Meeting**

Shareholders are the real company owners because they invest their money. Shareholders indirectly control the company by appointing the BODs as their representatives to supervise the company in their best interest. They are bearers of risk and hence clutch to the ultimate right to decide. Therefore the SHGM is the supreme decision making body of any company.

As it is stipulated under Arts 525(2) and 532(1) of the 1960 CC SHGM is required to be held in person only when the number of shareholders is more than twenty(>20). However it was not clear whether such meetings were classified as OGM or EOGMs. As provided in Art 525(3) where the number of shareholders is twenty or less than twenty SHGM may not be held in person. Rather according to Art 533 of the 1960 CC managers are authorized to send to each member the text of resolutions or decisions to be taken & ask for the members' written vote thereon. Under the former code therefore SHGM was based on the number of shareholders and dominated by the manager. Hence SHGM was not a key actor of corporate governance.

The authorities empowered to call meetings in the 1960 CC are the manager or, in his absence, the auditors, if any, and in their absence by members representing more than one-half (>50%) of the capital.<sup>111</sup> As regards quorum & majority, although Art 535 of the 1960 CC has the title 'Majority and Quorum' it deals only with majority & does not talk about quorum.<sup>112</sup> Thus,

---

<sup>108</sup> The law provides that the Commercial Register shall be open and accessible to the public and third parties are entitled to look into the register. CRBLP Number 980/2016(n 24) Art 7(3) and CC of 2021(n 2) Art 72(2)

<sup>109</sup> Art 9(1)(C) provides that MOA and AOA of business organizations and other associations, and amendments thereof shall not have legal effect unless they are authenticated and registered in accordance with the Proclamation. Authentication and Registration of Documents' Proclamation, Proc. No. 922/2015, Federal Negarit Gazeta, Year 22, No. 39, (Addis Ababa, 15<sup>th</sup> February 2016)

<sup>110</sup> FSCCB of Ethiopia, *Cassation Decisions, File No. 103472, 27/01/2008E.C* Vol.24, 238 - 243.

<sup>111</sup> CC of 1960 (n 1) Art 532/2)

<sup>112</sup> Fekadu Petros (n 85) 309

decisions both at general meetings of members more than twenty and twenty or less than twenty were taken by a majority of members representing more than one-half of the capital. In case such majority is not obtained, the members shall be called again by a registered letter, & decisions shall be taken by a simple majority without regard to the capital represented.<sup>113</sup>

Whenever the agenda item is a change in the nationality of the company, it always requires the unanimous decision of the members.<sup>114</sup> All other amendments to the MOA/AOA require a majority vote of the members representing three-quarters of the capital, unless a larger majority is provided in the AOA.<sup>115</sup> However when it comes to the issue of increase of capital in any way no member may be compelled to increase his contribution without his consent. According to the former Code all amendments to the MOA/AOA must be published in accordance with the law.<sup>116</sup> In comparison to the former CC the 2021 CC however came up with fundamental changes by the increased involvement of shareholders as vital players in the governance of PLCs. Now a PLC with ten (**10**) or more than ten shareholders have the right to exercise their decision making power at SHGMs and use SHGM as a tool to protect their interest. The rules governing how SHGMs are held & decisions are to be made are now similar to that of SC rules.<sup>117</sup> The new CC provided for types of general meetings of shareholders which may be OGM or EOGM.<sup>118</sup> As per Art 520(1) shareholders may participate in a meeting in person or in *absentia* by electronic means unless prohibited in the MOA.

Thus according to Art 521(1) of the 2021 CC at least one OGM shall be conducted within four months from the end of each financial year. The bodies authorized to call general meetings are the BOD, if any, the manager where the BOD failed to call the meeting, or in their default, the auditor, if any, or members representing more than one-half (>**50%**) of the capital of the company. Moreover, the law permits the BOD, or the manager, or the auditor to call a meeting upon the request of members representing ten percent (**10%**) of the shares. Upon the request of any member, the court may, for good cause, appoint a person to call a meeting and to draw up the agenda for consideration where persons responsible have failed or refused to call meetings.

---

<sup>113</sup> CC of 1960 (n 1) Art 535(2)

<sup>114</sup> Ibid Art 536(1)

<sup>115</sup> Ibid Art 536(2)

<sup>116</sup> Ibid Art 536(3)

<sup>117</sup> CC of 2021(n 2) Art 527

<sup>118</sup> Ibid Art 519

The new CC also establishes quorum & majority requirements for OGMs & EOGMs. For a decision to be taken in OGM, as per Art 525, members or a member representing more than one half (>**50%**) of the capital of the PLC shall be present to make up a quorum. Decisions in an OGM are taken by a simple majority (**50+1**) of shares representing the capital. Where the quorum is not obtained at the first meeting, the members shall be called again by registered letter or other appropriate electronic means. At a second meeting, decisions shall be taken by a simple majority without regard to the capital represented. The powers of OGMs are similar to that of SCs.<sup>119</sup>

The quorum & majority requirements in EOGMs as provided in Art 526 are arranged in connection with the sensitivity of the agenda items that require decisions. Accordingly whenever the agenda item presented for decision is to change the nationality or increase in the capital of the company by raising the par value of existing shares the unanimous (**100%**) decision of the members is required. However, no shareholder is compelled to increase his contribution without his consent.<sup>120</sup>

However where an increase in the capital of the company is to be effected from profits to be distributed to members or the reserve fund the consent of members representing three-quarters (**75%**) of the capital would be enough.<sup>121</sup> An amendment to the MOA requires the consent of members representing **75%** of the capital, unless a larger quorum and majority is provided in the MOA. It is compulsory to enter all amendments to the MOA in a CR.<sup>122</sup> The powers of an EOGM are similar to that of SCs.<sup>123</sup>

Under the 2021 CC a PLC with ten (**10**) members or more than ten must hold general meetings. Where the number of members of the PLC is less than ten<sup>124</sup>, a text of resolutions may, without

---

<sup>119</sup> Ibid Art 527(1) and Art 394

<sup>120</sup> Ibid Art 526 (1 and 2) see also Fekadu Petros (n 7) 320

<sup>121</sup> Ibid Art 526 (2 and 3)

<sup>122</sup> Ibid Art 526 (4)

<sup>123</sup> Ibid Art 527(1) and Art 400

<sup>124</sup> Whereas the 2021 CC Art 362(2) of share company provision requires the prior consent of all shareholders to take a decision without a meeting Art 523 in as far as the number of members is less than ten the consent of the members is irrelevant to take a decision without a meeting.

calling a meeting, be sent to each member & ask for the members` written or electronic vote thereon.<sup>125</sup>

Subject to the special provisions governing PLCs, general meetings and the increase or reduction of capital of PLCs are governed by SC provisions.<sup>126</sup> However Art 391 of the new Code which governs effect of resolutions is not included within the provisions cross-referred to fill gaps in PLC provisions.<sup>127</sup> The right of shareholders to challenge resolutions of the general meeting is a typical tool to protect the interest of shareholders in general and minority shareholders in particular.<sup>128</sup> As one of the most frequently submitted cases to courts relates to opposition on resolutions of general meetings,<sup>129</sup> the inclusion of Art 391 was very vital. Because of absence of any provision on effect of resolutions under PLC provisions of the 1960 CC Art 416 had been used by analogy.<sup>130</sup>

#### **2.4.3.2. Board of Directors**

The 1960CC did not recognize BODs for PLCs. Unlike a SC, a PLC did not have a BOD or managers chosen by the board. Contrary to the former Code the 2021 CC Art 513 came up with a complete change in the arrangement of governance bodies. Thus, the MOA of a PLC may determine a company to be managed by a BOD consisting of between three & seven members. However having a BOD is still a choice, not mandatory.

The requirements to qualify to be a director & other relevant issues of BODs are governed by SC provisions.<sup>131</sup> As to who could be a director, Art 296(4) of the 2021 CC answers the unanswered question in the 1960 CC. Hence, an organization or institution vested with legal personality by law may be appointed a director. Upon the appointment of a juridical person as a board member it shall appoint for the duration of its term, a permanent representative.

---

<sup>125</sup> CC of 2021(n 2) Art 523, Although it is good to create a simplified condition where the company can take a decision without a meeting it would have been better to identify critical issues that must be handled only in a general meeting. Fekadu Petros (n 7) 321

<sup>126</sup> CC of 2021(n 2) Art 527 and Fekadu Petros (n 7) 318

<sup>127</sup> Ibid Art 527(1) Art 392-403

<sup>128</sup> Samuel Maireg, Evaluation of the Adequacy of the rules of Shareholders' Protection in the Commercial Code of Ethiopia 1960: A Leximetric Approach <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3932314](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3932314)> accessed 29 April, 2023

<sup>129</sup> FSCCB of Ethiopia, *Cassation Decisions*, File No. 52269, 17/02/2003E.C Vol.12, 499 – 500, File No. 100621, 03/11/2007E.C Vol.18, 369 – 372 and File No. 118246, 23/10/2009E.C Vol.21, 312 – 326

<sup>130</sup> Fekadu Petros (n 7) 322

<sup>131</sup> CC of 2021(n 2) Art 513(3)

### 2.4.3.3 Managers

#### 2.4.3.3.1 Appointment and dismissal of managers

According to the 1960 CC Art 525(1) PLCs were managed by one or two managers who could be members or non-members. Usually owner managers are appointed by the MOA or AOA. Managers, other than members, may be appointed by the members (appointed managers) or by the MOA or AOA (statutory managers) for definite or indefinite period.<sup>132</sup>

In principle a manager may be dismissed by the organ that appointed him/her. Under the former Code a manager appointed by the MOA or AOA may only be dismissed by the members under a decision taken by the same quorum & majority required to modify the MOA or AOA. Therefore it requires a majority vote of the members representing three-quarters of the capital, unless a larger majority is provided in the AOA.<sup>133</sup> Otherwise, a manager appointed by the members may be dismissed by the decision of a majority of members representing more than one half of the capital.<sup>134</sup>

Dismissal according to Art 527 of the 1960 CC must only be for good cause acceptable to a court.<sup>135</sup> Where the court is of the opinion that a dismissal was without good cause, it may grant damages to the manager who has been dismissed. Nevertheless, the AOA may stipulate that managers may be removed at the pleasure of the members, irrespective of the form of appointment. Moreover, proceedings for dismissal for due cause may be brought by any member individually.<sup>136</sup>

Contrary to the former CC which provides the option of having one or two managers the new 2021 CC fixed a PLC to have only one manager who may be a shareholder or an outsider. The manager will be appointed by the general meeting of shareholders.<sup>137</sup> However where the MOA envisages a BOD, the manager will be appointed by the BOD.<sup>138</sup> Thus, there shall only be one appointed manager and there shall be no statutory manager under the new Code. Except that he is prohibited & may not be the chairperson of the BOD the law allows the appointed manager to be

---

<sup>132</sup> CC of 1960 (n 1) Art 526, Fekadu Petros (n 85) 313

<sup>133</sup> Ibid Art 536(2)

<sup>134</sup> Ibid Art 535

<sup>135</sup> What constitutes 'Good Cause' is not defined under the code and the interpretation of the phrase 'Good Cause' is not clear and is difficult to understand from court decisions. Fekadu Petros (n 85) 315 and (n 7) 328

<sup>136</sup> CC of 1960 (n 1) Art 527(5)

<sup>137</sup> CC of 2021(n 2) Art 514(1)

<sup>138</sup> Ibid Art 514(2)

a member of the BOD.<sup>139</sup> The manager is an employee of the company<sup>140</sup> & in consequence is entitled to both the remuneration as a board member and the salary & benefits as an employee manager of the PLC. The new CC, however, is silent about the term of office of the manager.

Art 517 of the 2021 CC clearly establishes the principle that a manager of a PLC may be dismissed by the organ that appointed him. In the absence of a provision to the contrary in the MOA a manager appointed by the BOD shall be dismissed in the same manner as a manager of a SC.<sup>141</sup> Also a manager may be dismissed by an OGM irrespective of whether he is appointed in the MOA or by an OGM. Once a manager is dismissed he is not entitled to be reinstated to his position even where the dismissal is without good cause.<sup>142</sup> The new Code does not mention the possibility of granting of damages to the manager who has been dismissed without good cause. A manager may also be dismissed, on the request of any member, by a court where it is of the opinion that there is good cause. Therefore contrary to Art 527 of the 1960 Code, a manager can be dismissed without good cause, without damages & is not entitled to reinstatement according to Art 517(2) of the 2021 Code.<sup>143</sup>

#### **2.4.3.3.2 Powers of managers**

Since the 1960 CC did not recognize BOD as a governance body managers were entrusted with full powers of the PLC within the limits of the objects of the company.<sup>144</sup> However, the 2021 CC envisages that a PLC may be managed by a BOD.<sup>145</sup> Where the PLC is managed by a BOD, the manager shall be accountable to the BOD & the powers of the manager may be limited by the board as per Arts 337-339 of the new CC that govern managers of SCs.<sup>146</sup> The decisions of the BOD restricting the powers of the manager not entered in the CR shall have effect only as between the company & the manager.<sup>147</sup> Therefore, it shall bind third parties only if properly entered in the CR.<sup>148</sup>

---

<sup>139</sup> Ibid Art 514(2)

<sup>140</sup> Ibid Art 514(3)

<sup>141</sup> Ibid Art 337(2)

<sup>142</sup> Ibid Art 517(2)

<sup>143</sup> Through its binding interpretation of Article 527 of the former code the FSCCB had reinstated a manager holding the opinion that the dismissal was without good cause. FSCCB of Ethiopia, *Cassation Decisions, File No. 63200,30/04/2004E.C* Vol.13, p.417 - 421

<sup>144</sup> CC of 1960 (n 1) Art 528(1)

<sup>145</sup> CC of 2021(n 2) Art 513

<sup>146</sup> Ibid Art 515(1)

<sup>147</sup> Ibid Art 339(1)

Where the PLC does not have a BOD, the manager, in the same way as a manager under Art 528 of the 1960 CC, shall have full powers to act in the name of the company in the realization of the business purposes of such company.<sup>149</sup> Provisions in the MOA restricting the powers of the manager shall be of no effect except as between the company & members on the one hand and the manager on the other.<sup>150</sup>

#### **2.4.3.3 Liability of managers**

The manager, according to Art 530 of the 1960 CC, is liable individually or jointly & severally, as the case may be, to the company & third parties for any breach of his/her duties under the Code or the AOA.<sup>151</sup> For instance in *Wro Aster Araya v. Wro Amsale Belay & Wro Tibebe Tegene* liability of manager case the FSCCB confirmed the liability of Wro Aster Araya (applicant) for loss of 88.38% of the capital of the PLC based on Art 530 of the code.<sup>152</sup> Art 516(1) of the 2021 CC, in a similar way as Art 530 of the 1960 CC, provides that the manager shall be liable to the company, members & third parties for any breach of his/her duties under the law or the MOA.

Declaration of bankruptcy of a PLC causes great damage to creditors. Where in bankruptcy the assets are shown to be inadequate under the 1960 CC managers or members or both or some of them will be liable with or without joint liability for the company's debts or part of them.<sup>153</sup> Under the 2021 CC such debts shall be paid by the manager & the previous managers of the company.<sup>154</sup> The new Code, therefore, included the previous managers of the PLC to be jointly liable with managers. Thus it has come with a change which implies that managers, present and past, will always remain liable for the debts of a bankrupt company. However both the 1960 & 2021 CCs maintain that a manager who could show that he acted with due care & diligence will be relieved of liability.<sup>155</sup>

---

<sup>148</sup> Fekadu Petros (n 7) 384

<sup>149</sup> CC of 2021(n 2) Art 515(2)

<sup>150</sup> Ibid Art 515(3)

<sup>151</sup> Through its binding interpretation of Article 530 of the 1960 code the FSCCB had confirmed the liability of manager in *Cassation Decisions, File No. 39608, 11/06/2002 E.C Vol.10, 335 – 337*, and *Cassation Decisions, File No. 57932,30/10/2003 E.C Vol.12, p.516 – 517*

<sup>152</sup> FSCCB of Ethiopia, *Cassation Decisions, File No. 39608, 11/06/2002 E.C Vol.10, p.335 – 337*;

<sup>153</sup> CC of 1960 (n 1) Art 531(1)

<sup>154</sup> CC of 2021 (n 2) Art 516(2)

<sup>155</sup> CC of 1960 (n 1) Art 531(2) and CC of 2021(n 2) Art 516(3)

#### 2.4.3.4 Auditors

The 1960 CC used only the number of members as a criterion for appointment of auditors. It is only when a PLC consists of more than twenty (>20) members that the Code puts auditors as one of the governance bodies. In such a case, a PLC is obliged to appoint not less than three external auditors in the MOA.<sup>156</sup> The law did not compel PLCs to appoint auditors if the company consists of twenty or less than twenty ( $\leq 20$ ) members. However, this does not imply that PLCs with twenty or less members are at liberty of not having the books of account of the company audited. Because PLCs have to produce audit report to get tax clearance & renew their business licenses within six months period after a fiscal year comes to an end.<sup>157</sup>

Once auditors are appointed the conditions of re-election & dismissal of auditors is regulated under the AOA of the PLC. In the absence of such provision, auditors may be dismissed, as provided in Art 535 of the 1960 Code, by decisions of general meeting or by decisions taken without a meeting. As a mechanism of gap filling SC provisions of Arts 374 – 378 of the 1960 Code are cross-referred to apply to auditors of PLCs.<sup>158</sup> Concerning their liability auditors are liable, individually or jointly & severally, to the company & third parties for any fault or negligence in the execution of their duties. However auditors cannot be civilly liable for offences committed by the managers, unless they were aware of such offences & failed to report them to the meeting.<sup>159</sup>

The 2021 CC uses either the number of members or the value of the total assets of the company as criterion for appointment of auditors. Thus, according to Art 518(1) of the new Code where a PLC consists of ten & more ( $\geq 10$ ) members or the value of its total assets amounts to ten million ETB, it shall have an independent & impartial external auditor appointed by a general meeting. A PLC consisting of less than ten members or the value of its total assets amounts to less than ten million ETB may not be under obligation to have an external auditor. However, this will never be taken as a provision discouraging the employment of an internal auditor.<sup>160</sup> Finally, not to leave

---

<sup>156</sup> Ibid Art 538(1)

<sup>157</sup> CRBLP No.980/2016, Federal Negarit Gazeta, Year 22, No. 101, (Addis Ababa, 5<sup>th</sup> August 2016) Art 27

<sup>158</sup> CC of 1960 (n 1) Art 538(4)

<sup>159</sup> CC of 1960 (n 1) Art 538(5 & 6)

<sup>160</sup> Fekadu Petros (n 7) 338

lacunae in PLC provisions SC provision Arts 343-354 of the 2021 CC<sup>161</sup> are cross-referred to be applicable *mutatis mutandis* to matters regarding appointment, term of office, revocation, remuneration, duties, powers and liability of an auditor of a PLC. Accordingly as per Art 354 auditors shall be civilly liable to the company, shareholders & third parties for any fault in the exercise of their duties which occasioned damage. An auditor who intentionally gives or confirms an untrue report concerning the position of a company or fails to inform the relevant authority of a criminal offence which he knows to have been committed or divulges professional secret shall be punishable in accordance with the relevant criminal law.

#### **2.4.4 Dissolution, Liquidation and Winding-up**

Dissolution, liquidation & winding-up are processes by which a company legally formed & was functioning will finally die & cease to exist. A comparative scrutiny of Arts 542, 543 of the 1960 & Art 531 of the 2021 CC reveal that a PLC may be dissolved on the general grounds applicable to all business organizations<sup>162</sup> or/and on specific grounds of dissolution pertaining to PLCs.<sup>163</sup>

Except the inclusion of declaration of bankruptcy as a cause of dissolution in Art 181(5) of the new CC in both the 1960 & the 2021 CCs the general grounds of dissolution applicable to all business organizations are the same.<sup>164</sup> They include (a) where its purpose has been achieved or cannot be achieved; (b) where the members agree to dissolution prior to the expiry of the term for which the business organization was formed; (c) where the term for which the business organization was formed expires unless the members agree to continue the business organization; (d) a business organization may be dissolved for good cause<sup>165</sup> by a court on the application of a member.

The specific grounds of dissolution pertaining to PLCs in the 1960 CC include the existence of a provision in the AOA permitting redemption of the members' shares for a fixed sum, loss of three-

---

<sup>161</sup> Arts 343–354 relate to appointment of auditors, term of appointment, persons competent, revocation, remuneration, duties of auditors, report to general meetings, auditors to inform irregularities, calling of general meetings, powers, audit of the accounts of a holding company, and liability of auditors.

<sup>162</sup> CC of 1960 (n 1) Art 217, 218 and CC of 2021(n 2) 181

<sup>163</sup> Ibid Art 511,542, 543 and Ibid Art 498, 531, 532

<sup>164</sup> Ibid Arts 217 and 218 and Ibid Art 181

<sup>165</sup> There shall be good cause in particular, if there is a serious disagreement between members and the disagreement obstructs the attainment of the purpose of the organization. However disagreement between members shall not constitute a good enough cause to dissolve a business organization where the organization can attain its business purpose if some members are expelled by paying them their share. CC of 2021 (n 2) Arts 181 (6) and (7)

quarter of the capital & reduction of the number of members below the legal minimum.<sup>166</sup> The specific grounds of dissolution in the 2021 CC include dissolution by court where the organs of a PLC do not exist, loss of three-quarter of the capital & reduction of the number of members below the legal minimum.<sup>167</sup>

The former code Art 542(2) recognizes the inclusion of a provision in the AOA permitting redemption of the members' shares for a fixed sum as one of the specific grounds of dissolution. However under the new Code that is not included. Reduction of the number of members below the legal minimum was also considered as a ground for dissolution under the former Code. Although it is mentioned under the new Code because of the possibility to convert a PLC to one-person PLC,<sup>168</sup> reduction of the number of members may not necessarily result in dissolution. As regards the loss of three-quarter (**75%**) of the capital the new Code has made some procedural amendments with the intention of perpetuating the company. Hence Art 532 provides; 'where **75%** of the capital is lost, the BOD, if any, or the manager shall cause the members to decide whether to dissolve the company'. If the members have decided not to dissolve the company, they will be compelled to make additional contributions to enable the PLC to have assets that are equal to its capital. Where valid decisions are not taken within three months from the date the loss of **75%** of the capital is known, any interested person may apply to a court for dissolution.

The new CC has provided that PLCs must have the required management organs i.e. SHGM, BOD (optional), a manager & auditors. With the aim of ensuring the existence of the management organs of a PLC that are necessary for its proper functioning, the new CC, in Art 531, included the non existence of the organs of a PLC as a specific ground of dissolution. Therefore dissolution by court may be ordered where the management organs of a PLC do not exist or cease to exist.

The 1960 CC has only two provisions<sup>169</sup> to govern only dissolution of PLCs. Thus, one of the most serious lacunae under the former Code was absence of provisions governing liquidation & winding-up of PLCs. Therefore as per Art 533 of the 2021 CC, subject to the special provisions governing PLCs, Arts 473-491 of SC provisions<sup>170</sup> are cross-referred to apply, as appropriate, to

---

<sup>166</sup> CC of 1960 (n 1) Arts 542(2), 543 and 511

<sup>167</sup> CC of 2021 (n 2) Arts 531,532 and 498

<sup>168</sup> Ibid Art 498(2)

<sup>169</sup> CC of 1960 (n 1) Arts 542 and 543

<sup>170</sup> Arts 473 - 491 are SC provisions governing issues such as grounds for dissolution, appointment and removal of liquidators, resignation, requirements to qualify as a liquidator, remuneration of liquidators, survival of the company during winding-up, bankruptcy and winding-up conditions, duties and liabilities of liquidators, powers

the dissolution, liquidation & winding-up of PLCs as a gap filling mechanism. In general, in addition to gap filling efforts the new Code has made ingenious changes that focus on having mandatory statutory bodies for the good governance of PLCs & protection of the interest of shareholders.<sup>171</sup> One-person PLC is also a creative solution to avoid dissolution and ensure the perpetuation of a company.

---

and liabilities of liquidators, prohibition from distributing assets before full payment of debts, calling on and payment to creditors, protection of creditors, final balance sheet, suspension of distribution, deposit of amount uncollected, striking off the commercial register, rights of creditors, and preservation of the books in the process of the dissolution, liquidation and winding-up of a SC.

<sup>171</sup> Remedies for the protection of minority shareholders could be provided: 1- by the law such as Art 504, Art 508, Art 526, 521(4 & 5), cross-referred SC provision Art 328 in Art 513, Art 351 in Art 518, Art 396 in Art 527 etc, 2- by the MOA depending on the bargaining power of the parties and 3- by shareholders' agreement which is a private contract between all or some of the shareholders to provide, among other things, protection for minority shareholders. Fekadu Petros (n 7) 341; However the CC is silent on the existence of shareholders' agreement.

## **CHAPTER THREE: ANY BETTERMENT IN THE FORMATION OF PLCs?**

In Chapters three and four the research looked outward in to the contents of MOAs of PLCs formed since the coming into force of the 2021 CC to evaluate how much PLCs have used the betterments made in the law and to understand its implications. To this end, the researcher reviewed the MOAs of 36 PLCs entered in the Commercial Register.<sup>172</sup> Twelve (12) MOAs are picked by Simple Random Sampling (SRS) method from the three (3) consecutive years (2014, 2015 and 2016E.C.) that followed the promulgation of the new CC. Hence 36 MOAs of PLCs are used to make inference about the population of PLCs entered in the Commercial Register.

To supplement the MOA data open ended questionnaire is used to collect data and interviews were conducted with the Office Head of DARS and Head of Licensing Desk II of MOTRI who were selected by purposive sampling method.

### **3.1 Instrument of formation**

Two instruments of formation, i.e., the MOA and AOA were recognized under the 1960 CC.<sup>173</sup>

The MOA is a document containing details of the company's constitution. It sets up and establishes the company and lays down the scope of the company's activities, objectives for which it is formed, determine its business purpose and its relationship with the outside world.<sup>174</sup>

As per Art 517 of the 1960 CC MOA should contain name clause (Members name and Company name), registered office and business purpose clause, capital clause and a statement that the capital is fully paid, the value of contributions made by each member, the valuation of contributions in kind, if any, the number of shares held by each member, the procedure for distribution of profits, the number of managers and their powers, the number of auditors, if any, and the period of time for which the PLC is established.

The AOA on the other hand is part of the MOA, attached with it and deals with the regular internal operations, management and control of the company.<sup>175</sup> Hence, the latter contains rules on control and governance. An AOA also governs the conduct of a company's business and the management of its internal affairs.<sup>176</sup> The AOA is subordinate to the MOA of a company and is

---

<sup>172</sup> The appendix table summarizes data of MOAs of the 36 PLCs examined.

<sup>173</sup> CC of 1960 (n 1) Art 517 and 518

<sup>174</sup> Nicholas Bourne (n 50) 65

<sup>175</sup> CC of 1960 (n 1) Art 314 and 518

<sup>176</sup> Nicholas Bourne (n 50) 67, Susan McLaughlin (n 49) 114

governed by the MOA. The contents of AOA used to be more detailed than the MOA and in agreement with the MOA and the 1960 CC.

According to Art 500 of the new 2021 CC the only constitutive instrument of a PLC is the MOA. The AOA is no more part of the MOA and is abolished as an instrument to be attached to the MOA. Because AOAs which were used to govern the internal operations of the company are now eliminated, PLCs may now incorporate detailed matters that used to be included in AOAs into their MOAs.<sup>177</sup>

Basically, the contents of MOAs of PLCs must show the 14 items enumerated under Art 500 of the new CC. To this effect the MOTRI supplies a model or a standard sample of a MOA having 15 Articles.<sup>178</sup> Members of PLCs are at liberty to modify the model MOA so that it fully incorporates their interests. Although the details and the number of Articles included in the 36 MOAs examined vary between minimum 15 Articles and maximum 25 Articles all MOAs of PLCs examined commonly show name, nationality and address of members, company name and address of the PLC, business purposes of the PLC, the amount of capital and a statement that the capital is fully paid, the sum of money paid-up by each member, the number of shares held by each member, the procedure for distribution of profits, the number of managers and their powers, the manner in which and the period within which the company will publish its performance report, the period of time for which the company is established in their MOAs.

As per Art 500(14) of the 2021 Code, the MOA of PLCs are also expected to include details that relate to the relationship among the company's management, the company and its members and amongst the shareholders. The MOA of PLCs should be very much detailed as PLC provisions are limited in number and have limited details. The new 2021 CC has incorporated only 39 provisions<sup>179</sup> and as a gap filling mechanism the legislature has made vast cross-references to SC provisions.<sup>180</sup> Nevertheless using SC provisions as a solution of gap filling comes only if the members did not agree and provide for in the MOA of the concerned PLC.<sup>181</sup>

---

<sup>177</sup> Fekadu Petros (n 7) 286

<sup>178</sup> CRBLP 980/2016 (74) Art 5(6)

<sup>179</sup> CC of 2021(n 2)Arts 495 – 533

<sup>180</sup> Art 295 in Art 495(3), Art 186 in Art 501, Arts 273-275 in Art 512, Art 296, Arts 297-298,Arts 300-312 and Arts 314-330 in Art 513, Arts 337-339 in Art 515, Arts 343-354 in Art 518, Arts 392-403, Arts 442-446, Arts 448-451, Arts 453-461, Arts 462-470 in Art 527, Arts 425-441 in Art 530, Art 181 in Art 531, Arts 473-491 in Art 533, totally 99 Articles are the cross-references made in the new Code.

<sup>181</sup> Fekadu Petros (n 7) 285

Although Art 500(15) expressly provides for the inclusion of other particulars that may be added pursuant to the law or agreement of members in the MOAs of PLCs, the contents of the MOAs of the 36 PLCs examined reveal that with the exception of a few issues PLC investors mostly include the principal matters enumerated under Art 500 (1-14) of the new CC.

In addition to the 14 items enumerated above most PLCs have included articles governing the rights and obligations of members, the right to take documents, transfer of shares, quorum and majority, increase of capital, amendment of MOA and dispute resolution.

As to the details, for instance in relation to transfer of shares, although it is unclear whether Art 508(4) is mandatory or permissive and if it allows deviation through the MOA, some PLCs have raised the 15(fifteen) days limit for right of refusal period provided in Art 508(4) of the CC to one (1) month in their MOAs.<sup>182</sup> Art 509(1) is rather so clear that it allows members to agree otherwise and positively deviate from the CC to provide for a larger majority or unanimity. Hence some PLCs have raised the three-quarters (75%) requirement of approval for transfer of shares outside the company provided in Art 509(1) to unanimity (100%) in their MOAs.<sup>183</sup> However contrary to stipulation of the law a provision requiring approval by members representing at least 50% of the capital is also included in some MOAs.<sup>184</sup>

With regard to decision making the law has put a minimum standard of quorum and majority in Art 525 for OGMs and in Art 526 for EOGMs. Hence for a decision to be taken in OGM, as per Art 525, members or a member representing more than one half (>50%) of the capital of the PLC shall be present to make up a quorum. Decisions in an OGM are taken by a simple majority (50+1) of shares representing the capital. However the examination of MOAs of PLCs reveals that some of them have raised the 50% minimum standard of quorum to 75% making it more stringent.<sup>185</sup>

---

<sup>182</sup> Zamzam Haramyn PLC, MOA Art 12; Ma Delelo Trading PLC, MOA Art 12; Teanel Trading PLC, MOA Art 11; T D A Trading PLC, MOA Art 13; Rohbot Light PLC, MOA Art 12;

<sup>183</sup> Passion Trading PLC, MOA Art 12; Real Trading PLC, MOA Art 17/B

<sup>184</sup> Pro Jobs Manpower Services Trading PLC, MOA Art 12

<sup>185</sup> AB on the street advertizing PLC, MOA Art 18; Mastewal Shibabaw Trading PLC, MOA Art 17; Robera Coal Mining PLC, MOA Art 12; Lehager Et Construction PLC, MOA Art 12; Makfela Trading PLC, MOA Art 17; Monograph Trading PLC, MOA Art 17; Country Food-Processing and Catering PLC, MOA Art 10; My Process Export Trading PLC, MOA Art 16; Adamayno Trading PLC, MOA Art 10; Extol Commerce and Industry PLC, MOA Art 15; T A D Trading PLC, MOA Art 17; Rohbot Light PLC, MOA Art 16; B W Real Estate PLC, MOA

Change in the nationality of the company or increase in the capital of the company by raising the par value of existing shares requires the unanimous (100%) decision of the members.<sup>186</sup> Since Art 526(1) is a mandatory provision no derogation is allowed. However, as per 526 sub article 2 and 3, when the matters to be discussed and decided relate to an increase in the capital of the company is to be effected from profits or reserve funds that may be distributed to members and/or an amendment to the MOA, it requires the consent of members representing three-quarters (75%) of the capital, unless a larger quorum and majority is provided for in the MOA. Although Art 526 sub article 2 and 3 are permissive and allow derogation, from among the PLCs examined no PLC has raised the bar above the 75% limit provided by the law.

As opposed to others a few PLCs have used the MOA to include some more details. For instance Country Food-Processing and Catering PLC and Adamayno Trading PLC have included a two (2) year time of limitation for choice of heirs to get paid from the reserve fund.<sup>187</sup> Country Food-Processing and Catering PLC has also included an article which requires transfer of shares outside the PLC to be made not only in writing but also must be made before the notary (DARS).<sup>188</sup> In relation to transfer of shares by succession Fayened Trading PLC has included an Article which provides for the right of a member to leave his shares to the heir he wishes.<sup>189</sup>

The other issue included in the MOAs of most PLCs relates to dispute resolution. The Article on dispute resolution is focused on amicably resolving disputes that may arise between members or between members on the one hand and the PLC on the other. Even some PLCs have indicated the rules of arbitration that may be applicable just in case a dispute arises.<sup>190</sup> However such provisions also provide that the arbitration decisions are final and binding.<sup>191</sup>

---

Art 16; Red Trading PLC, MOA Art 14; Sevi Trading PLC, MOA Art 17; Pro Jobs Manpower Services Trading PLC, MOA Art 16

<sup>186</sup> CC of 2021(n 2) Art 526(1)

<sup>187</sup> Country Food-Processing and Catering PLC, MOA, Article 9.5; Adamayno Trading PLC, MOA, Article 9.5

<sup>188</sup> Country Food-Processing and Catering PLC, MOA, Article 9

<sup>189</sup> Fayened Trading PLC, MOA, Article 20

<sup>190</sup> Adamayno Trading PLC, MOA Art 16; Country Food-Processing and Catering PLC, MOA Art 14.7 recommends the arbitration rules of Addis Ababa Chamber of Commerce and Sectoral Associations.

<sup>191</sup> Zamzam Haremeyn Trading PLC, MOA Art 22; Lehager Et Construction PLC, MOA Art 22; Sunrise Agricultural Development PLC, MOA Art 22; Ma Delelo Trading PLC, MOA Art 22; Teanel Trading PLC, MOA Art 21; My Process Export Trading PLC, MOA Art 21; Isbel Trading PLC, MOA Art 21; Three Way Betting PLC, MOA Art 21; T A D Trading PLC, MOA Art 23; Rohbot Light PLC, MOA Art 22; Red Trading

Otherwise PLC investors are not including detailed issues into the MOA and stick mostly to the principal matters enumerated under Art 500 (1-14) of the new CC. Hence, in this regard, the changes and betterments brought about by the law have not yet started to materialize in the MOAs and hence in the formations of PLCs.

Considering its significance it is argued that as an instrument which deals with the internal affairs of the company the existence of AOA could have helped to include detailed issues that are not expressly or sufficiently provided for in the law. For instance, on issues like loans granted to PLCs by members, whether members or managers could enter into contracts with the PLCs, whether members have withdrawal right, whether a non-member can be a board member or not, voting rights among members, control and management of the PLC, etc.<sup>192</sup> However in addition to abolishing the AOA the new CC has also remained silent on the existence of shareholders' agreement which may provide PLC investors the chance to make agreements that relate to private and confidential matters.

Basically because the AOA which used to form part of the MOA & attached thereto is now abolished DARS does not authenticate and register AOAs of PLCs. However in addition to MOAs AOAs of private employment agencies formed in PLC form<sup>193</sup> are still authenticated and registered at DARS. In this regard DARS also advances the argument that though the AOA is abolished as an instrument of formation it is not prohibited authenticating and registering AOAs of PLCs.<sup>194</sup>

At the same time sticking to the law<sup>195</sup> MOTRI is unwilling to enter AOAs and enters only MOAs in the CR. AOAs are no more part of the MOA and are not required to be entered into the CR.<sup>196</sup> Thus in relation to private employment agencies both MOAs and AOAs are authenticated and registered at DARS while AOAs are rejected by the MOTRI indicating the existence of a disagreement between the laws and the practices of the institutions that need to be reconciled.

---

PLC, MOA Art 21; PragmaTech Solutions PLC, MOA Art 21; Sevi Trading PLC, MOA Art 23; T K G Trading PLC, MOA Art 25;

<sup>192</sup> Fekadu Petros (n 7) 286

<sup>193</sup> Ethiopia's Overseas Employment Proclamation No 923/2016, , Federal Negarit Gazeta, Year 22, No. 44, (Addis Ababa, 19<sup>th</sup> February 2016) Article 24(2)

<sup>194</sup> Interview with Ato Solomon Sileshi, Office Head, DARS (May 2, 2024)

<sup>195</sup> CC of 2021(n 2) Art 499(1)

<sup>196</sup> Interview with Ato Ahmed Abdela, Licensing Desk 2 Head, MOTRI (April 29, 2024)

Although interviewees from DARS responded indicating that the abolition of AOA has simplified the authentication and registration process of MOAs of PLCs, they have also enumerated a number of practical problems associated with MOAs of PLCs such as copy-paste duplication of MOAs and submitting MOAs which cite articles from the 1960 CC. Thus, in the last three years the practical application of the law revealed that although the law has made a number of betterments its effective application on the formation of PLCs is still lagging behind.

### **3.2 Requirement of minimum number of members**

When it comes to the number of members in PLCs, both the 1960 and the 2021 CCs require a minimum of two (2) & a maximum of fifty (50) members.<sup>197</sup> There is no change made in this regard. Since having a minimum two (2) members is a legal requirement to form a PLC all the 36 PLCs have satisfied the requirement of minimum number of members.

When taking a close look at the number of members of PLCs at the formation stage, out of the 36 MOAs of PLCs examined, 19 (52.78%) of them are formed having only 2 members, 12 (33.33 %) of them are formed having only 3 members while PLCs with more than 3 members are only 5 (13.89%) of the total.

Although the law has given an incentive for having ten or more than ten ( $\geq 10$ ) members from among the 36 PLCs only 2 (5.56%) of them are formed with ten or more than ten ( $\geq 10$ ) members. This implies that only a few of them will have the chance to enjoy the legally reserved advantage of exercising their decision making power at SHGMs and escape from the vulnerability to be dominated by the manager. Because the number of shareholders of the 34(94.44%) PLCs examined is less than ten ( $<10$ ) there is a possibility that a text of resolutions be prepared by the manager without calling meetings. Moreover it will make them fall short of satisfying the requirement set by the law for nominating external auditor.<sup>198</sup>

### **3.3 Payment and deposit of Capital**

The cumulative reading of Art 495 and 499 the 2021 CC implies that a PLC may be formed only after its capital is fully paid in advance and the par value of shares which are sold in cash are deposited in a bank account opened in the name of the company under formation before the registration of such company. To this effect, to get registered, the PLC under formation must produce evidence proving the par values of shares which are sold in cash have been deposited in a bank account opened in the name of the company.

---

<sup>197</sup> CC of 1960 (n 1) Art 510 (2) & CC of 2021(n 2) Art 495(4)

<sup>198</sup> CC of 2021(n 2) Art 518(1)

It is stated in all 36 MOA's that full and in advance payment of the capital is made in cash by the members. At this point it has to be inquired if it is done with plain language and the spirit of the law and to ask whose task is it to verify that the capital is fully paid and deposited in a bank. According to Ato Solomon Sileshi, Office Head of DARS, it is not the task of DARS to verify that the capital fixed and stated in MOAs of PLCs is actually and fully paid. The task of DARS is limited to ascertaining the legality of documents<sup>199</sup> and authenticating and registering MOAs of PLCs.<sup>200</sup> Interviewees from DARS also responded that they only check the consent of members, the existence of a sentence stating that the capital is fully paid in cash and when there is in kind contribution they check if evidence related to the property contributed and its valuation is attached to the MOA.

According to Ato Ahmed Abdela, Licensing Desk 2 Head of MOTRI, a PLC, as per Art 5 of Commercial Registration, Licensing and Post-Licensing Inspection Directive No. 935/2022, has to primarily apply online for registration of company name. Following verification of company name a letter will be issued to the PLC to go to DARS to authenticate and register the draft MOA of the PLC with its company name and to Revenue and Customs Authority for having Tax Identification Number. Before entering in the CR and getting Commercial Registration Certificate PLCs are required to produce evidence from a bank proving deposit of the capital of the PLC in a blocked account in the name of the PLC under formation. With regard to in kind contributions he has stated that as per Art 10(8) of Commercial Registration and Licensing Council of Ministers Regulation Number 392/2016 the contributing member has to provide a signed statement to transfer the contribution to the PLC within a year.<sup>201</sup>

The registration of a PLC in the CR and its consequential granting of Commercial Registration Certificate by the MOTRI<sup>202</sup> therefore follow online application for Commercial Registration by uploading the authenticated and registered MOA of the PLC by DARS or other appropriate organs and other relevant documents as per Article 10 of Regulation Number 392/2016. The new Code, in addition to permitting the facilitation of commercial registration through online electronic technology, has come up with a betterment which addresses the problem of full payment of initial capital contributions & thereby guaranteed the security to third party creditors.

---

<sup>199</sup> Authentication and Registration of Documents' Proclamation, Proc. No. 922/2015 (n 108) Art 13

<sup>200</sup> Ibid Art 9(1)(C)

<sup>201</sup> Interview with Ato Ahmed Abdela, Licensing Desk 2 Head, MOTRI (April 29, 2024)

<sup>202</sup> CRBLP 980/2016 (n 74) Art 5 and 6

### **3.4 Valuation of contribution in kind**

The 2021 CC has already paved the way for in-kind contribution of variety of types including money (cash), immovable and movable properties and incorporeal properties. When considering the amount of capital 28 out of 36 PLCs (77.78%) have their initial capital between 15,000 - 9 million ETB while that of the remaining 8 (22.22%) of PLCs is  $\geq$  10 million ETB. In all 36 MOA's examined the contribution type made is only money (cash) and hence there is no in-kind contribution made to any of the PLC's be it immovable, movable or incorporeal properties. It implies that even if the law has expanded the option of in-kind contribution types investors in the PLCs examined opted to contribute only money (cash).

Although the interviewees cannot mention how many PLCs per year have received in-kind contributions at the formation stage, three (3) interviewees from DARS responded that he/she has registered a MOA of a PLC with in-kind contribution and also mentioned the types of properties contributed (a house/building, a car, machinery, office furniture). Hence even if the number of PLCs with in kind contributions cannot be known there is indication that in a few number of PLCs in-kind contributions to the capital are made. With the exception of valuation of a car, a machinery which is based on valuation from Road Transport Authority as the main valuation method agreement of the members is mentioned.

Although the new CC has expanded the nature & extent of acceptable types of contributions for the formation of a PLC, and in addition to cash & other contributions in kind, incorporeal properties are also included, most investors in PLCs are not yet willing to use the privilege provided by the law. Thus investors in PLCs might have opted to avoid the diverse & complicated legal and practical problems as well as the risk of unlimited liability which may result from overvaluation of contributions in kind.

The biggest betterment made in the new Code which was absent in the former Code is that Art 502 (5) which provides that the manager & the members of the BODs, if any, shall ensure, where appropriate, the registration of contributions in kind & issuance of a title deed in the name of the company. Although uncommon interviewees from DARS responded that he/she has encountered a house/building, a car, machinery, office furniture presented to PLCs as in-kind capital contributions. All contributions in kind have to be transferred to the PLC and & issuance of a title deed in the name of the company has to be completed by the manager & the members of the BOD.

## CHAPTER FOUR:

### ANY BETTERMENT IN GOVERNANCE and MANAGEMENT OF PLCs?

The governance and management of PLCs is an area where a number of betterments are made. A PLC with ten (10) members or more than ten must hold SHGMs as opposed to more than twenty (>20) members under the 1960 CC. Unlike the 1960 Code, the new Code apparently provided for types of SHGMs & accordingly establishes different quorum & majority requirements for OGM & EOGMs. At least one OGM shall be conducted within four months from the end of each financial year. The new Code has included more options to calling general meetings and setting agenda.

A clear paradigm shift is made in the 2021 Code by the inclusion of BOD as governance body of PLCs and the powers of the manager may be limited by the decisions of the BOD. Under the new CC a manager may be dismissed without good cause and compensation for damage by an OGM irrespective of whether he is appointed in the MOA or by an OGM.

#### 4.1 Shareholders' General Meeting

Under the 2021 CC a PLC with ten (10) members or more than ten must hold SHGMs as opposed to more than twenty (>20) members under the 1960 CC.<sup>203</sup> Shareholders have the right to participate in SHGMs either in person or in *absentia* by electronic means. Where the number of members of the company is less than ten (<10), a text of resolutions may, without calling a meeting, be sent to each member for the members' written or electronic vote thereon. Thus the new CC has created a better and favorable condition for a PLC with ten (10) or more than ten shareholders to have the right to exercise their decision making power at SHGMs and use SHGM as a tool to protect their interests.

The number of shareholders is thus very vital in determining to hold SHGMs. However of the 36 MOA of PLCs 19 PLCs (52.78%) are formed by having only 2(two) members, 12 of them (33.33%) are formed by having only 3 (three) members, 2 (two) PLCs (5.5%) are formed by having only 4 (four) members, 1 (one) PLC (2.77%) is formed by having only 5 (five) members, 1 (one) PLC (2.77%) with 21 members while the remaining 1 (one) PLC (2.77%) is formed by having 50 (fifty) members.

The number of shareholders in the 34 PLCs (94.44%) examined is less than ten (<10). Therefore although the law came up with a fundamental change and a betterment which may increase the

---

<sup>203</sup> CC of 2021(n 2) Art 523 v CC of 1960 (n 1) Arts 525(2) and 532(1)

involvement of shareholders as vital players in the governance of PLCs the formation of PLCs with number of shareholders less than ten (<10) adversely affects the enjoyment of such rights by investors of PLCs. The formation of PLCs with less than ten (<10) shareholders makes them dependent on a text of resolutions prepared by the manager without calling a meeting.

Even if the law did not specifically isolate critical issues that require sitting together, discuss and decide in SHGM it should be noted that although the number of shareholders is less than ten (<10) agenda items that must be handled in EOGM cannot be decided by text of resolutions prepared by the manager without calling a meeting. Art 520(3) of the new CC prohibits amendment of the MOA by a meeting conducted through electronic means. Therefore by analogy it can be argued that even if the number of members of a PLC is less than ten (<10) EOGM cannot be held without a meeting and decisions cannot be made by text of resolutions prepared by the manager.

The law has provided a favorable framework within which SHGM becomes a key actor of corporate governance. The rules governing how SHGMs are held & decisions are to be made are now similar to that of SC rules.<sup>204</sup> However, most (94.44%) PLCs are still formed by having less than ten (<10) shareholders.

## 4.2 Board of Directors

To avoid the dominance of the manager under the 1960 Code, a clear paradigm shift is made in the 2021 Code by the inclusion of a BOD as a governance body of PLCs. As per Art 513 of 2021 CC the MOA of a PLC may determine a company to be managed by a BOD consisting of between three (3) & seven (7) members. However having a BOD is still a choice, not mandatory. As the data shows from among the 36 MOA's examined no PLC has chosen to have a BOD. As indicated above, most PLCs (34) (94.44%) are formed by having less than ten (<10) shareholders. Although two (2) PLCs (5.56%) with 21 and 50 members are formed both did not determine to be governed by a BOD.

Therefore although the law has paved the way it can be stated that in 34 (94.44%) out of 36 PLCs the limited number of members at the formation stage is acting as a hurdle in the determination by the PLCs to be managed by a BOD. In two (2) PLCs (5.56%) with 21 and 50 members the non-existence of a BOD in PLCs is thus associated with the willingness and choice of investors than number of members.

---

<sup>204</sup> CC of 2021(n 2) Arts 519, 520, 521, 525, 526, 527

### 4.3 Managers

As opposed to the option of having one or two managers under the former Code the new 2021 CC fixed a PLC to have only one manager who may be a shareholder or an outsider. The manager will be appointed by the general meeting of shareholders. However where the MOA envisages a BOD, the manager will be appointed by the BOD. As indicated above all the 36 MOA of PLCs examined did not determine to be managed by a BOD. As a result the appointment of managers is made in the MOA by the general meeting of shareholders. Thus, in most (25) of the PLCs examined, a manager and a deputy manager are appointed while in 11 of the PLCs only a manager is appointed. As the law stipulates that there is a possibility of appointing an outsider manager only four(4) out of 36 of the PLCs appointed outsider managers in comparison to 32 PLCs who appointed shareholders of the PLC proving the fact that PLCs are usually characterized by integration of ownership and management (owner managers). The new CC is silent about the term of office of the manager. However the MOAs of most PLCs (31 out of 36 PLCs) put the term of office of the manager to be for indefinite period of time while the remaining 5 out of 36 PLCs did not put term of office of the manager.

### 4.4 Auditors

The 1960 CC used only the number of members as a criterion for appointment of auditors. It is only when a company consists of more than twenty (>20) members that the Code puts auditors as one of the governance bodies. The new Code, however, uses either the number of members or the value of the total assets of the company as criteria for appointment of auditors. Where a PLC consists of ten & more ( $\geq 10$ ) members or the value of its total assets amounts to ten million ETB, it shall have an independent & impartial external auditor appointed by a general meeting.<sup>205</sup>

The law has provided betterment. When the requirement of ten & more ( $\geq 10$ ) members is seen against the number of shareholders in a PLC, 34 out of 36 (94.44%) PLCs examined will never be under obligation to appoint an external auditor since the number of members is less than ten (<10).

However when the optional requirement of a value of the total assets amounting to ten million ETB is observed the picture would be different. In 2014 E.C there was only one PLC (Makfela Trading PLC) with a contribution of 80,997,000 ETB. In 2015 E.C there were five PLCs (Ma Deleleo Trading PLC (40,000,000 ETB), Banah Trading PLC (12,000,000 ETB), Pop Corn Trading PLC (171,000,000 ETB), EXTOL Commerce and Industry PLC (60,000,000 ETB),

---

<sup>205</sup> CC of 2021(n 2) Art 518(1)

ISBEL Trading PLC (33,000,000 ETB). In 2016 there were two PLCs (B W Real State PLC (10,000,000 ETB), Fayened Trading PLC (20,000,000 ETB). Therefore considering the criterion of having the value of the total assets of the company amounting to ten ( $\geq 10$ ) million ETB only 8 (22.22%) of the 36 PLCs should have an independent & impartial external auditor appointed by a general meeting.

Having an external auditor as a governance organ will help PLCs to benefit from its role as an advisor of the management, and monitoring the financial management of the PLC. The optional requirement set by the new law has widened the opportunity for PLCs to enjoy the benefits of having external auditor. However unlike the appointment of a manager made in the MOA of PLCs, no PLC has appointed its external auditor in its MOA.

## **CHAPTER FIVE:**

### **CONCLUSION and RECOMMENDATIONS**

#### **5.1 Conclusion**

- In comparison to the 1960 CC the new 2021 CC has made remarkable changes in the formation, governance and management and dissolution of PLCs in Ethiopia. The 2021 CC has produced extensive changes and betterments in the key sections of the CC governing PLCs. As the 2021 CC is a new one identification of betterments, deficiencies & gaps in PLC provisions of the CC and evaluation of the practical application of the betterments in the law and its implications are not yet sufficiently observed and remain to be seen.
- What are the betterments on PLC provisions in the new CC? In answering this research question all PLC provisions starting from the definition of a PLC to formation, shares, governance and management, dissolution and winding up of PLCs are dealt with.
- In general the new CC focused on protecting the interests of shareholders as a whole, improvement of minority shareholder protection, minimizing agency problems, promoting corporate democracy & narrowing down the oppression of minority shareholders, guaranteeing the security for third party creditors, protection of creditors of the company, and focused on perpetuity of the company than on dissolution.
- Therefore unlike the 1960 CC the 2021 Code focused on ensuring the full payment of initial capital & thereby protecting the interests of shareholders, the company and guaranteeing the security for third party creditors. The new Code has included an exception to the limited liability rule. A member with a decisive vote shall be jointly & severally liable with the company for the debts & liabilities of the PLC based on Art 295 of the Code.
- A PLC is formed only by a MOA. The nature & extent of acceptable contribution types has expanded. In addition to cash & other contributions in kind, incorporeal properties are included. The manager & the members of the BOD, if any, are under obligation to ensure the registration of contributions in kind & issuance of title deed in the name of the PLC.
- The 2021 CC came up with a new provision in Art 505 dealing with pledging of shares or giving shares in usufruct. Where the heirs of a deceased member are not willing to join a PLC unlike the 1960 Code the 2021 CC allows them the right to get paid on the basis of the final balance sheet from the reserve fund. Unlike the 1960 CC the new Code allows the judgment-creditor, if all options fail, to get paid from the capital of the PLC. As a result the capital shall

- be reduced accordingly for maintenance of the capital & hence protection of creditors of the company.
- PLCs under the 2021 Code are legally allowed to issue registered form of shares proved by a share certificate & the registered shares to be issued will be ordinary type of shares. Unlike the former Code the new Code has included elaborate procedural betterments as to how to transfer shares outside the company by sale.
  - A PLC with ten (10) members or more than ten must hold SHGMs as opposed to more than twenty (20) members under the 1960 CC. The new Code apparently provided for types of SHGMs & accordingly establishes different quorum & majority requirements for OGM & EOGMs. Shareholders may participate in a meeting in person or in *absentia* by electronic means. The new Code thus clearly created a mechanism for protecting the interests of shareholders.
  - Members representing **10%** of the shares can request authorized bodies and even an individual member can present a request to a court for a meeting to be called. Therefore in an effort to promote corporate democracy & narrow down the oppression of minority shareholders the new Code has included more options to calling general meeting and setting agenda.
  - Unlike the 1960 CC for improvement of minority shareholder protection more provisions are included in the new CC. For instance Art 328 (proceedings to enforce the liability of directors) is cross-referred in Art 513 and Art 351(calling of general meetings) is cross-referred in Art 518. Art 504 provides for right to inspect documents. For appointment of special investigator Art 396 of SC provision is cross-referred in Art 527 of PLC provision.
  - Unlike the 1960 CC, in the new CC where in bankruptcy the assets are shown to be inadequate a court may order that the company`s debts or part of them to be paid by the manager & the previous managers of the company. Therefore the doctrine/principle of piercing the corporate veil applies on all those persons who acted as managers, present or past.
  - Where a PLC consists of ten & more ( $\geq 10$ ) members or the value of its total assets amounts to ten million ETB, it shall have an independent & impartial external auditor appointed by a general meeting.
  - The new 2021 CC clearly provides that the increase and decrease of capital of PLCs shall be governed by SC provisions. The Code came up with a creative idea of focusing on perpetuity of the company than on dissolution. As per Art 533 of the 2021 CC, Arts 473-491 of SC provisions apply to dissolution & winding-up of PLCs.

- The second research question deals with identification of the existence of deficiencies, gaps on PLC provisions in the new CC.
- Proper valuation is a means of maintenance of capital. The method of valuation of contributions in kind is left to be determined by the members. Considering their nature the valuation of incorporeal properties is not especially treated & not clearly stipulated for in the Code.
  - One of the problems associated with PLC provisions of the 1960 CC was absence of provision dealing with effect of resolutions. The 2021 CC also has no PLC provision dealing with effect of resolutions that may help shareholders to challenge the legality of resolutions of the company's general meetings. Hence a gap is left.
  - Although the title of Art 505 reads 'Shares pledged or given in usufruct' the content deals only about the right to vote at meetings. The Article does not provide for a preferential right of subscription & liability for calls on shares.
  - The CR is more open and accessible to the public than SR. Third parties may not have access to SR as envisaged in Art 508(1). Binding third parties by a contract not entered in the CR would jeopardize protection of third parties.
  - When the other members (non-selling shareholders) do not use their preemption right in Art 508(3) to purchase the shares & on the other hand as per Art 509(1) do not give approval for the third person outside of the PLC to be a member the law leaves the selling shareholder without a remedy.
  - Where there is no sufficient reserve fund the right of heirs to get paid does not apply. Since the personal element & relationship of trust in PLC membership is very crucial forcing the heirs who are outsiders to be members of the company is violation of the *jus fraternitatis* principle.
  - One of the methods of maintenance of capital of the company is through controlling disproportionate payments made from the capital of the company for dealings between the company & persons affiliated with the company. However there is no PLC provision that provides for dealings between a PLC & persons affiliated with the PLC.
  - Under the new CC a manager may be dismissed without good cause and compensation for damage by an OGM whether he was appointed by the MOA or the OGM. The manager is not entitled to be reinstated even where he was dismissed without good cause. If dismissal of a manager happens to be unavoidable & the manager is not entitled to be reinstated even where he was dismissed without good cause; at least dismissal without good cause must be compensated.

- As an employee of the company the dismissal of a manager without good cause & without compensation contradicts Art 2573 of the Civil Code.
- Redemption by request of a minority shareholder (Art 292) is neither provided nor cross-referred in PLC provisions. Although the right to inspect documents is provided in Article 504 the right to take documents (Art 381) and the right to access additional information (Art 382) is neither provided nor cross-referred.
  - The third research question deals with the implications of the betterments made in the law. One of the changes relates to the abolition of the AOA giving to the MOA the status of being the only instrument of formation. The law under Art 500(15) expressly provided for the inclusion of particulars that may be added pursuant to the law or agreement of members in the MOAs of PLCs. PLC investors however are not including detailed issues to the MOA and stick mostly to the principal matters enumerated under Art 500 (1-14) of the new CC. Copy-paste duplication of MOAs are ubiquitous, also submitting MOAs which cite articles from the 1960 CC are common.
  - PLC investors are not yet sufficiently using the betterments made on PLC provisions in the new CC. In relation to Shareholders' general meeting the 2021 CC has paved the way that a PLC with ten (10) members or more than ten must hold SHGMs. However considering the number of shareholders 34(94.44%) PLCs are formed with less than ten (<10) members. As a result most PLCs may not exercise their decision making power at SHGMs, there is a possibility that a text of resolutions be prepared by the manager without calling a meeting.
  - In all 36 MOA's examined the contribution type made is only money (cash) and hence there is no in-kind contribution. Even if the law has expanded the option of in-kind contribution types all investors in the PLCs examined opted to contribute only money (cash).
  - Although a BOD is allowed from among the 36 MOAs examined no PLC has chosen and determined to be managed by a BOD. Where the MOA envisages a BOD, the manager will be appointed by the BOD. Since there is no BOD the appointment of managers is made in the MOA by the general meeting of shareholders.
  - Where a PLC consists of ten & more ( $\geq 10$ ) members or the value of its total assets amounts to ten (10) million ETB, it shall have an independent & impartial external auditor appointed by a general meeting. Since the number of members of 34 out of 36 (94.44%) of PLCs examined less than ten (<10) most PLCs will never be under obligation to appoint an external auditor. Likewise when considering the amount of capital 28 out of 36 PLCs (77.78%) have their capital

between 15,000 - 9 million ETB while only the remaining 8 (22.22%) of PLCs is  $\geq$  10 million ETB. Therefore most PLCs will never be under obligation to appoint an external auditor.

- The law came up with betterments which may help in protecting the interests of shareholders, promoting corporate democracy & narrowing down the oppression of minority shareholders. The new Code has included more options to calling general meeting and setting agenda. It has come with a mechanism for guaranteeing the security for third party creditors and protection of creditors of the company. It focused on perpetuity of the company than on dissolution. However the data shows that investors in PLCs are not yet in a position to use the betterments made in the law.

## **5.2 Recommendations**

The researcher would like to make the following points as recommendations:

- It is recommended that stakeholders such as MOTRI, DARS, Chamber of Commerce and Sectoral Associations have to organize awareness creation forums on PLC provisions in the new CC.
- There are deficiencies and gaps on PLC provisions in the new CC. However more research has to be conducted on the identified deficiencies and gaps. It is, therefore, recommended that based on further research the legislature has to fill the deficiencies and gaps to minimize agency problems, improve protection of minority shareholders and protection of creditors of PLCs as business entities.
- In addition to awareness creation on the betterments on PLC provisions in the new CC it is recommended that employees of MOTRI, DARS and other relevant bodies have to be trained to facilitate the uniform and effective application of the law on PLCs in the new CC.

## **Bibliography**

### **Books:**

Addis Ababa Chamber of Commerce and Sectoral Associations, *Recommendations and Position paper of the Business Community on the revision of the Commercial code of Ethiopia*, (July 2008)

Fekadu Petros Gebremeskel, *Ethiopian Company Law* (3<sup>rd</sup> edition, 2014 E.C)

Fekadu Petros Gebremeskel, *Ethiopian Company Law* (2<sup>nd</sup> edition, 2008 E.C.)

Nicholas Bourne, *Principles of Company Law* (3<sup>rd</sup> edition, 1998)

Peter Winship, *Background Documents of the Ethiopian Commercial Code of 1960*, (1974)

Solomon Abay Yimer, *Financial Market Development, Policy and Regulation: The International Experience and Ethiopia's Need for Further Reform* (University of Amsterdam, April 2011)

Susan McLaughlin, *Unlocking Company Law* (2<sup>nd</sup> Edition, 2013)

### **Journals:**

Getahun Seifu, 'Revisiting Company Law with the advent of Ethiopia Commodity Exchange (ECX): An Overview' (March 2010) (Volume 4, No. 1) (Mizan Law Review)

Jetu Edosa Chewaka, Legal Aspects of Stock Market Development in Ethiopia: Comments on Challenges and Prospects (December 2014) (Vol. 8, No. 2) (Mizan Law Review)

Michael P. Porte, 'Unlimited and Limited Liability in the Commercial Code of Ethiopia' (1998), (Volume 4) ILSA Journal of international and comparative Law,

Tikikil Kumlachew, 'Regulation of Initial Public Offering of Shares in Ethiopia: Critical Issues and Challenges.' (August 2011) (Vol. 4) (Ethiopian Business Law Series)

### **Legal Instruments and minutes:**

Authentication and Registration of Documents' Proclamation, Proc. No. 922/2015, Federal Negarit Gazeta, Year 22, No. 39, (Addis Ababa, 15<sup>th</sup> February 2016)

Banking Business Proclamation No 592/2008, Federal Negarit Gazeta, Year 14, No. 57, Addis Ababa, 25<sup>th</sup> August 2008.

Capital Market Proclamation No 1248/2021, Federal Negarit Gazeta, Year 27, No. 33, (Addis Ababa, 23<sup>rd</sup> July 2021)

Civil Code of the Empire of Ethiopia, Negarit Gazeta-Extraordinary Issue, Proc. No.165/1960, Year 19, No.2, (Addis Ababa, 5<sup>th</sup> May 1960)

Commercial Code of the Federal Democratic Republic of Ethiopia, Federal Negarit Gazeta-Extraordinary Issue No.23, Proc. No.1243/2021, Year 27, No. 23, (Addis Ababa, 12<sup>th</sup> April 2021)

Commercial Code of the Empire of Ethiopia, Negarit Gazeta-Extraordinary Issue No.3, Proc. No.166/1960, year 19, No.3, (Addis Ababa, 1960)

Commercial Registration and business Licensing Proclamation, Proc No. 980/2016, Federal Negarit Gazeta, Year 22, No. 101, (Addis Ababa, 5<sup>th</sup> August 2016)

Commercial Registration and Licensing Council of Ministers Regulation, Regulation No 392/2016, Federal Negarit Gazeta, Year 23, No. 3, (Addis Ababa, 28<sup>th</sup> October 2016)

Commercial Registration, Licensing and Post-Licensing Inspection Directive No. 935/2022, FDRE Ministry of Trade and Regional Integration, (2022)

Commercial Registration and business Licensing Proclamation, Proc No. 686/2010, Federal Negarit Gazeta, Year 16, No. 42, (Addis Ababa, 24<sup>th</sup> July 2010)

Commercial Registration and business licensing (Amendment) Proclamation, Proc. No. 376/2003, Federal Negarit Gazeta, Year 10, No. 9, (Addis Ababa, 13<sup>th</sup> November 2003)

Ethiopia's Overseas Employment Proclamation No 923/2016, , Federal Negarit Gazeta, Year 22, No. 44, (Addis Ababa, 19<sup>th</sup> February 2016)

Federal Democratic Republic of Ethiopia Office of the Prime Minister, Brief explanation on the draft commercial code submitted to the HOPR (2012E.C)

Minutes of meeting of Trade and Industry and Legal, Justice and Democracy Standing Committee of HOPR with stakeholders on the draft commercial code (23/04/2013 E.C)

## **Cases:**

Ato Kedir Haj Hussien and Lis College Share Company v Ato Juhae Aliy, Federal Supreme Court Cassation Bench of Ethiopia, *Cassation Decisions, File No. 52269, 17/02/2003E.C Vol.12, 499 – 500,*

Ato Liulseged Mojo v Andinet Butter and Spices Traders Share Company and Wro Alemtsehay Mojo, Federal Supreme Court Cassation Bench of Ethiopia, *Cassation Decisions, File No. 100621, 03/11/2007E.C Vol.18, 369 – 372*

Ato Teklu Kassa Gebreyes v Marcobarzi, Federal Supreme Court Cassation Bench of Ethiopia, *Cassation Decisions, File No. 57932, 30/10/2003E.C Vol.12, 516 – 517*

Professor Adem Ali v Adama General Hospital and Medical College, Federal Supreme Court Cassation Bench of Ethiopia, *Cassation Decisions, File No. 151590, 30/11/2010E.C (unpublished)*

Sidamo Tera Building Contractor Share Company v Heirs of Wro Abrehet Habteizgi (Nine persons), Federal Supreme Court Cassation Bench of Ethiopia, *Cassation Decisions, File No. 118246*, 23/10/2009E.C Vol.21, 312 – 326

Sister Meaza Yosef v Dr Yosef Denekew, Cassation File No. 50537 (Federal Supreme Court Cassation Decisions Volume 12, 2003 E.C.)

Tana Engineering PLC and et al v Mister Alchedi Delgawdiyo, Cassation File No. 63200 (Federal Supreme Court Cassation Decisions Volume 13, 2004E.C)

Wro Aster Araya v Wro Amsale Belay and Tibebe Teklie, Federal Supreme Court Cassation Bench of Ethiopia, *Cassation Decisions, File No. 39608*, 11/06/2002E.C Vol.10, 335 – 337,

### **Websites:**

Fekadu Petros, “The New Ethiopian Commercial Code: A Highlight of Major Changes <<https://www.studocu.com/row/document/addis-ababa-university/business-law/the-new-ethiopian-commercial-code-a-highlight-of-major-changes/21332306>> accessed 15 January, 2023

Samuel Maireg, Evaluation of the Adequacy of the Rules of Shareholders’ Protection in the Commercial Code of Ethiopia 1960: A Leximetric Approach <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3932314](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3932314)> accessed 29 April, 2023

Tony Addison and Alemayehu Geda, Ethiopia’s New Financial Sector and Its Regulation, <<http://www.wider.unu.edu/publication/ethiopias-new-financial-sector-and-its-regulation/>> accessed 14 June 2023

The various types of corporate legal entities in France and Germany, <<http://zgsavocats.com/en/the-various-types-of-corporate-legal-entities-in-france-and-germany/>> accessed 14 June 2023

**Data of MOAs of PLCs examined**  
(Entered in the Commercial Register in 2014 E.C\*)

Total number of MOAs of PLCs registered in the CR in 2014 E.C.= 14,008

Sample size=12 MOAs

Name of PLC	Number of members	Capital in ETB	Contribution type	Number of BOD members	Manager appointed in MOA	Date MOA Auth & Registered	Remark
<b>Yeshait Construction Solution PLC</b>	3	120,000	Cash	0	GM & Deputy GM, No period in MOA	20/07/2014	19 Articles
<b>Seven G Star Trading PLC</b>	2	200,000	Cash	0	GM & Deputy GM, For indefinite period	04/09/2014	21 Articles
<b>ZamZam Haremeyn Trading PLC</b>	3	2,500,000	Cash	0	GM & Deputy GM, For indefinite period	07/11/2014	23 Articles
<b>AB on the Street Advertizing PLC</b>	2	100,000	Cash	0	GM, No period in MOA	19/05/2014	25 Articles
<b>Kascon Construction PLC</b>	3	60,000	Cash	0	GM & Deputy GM, For indefinite period	05/08/2014	25 Articles
<b>Passion Trading PLC</b>	3	15,000	Cash	0	GM & Deputy GM, No period in MOA	12/08/2014	24 Articles
<b>Mastewal Shibabaw Trading PLC</b>	2	1,000,000	Cash	0	GM & Deputy GM (Both outsiders) For indefinite period	02/13/2014	21 Articles
<b>Robera Coal Mining PLC</b>	50	50,000	Cash	0	GM & Deputy GM (Appointed in a minute) No period in MOA	04/04/2014	22 Articles
<b>Blessedek Trading PLC</b>	2	1,000,000	Cash	0	GM, For indefinite period	20/08/2014	25 Articles
<b>Le Hager Et Construction PLC</b>	3	20,000	Cash	0	GM & Deputy GM, For indefinite period	24/10/2014	23 Articles
<b>Makfela Trading PLC</b>	21	80,997,000	Cash	0	GM & Deputy GM, For indefinite period	02/10/2014	22 Articles
<b>Sunrise Agricultural Development PLC</b>	3	4,000,000	Cash	0	GM & Deputy GM, For indefinite period	18/11/2014	24 Articles
	2 member =4 3 member =6 21 member =1 50 member =1	B/n 15,000 - 9 million = 11 ≥ 10million =1	No in kind contribution	No board of directors	GM & Deputy GM = 10 GM only = 2		

\*Source: Ministry of Trade and Regional Integration, Database development and administration team.

**Data of MOAs of PLCs examined**  
(Entered in the Commercial Register in 2015 E.C\*)

Total number of MOAs of PLCs registered in the CR in 2015 E.C.= 13,643

Sample size = 12 PLCs

Name of PLC	Number of members	Capital in ETB	Contribution type	Number of BOD members	Manager appointed in MOA	Date MOA Auth & Registered	Remark
<b>Ma Deleleo Trading PLC</b>	2	40,000,000	Cash	0	GM, For indefinite period	14/04/2015	23 Articles
<b>Banah Trading PLC</b>	2	12,000,000	Cash	0	GM, For indefinite period	16/05/2015	23 Articles
<b>Real Trading and Manufacturing PLC</b>	3	600,000	Cash	0	GM, No period in MOA	17/05/2015	15 Articles
<b>Teanel Trading PLC</b>	3	9,000,000	Cash	0	GM & Deputy GM, For indefinite period	30/05/2016	24 Articles
<b>Walta Technologies Import PLC</b>	2	500,000	Cash	0	GM & Deputy GM, For indefinite period	09/06/2015	21 Articles
<b>Pop Corn Trading PLC</b>	3	171.000.000	Cash	0	GM & Deputy GM, For indefinite period	20/06/2015	25 Articles
<b>Monograph Trading PLC</b>	3	600,000	Cash	0	GM & Deputy GM, For indefinite period	01/07/2015	24 Articles
<b>Country Food Processing and Catering PLC</b>	4	7,000,000	Cash	0	GM & Deputy GM, For indefinite period	04/07/2015	13 Articles
<b>My Process Export Trading PLC</b>	2	3,000,000	Cash	0	GM & Deputy GM, For indefinite period	04/07/2015	22 Articles
<b>Adamayno Trading PLC</b>	2	5,000,000	Cash	0	GM , For indefinite period	07/07/2015	18 Articles
<b>EXTOL Commerce and Industry PLC</b>	4	60,000,000	Cash	0	GM & Deputy GM, For indefinite period	21/02/2015	21 Articles
<b>ISBEL Trading PLC</b>	2	33,000,000	Cash	0	GM, For indefinite period	02/02/2015	22 Articles
	2 member =6 3 member =4 4 member =2	B/n 15,000 - 9 million = 7 ≥10 million = 5	No in kind contribution	No board of directors	GM & Deputy GM = 7 GM only = 5		

\*Source: Ministry of Trade and Regional Integration, Database development and administration team.

**Data of MOAs of PLCs examined**  
(Entered in the Commercial Register in 2016 E.C\*)

Total number of MOAs of PLCs registered in the CR in 2016 E.C.(up to 18/08/2016)= 8,306  
Sample size = 12 PLCs

Name of PLC	Number of members	Capital in ETB	Contribution type	Number of BOD members	Manager appointed in MOA	Date MOA Auth & Registered	Remark
<b>Three Way Betting PLC</b>	2	200,000	Cash	0	GM & Deputy GM, For indefinite period	15/01/2016	23 Articles
<b>T A D Trading PLC</b>	2	1,500,000	Cash	0	GM & Deputy GM, For indefinite period	19/07/2016	24 Articles
<b>Rohbot Light PLC</b>	2	1,000,000	Cash	0	GM & Deputy GM, For indefinite period	20/07/2016	23 Articles
<b>B W Real Estate PLC</b>	2	10,000,000	Cash	0	GM (Outsider) & Deputy GM, For indefinite period	25/07/2016	23 Articles
<b>Red Trading PLC</b>	2	600,000	Cash	0	GM (Outsider) & Deputy GM, For indefinite period	03/04/2016	23 Articles
<b>Pragma Tech Solutions PLC</b>	5	15,000	Cash	0	GM & Deputy GM, For indefinite period	03/05/2016	23 Articles
<b>Teamic Engineering PLC</b>	2	100,000	Cash	0	GM, For indefinite period	10/07/2016	25 Articles
<b>Fayened Trading PLC</b>	2	20,000,000	Cash	0	GM , For indefinite period	15/06/2016	26 Articles
<b>SEVI Trading PLC</b>	2	7,000,000	Cash	0	GM & Deputy GM, For indefinite period	04/08/2016	24 Articles
<b>IMPACTFUL Trading PLC</b>	3	50,000	Cash	0	GM, For indefinite period	03/08/2016	15 Articles
<b>TKG Trading PLC</b>	3	75,000	Cash	0	GM , For indefinite period	12/07/2016	21 Articles
<b>PRO JOBS Man Power Services Trading PLC</b>	2	500,000	Cash	0	GM (Outsider) & Deputy GM, For indefinite period	26/06/2016	15 Articles
	2 member =9 3 member =2 5 member =1	B/n 15,000 - 9 million =10 ≥10 million = 2	No in kind contribution	No board of directors	GM & Deputy GM = 8 GM only = 4		

\*Source: Ministry of Trade and Regional Integration, Database development and administration team.

**Interviews:**

- Interview with Ato Solomon Sileshi, Office Head, Documents Authentication and Registration Service, May 2, 2024
- Interview with Ato Ahmed Abdela, Head of Licensing Desk II, Ministry of Trade and Regional Integration, April 29, 2024

**Interview questions for DARS Office Head:**

1. Do you authenticate and register Articles of Association (AOA) of Private Limited Companies (PLCs)? Why?
2. Are there problems related to the abolition of Articles of Association of PLCs?

3. How do you verify that the capital fixed and stated in Memoranda of Associations (MOAs) of PLCs is actually and fully paid?
4. How many MOAs of PLCs that have Board of Directors have you authenticated and registered in 2014, 2015 and 2016 E.C.?
5. Anything you would like to add in relation to the issues raised above?

**Interview questions for MOTRI Head of Licensing Desk II:**

1. Do you register Articles of Association (AOA) of Private Limited Companies (PLCs) in the Commercial Register?
2. How do you verify that the capital fixed and stated in Memoranda of Associations (MOAs) of PLCs is actually and fully paid?
3. How many MOAs of PLCs that have Board of Directors have you registered in the Commercial Register in 2014, 2015 and 2016 E.C.?
4. Anything you would like to add in relation to the issues raised above?

**INTERVIEW QUESTIONNAIRE**  
**AAU, College of Law and Governance Studies**  
**School of Law, LL.M Program in Business Law**  
**LL.M. Thesis (Research) Questionnaire**

This Questionnaire is designed to be answered by directors/managers/experts from the Federal Documents Authentication and Registration Service (DARS) to make survey assessment for the topic: **The Provisions of THE NEW (2021) Commercial Code on Private Limited Company (PLC) in Comparison to the Provisions on PLC in THE FORMER (1960) Commercial Code: Any Betterment?**

**N.B. The research does not relate to the newly introduced One Person (Single Member) Private Limited Company by the new Commercial Code.**

Thank you in advance for your willingness to be interviewed and for your precious time to respond to my questions. I would prefer to conduct the interview face to face. This, of course, doesn't mean that I am not going to use responses provided by filling in the form. Soft copy is also available.

The objectives of the Questionnaire are:

To assess the practical application of the changes and improvements in the provisions on PLCs in the New Commercial Code since the promulgation of the Code on April 12, 2021

The Questionnaire has two parts. The first part relates to the personal profile of my interviewees. The second part relates to the practical application of the changes and improvements/betterments in the provisions on PLCs in the New Commercial Code since its promulgation in 2021.

**Part One: Personal profile**

- Name(optional)\_\_\_\_\_
- Please put a tick-mark like this (√) on the spaces Provided

- Gender: male\_\_\_\_\_ female\_\_\_\_\_
- Job title\_\_\_\_\_
- Organization\_\_\_\_\_
- Educational Background: PhD\_\_\_\_ Masters\_\_\_\_ Bachelor\_\_\_\_ Diploma \_\_\_\_\_
- Experience : years\_\_\_\_\_ months \_\_\_\_\_

**Part two: Assessing the practical application of the changes and improvements in the provisions on PLCs since the promulgation of the new Commercial Code on April 12, 2021**

1. Are there practical problems related to the authentication and registration of Memoranda of Associations (MOAs) of Private Limited Companies (PLCs)? ኃላፊነቱ የተወሰነ የግል ማሕበር መመስረቻ ጽሁፍን ከማረጋገጥና ከመመዘገብ ጋር የተያያዙ ተጨባጭ ችግሮች ምን፤ምን ናቸው?

---



---



---

2. What are the problems related to authentication and registration of minutes of Transfer of shares in PLCs? ኃላፊነቱ የተወሰነ የግል ማሕበር አክሲዮኖችን ለማስተላለፍ የሚቀርቡ ቃለጉባኤዎችን ከማረጋገጥና ከመመዘገብ ጋር የተያያዙ ችግሮች ምን፤ምን ናቸው?

---



---



---

3. Are there problems related to the abolition of Articles of Association of PLCs? የኃላፊነቱ የተወሰነ የግል ማሕበር መተዳደሪያ ደንብ እንዲቀር መደረጉ ያስከተለው ችግር ምንድን ነው?

---



---



---

4. How do you verify that the capital fixed and stated in MOAs of PLCs is actually and fully paid? በኃላፊነቱ የተወሰነ የግል ማሕበር መመስረቻ ጽሁፍ ውስጥ በጥሬ ገንዘብ ወይም በዓይነት ተከፍሏል ተብሎ የተገፀው ካፒታል በእርግጥ በሙሉ የተከፈለ ስለመሆኑ እንዴት ያረጋግጣሉ?

---



---



---

5. How many MOAs of PLCs with contributions in kind have you authenticated and registered post the promulgation of the new Commercial Code? አዲሱ የንግድ ሕግ ከታወጀ ወዲህ የዓይነት መዋጮ የተደረገባቸው ስንት የኃ/የተ/የግል ማሕበር መመስረቻ ጽሁፎችን በማረጋገጥ መዝግበዋል? In 2014E.C\_\_\_\_\_ in 2015E.C\_\_\_\_\_ in 2016E.C\_\_\_\_\_

6. What types of properties are contributed as in kind contributions in Question 5? በተራ ቁጥር 5 ላይ በዓይነት መዋጮ ገቢ የተደረጉት ምን፤ምን ዓይነት ንብረቶች ናቸው?

---



---



---

7. How is the valuation of in kind contributions done in Question 6? በተራ ቁጥር 6 ላይ በዓይነት መዋጮ ገቢ የተደረጉት ንብረቶች የተገመቱት እንዴት ነው?

---

---

8. How many MOAs of PLCs that have Boards of Directors have you authenticated and registered? ማሕበሩ በዳይሬክተሮች ቦርድ እንዲመራ የተወሰነባቸው ስንት የኃ/የተ/የግል ማሕበር መመስረቻ ጽሁፎችን በማረጋገጥ መዝግበዋል?

In 2014E.C \_\_\_\_\_ in 2015E.C \_\_\_\_\_ in 2016E.C \_\_\_\_\_

9. What are the improvements made on authentication and registration of MOA of PLCs? ኃላፊነቱ የተወሰነ የግል ማሕበር መመስረቻ ጽሁፍን ከማረጋገጥና ከመመዝገብ ጋር በተያያዘ የተደረጉ ለውጦች ምን፤ምን ናቸው?

---

---

10. What are the problems you faced in relation to the provisions on PLCs in discharging your duties and responsibilities? ከኃ/የተ/የግል ማሕበር ድንጋጌዎች ጋር የተያያዘ የሥራ ተግባርና ላፊነትዎን በመወጣት ሂደት ያጋጠመዎት ችግር ምንድን ነው?

---

---

11. Anything you would like to add in relation to the issues raised above? ከዚህ በላይ ከቀረቡት ጉዳዮች ጋር በተያያዘ በተጨማሪ ለመግለጽ የሚፈልጉት ነገር ካለ?

---

---

**Thank you very much!**

**INTERVIEW QUESTIONNAIRE**  
**AAU, College of Law and Governance Studies**  
**School of Law, LL.M Program in Business Law**  
**LL.M. Thesis (Research) Questionnaire**

This Questionnaire is designed to be answered by directors/managers/experts from the Ministry of Trade and Regional Integration (MOTRI) to make survey assessment for the topic: **The Provisions of THE NEW (2021) Commercial Code on Private Limited Company (PLC) in Comparison to the Provisions on PLC in THE FORMER (1960) Commercial Code: Any Betterment?**

**N.B. The research does not relate to the newly introduced One Person (Single Member) Private Limited Company by the new Commercial Code.**

Thank you in advance for your willingness to be interviewed and for your precious time to respond to my questions. I would prefer to conduct the interview face to face. This, of course, doesn't mean that I am not going to use responses provided by filling in the form. Soft copy is also available.

The objectives of the Questionnaire are:

To assess the practical application of the changes and improvements in the provisions on PLCs in the New Commercial Code since the promulgation of the Code on April 12, 2021

The Questionnaire has two parts. The first part relates to the personal profile of my interviewees. The second part would relate to the practical application of the changes and improvements/betterments in the provisions on PLCs in the New Commercial Code since its promulgation in 2021.

**Part One: Personal profile**

- Name(optional)\_\_\_\_\_
- Please put a tick-mark like this (√) on the spaces Provided
- Gender: male\_\_\_\_\_ female\_\_\_\_\_
- Job title\_\_\_\_\_
- Organization\_\_\_\_\_
- Educational Background: PhD\_\_\_\_\_Masters\_\_\_\_\_Bachelor\_\_\_\_\_ Diploma \_\_\_\_\_
- Experience : years\_\_\_\_\_ months \_\_\_\_\_

**Part two: Assessing the practical application of the changes and improvements in the provisions on PLCs since the promulgation of the new Commercial Code on April 12, 2021**

1. What are the problems related to entering Memoranda of Associations (MOAs) of Private Limited Companies (PLCs) in the Commercial Register? ኃላፊነቱ የተወሰነ የግል ማሕበር መመስረቻ ጽሁፍን በንግድ መዝገብ ከመመዝገብ ጋር የተያያዙ ችግሮች ምን፤ምን ናቸው?

\_\_\_\_\_  
\_\_\_\_\_

2. Do you register Articles of Association of PLCs in the Commercial Register? ኃላፊነቱ የተወሰነ የግል ማሕበር መተዳደሪያ ደንብን በንግድ መዝገብ ይመዘግባሉ?

Yes/አዎ\_\_\_\_ No/አይ\_\_\_\_ Why?ለምን?

\_\_\_\_\_  
\_\_\_\_\_

3. How do you verify that the capital fixed and stated in MOAs of PLCs is actually and fully paid? በኃላፊነቱ የተወሰነ የግል ማሕበር መመስረቻ ጽሁፍ ውስጥ በጥሬ ገንዘብ ወይም በዓይነት ተከፍሏል ተብሎ የተገፀው ካፒታል በእርግጥ በሙሉ የተከፈለ ስለመሆኑ እንዴት ያረጋግጣሉ?

\_\_\_\_\_  
\_\_\_\_\_

4. How many MOAs of PLCs with contributions in kind have you registered in the Commercial Register post the promulgation of the new Commercial Code? አዲሱ የንግድ ሕግ ከታወጀ ወዲህ የዓይነት መዋጮ የተደረገባቸው ስንት የኃ/የተ/የግል ማሕበር መመስረቻ ጽሁፎችን በንግድ መዝገብ መዝግባል?

In 2014E.C\_\_\_\_\_ in 2015E.C\_\_\_\_\_ in 2016E.C\_\_\_\_\_

5. What types of properties are contributed as in kind contributions in Question 4? በተራ ቁጥር 4 ላይ በዓይነት መዋጮ ገቢ የተደረጉት ምንጭምን ዓይነት ንብረቶች ናቸው?

---

---

6. How many MOAs of PLCs that have Board of Directors have you registered in the Commercial Register? ማሕበሩ በዳይሬክተሮች ቦርድ እንዲመራ የተወሰነባቸው ስንት የኃ/የተ/የግል ማሕበር መመስረቻ ጽሁፎችን በንግድ መዝገብ ላይ መዝግበዋል?

In 2014E.C \_\_\_\_\_ in 2015E.C \_\_\_\_\_ in 2016E.C \_\_\_\_\_

7. What are the improvements made on Commercial Registration of MOA of PLCs? ኃላፊነቱ የተወሰነ የግል ማሕበር መመስረቻ ጽሁፍን በንግድ መዝገብ ከመመዝገብ ጋር በተያያዘ የተደረጉ ለውጦች ምንጭምን ናቸው?

---

---

8. What are the problems you faced in relation to the provisions on PLCs in discharging your duties and responsibilities? ከኃ/የተ/የግል ማሕበር ድንጋጌዎች ጋር የተያያዘ የሥራ ተግባርና ላፊነትዎን በመወጣት ሂደት ያጋጠመዎት ችግር ምንድን ነው?

---

---

9. Anything you would like to add in relation to the issues raised above? ከዚህ በላይ ከቀረቡት ጉዳዮች ጋር በተያያዘ በተጨማሪ ለመግለጽ የሚፈልጉት ነገር ካለ?

---

---

**Thank you very much!**