

Flygtningenævnets baggrundsmateriale

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Land:	Etiopien
Kilde:	Migrationsverket
Titel:	Etiopiska domstolar
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Denna sammanställning av information/länkar är baserad på informationssökningar gjorda av Migrationsverkets landinformationsenhet under en begränsad tid. Sammanställningen gör inte anspråk på att vara uttömmande och bör inte tillmätas exklusivt bevisvärde i samband med avgörandet av ett enskilt ärende. Refererade dokument bör läsas i sitt sammanhang.

Etiopiska domstolar

Fråga:

1. Kan man bli dömd i sin frånvaro?
2. Är en dom en offentlig handling som en närstående kan hämta ut?
3. Om man blir dömd i sin frånvaro meddelas då detta till personens närstående släktingar? Om inte hur får personen i så fall veta om han blivit dömd eller inte?

Svar:

FN Human Rights Committee (HRC) rapporterar, oktober 2009, kring förfarandet i Etiopiska domstolar enligt nedanstående.

En person får endast gripas med en arresteringsorder utfärdat av en domstol, utom när det gäller flagranta brott och vissa andra undantag. Det krävs en skriftlig kallelse för inställelse till domstol enligt straffprocessordningen.

I den etiopiska konstitutionen fastställs att en anhållen person har rätt att få en snabb och specifik förklaring av skälen till hans gripande när denne ställs inför en domstol.

Den anklagade ska inställa sig personligen, tillsammans med sin advokat.

Om den anklagade inte utan giltigt skäl kan infinna sig till domstolsförhöret registreras frånvaron och denne kan ställas inför rätta i sin frånvaro "in absentia".

Man kan inte dömas i sin frånvaro så vida man inte är anklagad för ett grovt brott med strängt fängelsestraff.

Om domstolen beslutar att pröva målet i den åtalades frånvaro, ska kallelsen med datum för förhandlingen offentliggöras. Det ska framgå i kallelsen att den tilltalade kommer att dömas i sin frånvaro om denne underlåter att inställa sig på utsatt dag.

In tidskriftsartikel, Ethiopian Bar Association Newsletter, 2008, framgår att utbildning av domare utgör ett stort problem inom rättsväsendet i Etiopien.

Enligt artikeln är också hanteringen av ärenden i domstolens administration mycket svag. Mängden ärenden är stor och hanteringen av information begränsad.

Förhållandena enligt United States Department of State, för 2008, gällande rättssäkerheten i Etiopien beskrivs som undermålig med överbelastade brottmålsdomstolar.

Källor

UN Human Rights Committee (HRC), Consideration of reports submitted by States parties under article 40 of the Covenant : International Covenant on Civil and Political Rights : 1st periodic report of States parties : Ethiopia, 22 October 2009, CCPR/C/ETH/1 (Lifos 22115)
Sid. 15

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"A person may only be arrested with an arrest warrant issued by a court of law, except in the case of flagrant offences and other specified exceptions set in the Criminal Procedure Code. The Constitution guarantees arrested persons the right to be informed promptly, in a language they understand, of the reasons for their arrest and of any

charges against them. The Constitution also sets out that an arrested person has a right to be given a prompt and specific explanation of the reasons for his arrest when brought before a court of law. There is not much practical problem observed in connection with the implementation of these rights."

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Sid. 25

"136. The accused shall appear in person, together with his advocate, if any, to be informed of the charge and to defend the charges brought against him. The accused shall be adequately guarded and shall not be chained unless there are good reasons to believe that he is dangerous or may become violent or may try to escape. Proceedings shall not be instituted where there is no possibility of finding the accused and the case is one which may not be tried in his absence. Where the accused fails, without good cause, to appear on the day fixed for the hearing, the court shall record his absence and may direct that he be tried in absentia.

137. No accused person may be tried in his absence unless he is charged with an offence punishable with rigorous imprisonment or for not less than 12 years or an offence under Art. 346-354 of the Criminal Code which is punishable with rigorous imprisonment or a fine exceeding 5,000 Birr. Where the court decides to hear the case in the absence of the accused, it shall order the publication of the summons, which shows the date fixed for the hearing. It shall also contain a notification to the accused that he will be tried in his absence if he fails to appear on the day fixed."

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<http://www.unhcr.org/refworld/pdfid/4b2600e12.pdf>

United States Department of State, 2008 Country Report on Human Rights Practices – Ethiopia, 25 February 2009 (Lifos 20360)

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"The Public Defender's Office provides legal counsel to indigent defendants, although its scope and quality of service remained limited due to the shortage of attorneys available. Although the law explicitly stipulates that persons charged with corruption are to be shown the evidence against them prior to their trials, authorities routinely denied defense counsel pretrial access to such evidence"

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"The law provides for an independent judiciary. Although the civil courts operated with independence, the criminal courts remained weak, overburdened, and subject to significant political intervention and influence. Constitutional interpretation remains solely with the upper house of parliament, exclusively comprised of ruling party members, which also handles judicial appointments and reviews judicial conduct. Judicial practice allows the court unilaterally to convict defendants on charges not raised by the prosecution at any point preceding the court's decision on guilt. This practice effectively impedes defendants from presenting an adequate defense as they may not be aware of the potential charges they face."

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"Regional offices of the federal MOJ monitored local judicial developments. Some regional courts had jurisdiction over both local and federal matters, as the federal courts in those jurisdictions had not begun operation; overall, the federal judicial presence in the regions was limited. Because of this, many citizens residing in rural areas did not have reasonable access to the federal judicial system and were forced to rely on traditional conflict resolution mechanisms like the Elders' Councils. Anecdotal evidence suggested that women did not always have access to free and fair hearings in the traditional justice system because they were excluded from participation in the Elders' Councils and because there was strong gender discrimination in rural areas."

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<http://www.state.gov/g/drl/rls/hrrpt/2008/af/119001.htm>

ETHIOPIAN BAR ASSOCIATION NEWSLETTER, Temuagach,
Volume 1 No. 10, January 2008

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Sid. 3.

"The Judicial System

The following script is taken from a "Report of study

on General Justice Reform Programme" compiled
by the office for the Justice Reform Programme with
the Ministry of Capacity Building"

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"The absence of
mechanism for the training of judges is one of the
major problems of the justice system of Ethiopia.
The handling of cases in court administration is
also very weak. Cases handled by each judge have
increased during the past years. To get all types of
information easily also has limitations."

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"Many of the decision of courts are not being published".

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<http://ethiopian-bar.org/pdf/temg-English-10.pdf>