

CHAPTER EIGHT

SPECIAL PROCEDURES LEADING TO JUDGMENT

i. Private Prosecutions

ii. Default Proceedings

iii. Summary Proceedings: Petty Offences and Contempt

iv. Juvenile Procedures

v. Corruption Crimes

Default Proceedings

- If the accused cannot be found or known to have fled abroad the court has to resort to Art 160/3/ of the CPC and see if it can see the case even in the absence of the accused i.e. if *trial in absentia/default proceeding is possible*.

- Trial in absentia may be held only in respect of certain grave offences, of specific offences that are committed by adult offenders. Such offences are either punishable with rigorous imprisonment **for not less than twelve years** or **offences that are provided for under Art 354-365 Of the PC** (Offences against the fiscal and economic interest of the state), which are punishable with rigorous imprisonment of fine exceeding five thousand birr. Even then, default judgment possible **if the accused is not young person.**
- After going through the law, the court shall decide for the trial of the case in absentia and then, shall order the **publication of the summons** which shall show the date fixed for hearing. Though the law says the court shall order summons published, it does not mention as to how such summons be published. Practically, however, it is normally published in a national newspaper often Addis Zemen Gazette.

- Art 197-202 of the CPC provides the possibility of making an ***application to set aside judgment made in default*** where the accused has been convicted in his absence and now appears and make an application with ***good cause for his non appearance***. Such application is made to the rendition court within ***thirty days from the date on which the applicant became aware of the judgment given in his absence***. Where the applicant is aware and is not able to file an application within those thirty days, his advocate may file the application and the applicant may have afterwards a sufficient time to appear before the court as his personal presence. Obviously, such application should be based on a reason (s) and the law under Art 198 of the CPC recognizes only two reasons. These are:
 - I. the accused has not received summons to appear ; or
 - II. The accused has received the summons but prevented by force majeure from appearing in person or by advocate.

Juvenile Procedures

- In many countries, there is what we call juvenile court which is a special court designed to see cases in which young persons /juveniles are parties. Some of the innovations claimed for juvenile court have been: specialization of judges, informality of the court room and of other aspects of the proceedings, rigid segregation of juveniles from adult subjects of the criminal process at all pre-trial and post-trial stages, protection of juvenile offenders from publicity, emphasis on discovering the cause of anti-social behavior in the juvenile, and on the rehabilitating him through affecting his environmental rather than on fixing his blame and punishment.
- In general, juvenile courts and boards, which have the same function in some countries, frequently dispense procedural protections for the juvenile who is subject to such treatment as being provided by law.
- Coming to the existing Ethiopian laws, we find **chapter ten** of the CPC that deals about procedures concerning young persons. **Thus, issues concerning complaint and accusation, arrest, investigation, charge, plea, trial, judgment, sentence and appeal are dealt and supposed to be governed pursuant to provisions listed therein.**

- **Corruption Crimes**
- **Relevant Laws**
- Revised Anti-Corruption Special Procedure and Rules of Evidence Proclamation No. 434/2005
- Art 402-419 of the CC
- The last type of special criminal procedure to be discussed in this document is corruption offences. ***Separate rules*** are enacted to regulate the ***arrest, investigation, search and seizure, bail, injunction, restraining order, remand, prosecution, trial, evidence, standard of proof, confiscation, appeal, etc*** of corruption crimes. These provisions are mainly found under the proclamation dealing with procedural and evidentiary matters of corruption cases and the CC. Thus, there are special procedural and evidentiary rules pertaining to corruption offences.

- An arrested person on corruption case has **bail** right. But, there will not be bail if the crime entails **more than 10 years imprisonment**. Both sides could appeal on the decision of bail question. If there is appeal on the release of the suspect or accused on bail, it will not be enforced in case the investigator or prosecutor brings appeal. The court has to wait for reasonable time to let the appeal is filed. The investigator may also release the suspect on legally set grounds.
- Unlike other criminal cases, the court is empowered to order other conditions besides the bail. These conditions are prohibition of tampering with evidence, restriction of movement to certain places, periodic reporting obligation, and prohibition of leaving the country. The court may also grant **restraining order** on the properties of the suspect or accused upon request supported by affidavit. There are also specific provisions dealing with **search and seizure**. The court handling matters related to investigation of corruption crimes is only the Federal High Court and regional high courts in their respective jurisdiction.