

# Criminal law Procedure and Evidence Code

**of the Federal Democratic Republic of Ethiopia**

**(Draft)**

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# Proclamation No. ----/2020

# Criminal law Procedure and Evidence Code of the Federal Democratic Republic of Ethiopia

WHEREAS it has become necessary to establish a modern process of criminal justice that conforms with, and ensures the implementation of the principles and values of, the Constitution of the Federal Democratic Republic of Ethiopia and international agreements that Ethiopia has ratified;

WHEREAS it is necessary to enact a comprehensive and consistent code that can ensure respect and protection of fundamental rights of accused and suspected persons as well as that of victims and ensure the rule of law in the criminal justice administration system and in criminal proceedings;

IN COGNIZANCE OF the need for a legal framework to enable the country to exercise its rights and discharge its obligations under international law with regard to its criminal justice system;

WHEREAS it has become necessary to ensure that the criminal justice system works for the common good and to re-organise criminal procedure and evidence rules so as to ensure consistency and all-inclusiveness;

NOW, THEREFORE, in accordance with Article 55(1) and 55(5) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

**Art. 1.-** **Short Title.**

This Proclamation may be cited as: "**The Criminal law Procedure and Evidence Code of Ethiopia -----/2020**.

**Art. 2.- Repealed and inapplicable laws.**

(1) The 1961 Criminal Procedure Code Proclamation No. 185/1961 is hereby repealed as of the effective date of this Code.

(2) The provisions of the following proclamations governing criminal investigation, jurisdiction, procedure, evidence and international cooperation shall not be applicable to matters covered by this Code:

(a) Federal Courts Proclamation No. 25/1996

(b) Prevention and Suppression of Terrorism Crimes Proclamation No 1176/

(c) Prevention and Suppression of Money Laundering and Financing of Terrorism Proclamation No. 780/2013

(d) Trade Competition and Consumers Protection Proclamation No. 813/2013

(e) Anti-Corruption Special Procedure and Rules of Evidence Proclamation No. 882/2015 and the Revised Anti-Corruption Special Procedure and Rules of Evidence Proclamation No 434/2005

(f) Computer Crime Proclamation No. 958/2016

(g) Telecom Fraud Offences Proclamation No. 761/2012

(3) No proclamation, regulation, directive and customary practice which is inconsistent with this Code shall apply to matters covered by this Code.

(4) Notwithstanding the provisions of sub-article (3) of this Article, special procedures and rules of evidence relating to military crimes shall not be affected.

**Art. 3.- Transitory provisions**

(1) Any case initiated before the entry into force of this Code shall be concluded in accordance with the procedure code under which it was initiated.

(2) Notwithstanding sub-article (1) of this Article, a criminal case which was initiated before the entry into force of this Code shall be tried in accordance with this Code provided that it is more favourable to the accused.

(3) The provisions of this Code shall apply to criminal cases whose investigation has not been initiated until the entry into force of this Code.

**Art. 4.- Effective Date.**

This Code shall enter into force on the one hundred eightieth day of its publication in the Negarit Gazette as Proclamation No.... 2020.

**Done at Addis Ababa, this … day of …2019**

**SAHELEWORK ZEWDIE**

**PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA**

# THE CRIMINAL law PROCEDURE AND EVIDENCE CODE

# BOOK I

# GENERAL PROVISIONS, PRINCIPLES, RESPONSIBILITIES OF INSTITUTIONS AND JURISDICTION OF COURTS

## *Chapter 1 – General Provisions and Principles*

### *Section 1 - General Provisions*

**Art. 1.- Scope of Application.**

(1) This Code shall be applicable to criminal matters covered by the 2004 Criminal Code of the Federal Democratic Republic of Ethiopia.

(2) Criminal Law means the 2004 Criminal Law of the Federal Democratic Republic of Ethiopia and Special Criminal Laws enacted in accordance with Article 3 of the Criminal Code.

**Art. 2.- Definition**

In this Code, unless the context requires otherwise:

(1)"**State**" means any state recognized as such under the Constitution of the Federal Democratic Republic of Ethiopia.

(2)"**Investigating police officer**" means a police officer who is vested with the power to investigate crimes under the law.

(3)"**Police**" means federal or state police institution.

(4)"**Federal police**" means a federal police institution, and includes Addis Ababa and Dire Dawa Police.

(5)"**Public prosecutor's office**" means federal or state public prosecutor's office.

(6)"**Attorney General**" means the federal or state attorney general.

(7)"**Public prosecutor**" means a person who is vested with the power to prosecute crimes under the law and includes the attorney general and deputy attorney general.

(8)"**Court**" means any federal or state court having criminal jurisdiction.

(9)"**Registrar**" means court official responsible for undertaking the acts referred to in article 345 of this Code and specified in other laws.

(10)"**Public defender's office**" means an institution which provides legal counsel to suspects, accused or convicted persons at the expense of the state and includes military defence attorney's office.

(11)"**Jail**" means a place which is openly recognized by the public and administered by a police or military police institution, and used to detain a person suspected of a crime pending the completion of a criminal investigation.

(12)"**Place of detention**" means a place which is openly recognized by the public and used to detain a suspected or an accused person pending investigation or trial pursuant to a court order.

(13)"**Prison**" means a place which is openly recognized by the public and where convicted persons serve their sentence and undergo reform and rehabilitation.

(14) Definitions provided for police, public prosecutor, court, jail, place of detention and prison also include military police, public prosecutor, court, jail, place of detention and prison.

(15)"**Grave offense**" means a crime which is referred to as a grave offence under Schedule A of this Code.

(16)"**Medium offense**" means a crime which is referred to as a medium offence under Schedule A of this Code.

(17)"**Simple offense**" means a crime which is referred to as a simple offence under Schedule A of this Code.

(18)"**Evidence**" means anything or process which may be used to prove or disprove any relevant fact in issue and includes witness testimony, document, electronic evidence, legal presumption, judicial notice, and exhibits that are presented to prove something.

(19)"**Exhibit**" means any object against which the crime is committed or which is the fruit of the crime which is presented for the inspection of the court in order

prove or disprove a fact and includes an object containing audio, image, data or leads of a criminal act such as liquids, fingerprints, traces and other related things.

(20) "**Relevant evidence**" means any evidence which can be used to directly or indirectly determine the effect of an act or prove or cast doubt on a fact and includes any evidence which demonstrates or proves a fact in issue or which disproves or substantiates the circumstances of a fact, or shows the place or time where the act was committed or the relationship between the persons who committed the act.

(21) "**Decree**" means a decision given in a criminal case regarding bail, objection to the charge or as to whether or not the accused should defend himself after hearing the prosecutor's evidence.

(22) "**Decision**" means any court decision other than a decree, order and judgment and includes sentence.

(23) "**Judgment**" means a decision as so whether the accused is guilty or not guilty given after reviewing the charge, arguments, evidence and the law.

(24) "**Order**" means any order, other than a decision, given by a court to continue proceedings or execute a decision.

(25) "**Person**" means a physical or legal person.

(26) Under this Code, any expression set out in the masculine gender shall also apply to the feminine gender.

**Art. 3.- Objective**

The objective of this Code is:

(1) To respect and ensure the respect of the constitutionally guaranteed human rights in the process of criminal investigation, prosecution, trial and execution of judgment;

(2) To ensure that the criminal justice system uncovers the truth and is effective and fair;

(3) To ensure rule of law in the criminal justice system.

### *Section 2 - Fundamental Principles*

**Art. 4.- General**

(1) The implementation of this Code shall be guided by the principles set out under this Section.

(2) The principles set out under this Section shall be interpreted in a manner conforming to the principles of the Constitution, International Covenants on Human Rights and international human rights agreements which Ethiopia has ratified.

**Art. 5.- Presumption of Innocence**

(1) Everyone has the right to be presumed innocent until proven guilty of a crime he is suspected or accused of by a court of law. He shall not be compelled to testify against himself.

(2) The public prosecutor shall assume the burden of proving charges. The accused has the right to defend himself.

**Art. 6.- Prohibition of double jeopardy**

No person shall be tried again for a criminal conduct for which he has already been convicted or punished or subjected to other legal measures or acquitted based on a final decision in accordance with this Code and the Criminal Code.

**Art. 7.- Equality before the Law**

Arrested or accused persons are equal before the law. They are entitled without any discrimination to the equal protection of the law. Criminal Law and Procedure shall apply without discrimination on grounds of race, nation, nationality, colour, sex, language, religion, political opinion, social origin, property, birth or other ground prohibited by the law.

**Art. 8.- Arrest and detention**

No person shall be subject to arrest unless there is reasonable suspicion that he has committed a crime. No person shall be detained without a charge or conviction.

**Art. 9.- Prohibition against inhuman treatment**

It is prohibited to subject a suspect, an accused, a convicted person or any person involved in a proceeding to cruel, inhuman or degrading treatment or punishment.

**Art. 10.- The Right to Counsel**

(1) Arrested, accused and convicted persons shall have, from the time of arrest or charge, the right to receive legal advice and support from, or be represented by, legal counsel of their own choice. Where it is determined that they do not have the means to pay for legal counsel of their choice and where miscarriage of justice may occur as a result, they are entitled to legal representation at the State's expense.

(2) In determining whether miscarriage justice would arise under sub-article (1) of this Article, the court shall consider the following factors:

(a) the complexity of the case;

(b) the gravity of the crime;

(c) the situation of the suspect; and

(d) other similar circumstances.

(3) Notwithstanding the provisions of sub-article 1 of this Article, there shall be a mandatory legal representation where the case involves:

(a) a young offender;

(b) plea bargaining;

(c) a person accused of a crime punishable by a minimum of 10 years rigorous imprisonment; and

(d) Where legal representation is explicitly required by law.

**Art. 11.- Speedy trial**

Any investigation, charge and court proceedings shall take place within the time limit set out under this Code.

**Art. 12.- Public trial**

(1) All criminal cases shall be heard in a public trial.

(2) Notwithstanding the provisions of sub-Article (1) of this Article, the proceedings shall be held in camera only with a view to preserve the right to privacy of the accused or the victim, public moral or national security.

**Art. 13.- Equality of Arms**

Every proceeding shall ensure the procedural equality between the public prosecutor or private prosecutor and the accused.

**Art. 14.- Working language of the court**

(1) Criminal proceedings shall be conducted in the working language of the court.

(2) Any person suspected or accused of a crime shall be informed promptly, in a language he understands and in detail, of the nature and cause of the charge against him.

(3) Where the court proceeding is conducted in a language he does not understand, the State shall appoint an interpreter to interpret it into a language or sign he understands.

(4) The provisions of sub-article (3) of this Article shall apply in respect of translation of the charge and documentary evidence.

**Art. 15.- Discovering the truth**

(1) Every investigation, prosecution and trial shall be guided by the principle of truth-finding.

(2) The process of search for the truth shall be grounded on the principle that no guilty person escapes punishment and no innocent person is arrested and held accountable.

**Art. 16.- Legality**

(1) Any person or institution vested with authority under this Code shall be guided by the principle of the rule of law.

(2) Any decision on criminal matters shall be made pursuant to the Constitution and this Code.

(3) Any accused person shall be tried only by a court having jurisdiction.

(4) Criminal investigation, judgement and execution of decision shall be under the exclusive jurisdiction of those organs authorised under the law.

**Art. 17.- Public nature of prosecutions**

(1) The power to decide on the investigation file shall vest in the prosecutor.

(2) Notwithstanding the provisions of sub-article (1) of this Article, in complaint crimes the public prosecutor may authorize a victim to conduct a private prosecution at his own expense.

## *Chapter 2 – Duties and Responsibilities of Justice Organs*

**Art. 18.- Common and individual duties and responsibilities of justice organs**

(1) Without prejudice to the powers and responsibilities vested in them by other laws, justice organs have the following common and individual duties and responsibilities in their respective competence:

(a) They shall promote the efficiency and effectiveness of the criminal justice system by ensuring its fairness, promptness, predictability and transparency. they shall put in place a system which ensures public trust and fairness;

(b) They shall undertake studies and researches on criminal matters and establish modern procedures.

(c) They shall gather, organize, analyse and disseminate criminal information statistics.

(d) They shall establish a system for the submission of grievances and complaints.

(e) They shall ensure that the treatment of suspects, accused persons, victims, witnesses and inmates is consistent with the Constitution and this Code.

(f) They shall develop and implement performance standards and submit reports to the appropriate organs;

(g) They shall pay per-diem to the witnesses they call and refund their expenses.

(h) They shall establish an inspection department which monitors the discharge of their duties complies with the law; identify non-conformities and address them;

(i) They shall develop and implement criminal justice system effectiveness standards that are consistent.

(j) They shall identify common matters of criminal justice administration and work on them in collaboration with other stakeholders.

(2)For the purpose of this chapter, "**justice organ**" includes federal or state police, attorney general, courts, prisons and defence institutions.

**Art. 19.- Duties and responsibilities of the police**

Without prejudice to instructions of the public prosecutor to the police regarding criminal investigation, police shall, pursuant to this Code:

(1) conduct investigation in respect of an alleged criminal act;

(2) Carryout instructions given to it by the public prosecutor in respect of the public prosecutor's investigation file;

(3) conduct searches upon obtaining arrest and search and seizure warrants, keep the evidence so obtained, and collect exculpatory evidence;

(4) serve summons to the accused and witness; arrest the suspect and accused;

(5) administer exhibits until the criminal case is disposed of;

(6) ensure the enforcement of in absentia judgements by apprehending and arresting the person sentenced in absentia;

(7) Facilitate conditions, from the time of arrest, for the suspect to receive legal, medical and religious services from his legal counsel, medical doctor, and priest, as well as to privately communicate with his friends, relatives and his spouse.

(8) organize a structure which ensures that the treatment of suspects in jail during investigation respects their human dignity and rights;
(9) organise different investigation units that are necessary to carry out criminal investigation;
(10) carry out other court orders.

**Art. 20.- Duties and responsibilities of the public prosecutor**

The prosecutor shall:

(1) supervise the criminal investigation; and where necessary conduct its own investigation;
(2) order the commencement of criminal investigation; cause the submission of a follow-up report on a criminal investigation initiated by the police; ensure that criminal investigation is conducted in accordance with the Law; issue necessary orders on the investigation file;
(3) decide on the investigation file; conduct prosecutions before courts; withdraw a charge; decide on exhibits before a charge is filed in court;
(4) put in place a system where criminal cases are deferred to alternatives to prosecution.
(5) ensure that any incriminatory evidence is disclosed to the accused and the court; handover to the accused or the court any exculpatory evidence it discovers in the course of investigation;
(6) remove and replace any ineffective investigative police officer;
(7) in the event of a criminal conduct which also results in civil liability, file the criminal and civil actions jointly;
(8) follow up court decisions and orders on criminal matters are executed and complied with; cause remedial measures to be taken by the court where they are not executed or they are executed contrary to the law;

(9) pay visits to jails, places of detention and prisons; take corrective measures or order such measures to be taken, where appropriate;

(10) ensure that witnesses are protected in accordance with the law;

(11) put in place, in collaboration with other appropriate bodies, a system of granting, execution and monitoring pardon, and monitor its implementation;

(12) put in place a follow up mechanism in respect of convicts that serve their punishment in the form of compulsory work or community service, and for convicts released on probation, parole and pardon; establish the necessary institutional arrangement; follow up on its execution; take the necessary measures or cause such measures to be taken.

**Art. 21.- Duties and responsibilities of the court**

The court shall:

(1) issue the necessary orders on adjournment, search, seizure and other pretrial activities;

(2) appoint an interpreter where the suspect, accused or witness appearing before the court does not understand the working language of the court or if the use of sign language is required;

(3) examine the criminal charge submitted, lead the litigation, issue an order or render a ruling, judgment or decision as it deems it necessary, and execute or cause the execution of same.

(4) issue an injunction order on a property; where appropriate, appoint a person to administer a property on which an injunction order has been issued or order the confiscation of such property.

**Art. 22.- Duties and responsibilities of the prison**

The prison shall:

(1) ward suspects and defendants who are under its custody pursuant to court order pending investigation or trial; reform convicted prisoners; facilitate the reintegration of convicted prisoners upon their release;
(2) facilitate for an accused person or a prisoner so that he receives legal, medical or religious services from his legal counsel, medical doctor or priest, as well as communicates with his spouse, friends or close relatives;
(3) bring accused persons and prisoners who are under its custody before court;
(4) ward persons in jail and prison in a separate accommodation on the basis of age, sex, offence type, punishment and health status;
(5) ensure that the treatment of persons in jail and prison respects their human rights and dignity;
(6) put in place, in collaboration with other appropriate bodies, a system of granting, execution and monitoring probation, and monitor its implementation;

**Art. 23.- Duties and responsibilities of the defence institution**

The defence institution shall:

(1) provide legal service to the suspect, the accused or the prisoner on criminal matters he is suspected, accused or convicted of, and inform his client about the status of the case.
(2) give or receive information relating to legal service, to and from the suspect, accused or prisoner while the latter is in jail, place of detention or prison.

## *Chapter 3 - Jurisdiction*

### *Section 1 – Judicial Jurisdiction of Courts*

**Art. 24.- Judicial jurisdiction of Ethiopian courts**

(1) Ethiopian Courts shall have principal jurisdiction over offences committed in the territory of Ethiopia. Offences committed outside Ethiopia on Ethiopian

Ships and aircrafts shall be deemed to have been committed in the territory of Ethiopia.

(2) Ethiopian courts shall have principal jurisdiction over offences committed whilst on a voyage to neighbouring countries by means of land transportation, offences committed in Ethiopia and have consequence outside Ethiopia or offences committed outside Ethiopia and have consequence in Ethiopia.

(3) Ethiopian courts shall have principal jurisdiction over offences committed outside Ethiopia in violation of Articles 238 to 260 and Articles 355 to 374 of the Criminal Code of Ethiopia against the security and integrity of the state of Ethiopia, its institutions, its essential interests and currency, public morality, national security and on computer crimes.

(4) Notwithstanding sub-article 3 of this article, Ethiopian courts shall have jurisdiction on offences committed in a foreign country by Ethiopians enjoying the privilege of Immunity (Article 14 of the Criminal Code) or offences committed in a foreign country by Members of Ethiopian Defence Force (Article 15 of The Criminal Code).

(5) Ethiopian courts shall have jurisdiction over crimes committed in violation of International Laws ratified by Ethiopia and offences contrary to Article 269 to 322 of the Criminal Code of Ethiopia.

(6) Ethiopian Courts shall have jurisdiction over offences committed contrary to Articles 13 to 17 of the Criminal Code in a foreign country by any person against an Ethiopian national or by any Ethiopian national, provided that the territorial state has not duly tried the offences. Ethiopian Courts shall have jurisdiction to execute foreign criminal judgments.

**Art. 25.- Allocation of criminal jurisdiction**

(1) Federal courts shall have common jurisdiction over the following criminal matters:

(a) offences the commission of which is not limited to the local administrative boundary of the federal or a state government;
(b) offences having international nature or transnational crimes;
(c) offences related with foreign affairs;
(d) military crimes;
(e) offences committed against the institutions, properties, documents and currency of the Federal Government;
(f) offences committed by officials and employees of the Federal Government in connection with their responsibility;
(g) offences committed in cities or places accountable to the Federal Government;
(h) offences committed against tax and finance related interests of the Federal government;
(i) crimes committed against the federal system.

(2) State courts shall have common jurisdiction over:
(a) offenses the commission of which is limited to the local administrative boundary of the state government;
(b) simple offenses which are not limited to the local administrative boundary of the state; and
(c) matters not allocated to federal courts.

(3) Notwithstanding the provisions of sub-article (1)(g) of this Article, Oromia Courts shall have criminal jurisdiction over offences committed against Oromia state institutions, properties, documents and interests situated in the Addis Ababa city administration.

(4) The criminal Jurisdiction described under sub-article (1) and (2) of this Article is allocated under "Schedule A" as an annex to this Code.

(5) Notwithstanding the provisions of sub-article (4) of this article, states may issue schedules to determine jurisdiction based on the actual conditions in their respective regions.

**Art. 26.- Constitutional interpretation**

Where any court deems a case at hand raises an issue of constitutional interpretation, it shall refer such case to the Council of Constitutional Inquiry in accordance with the appropriate law.

*Section 2 - Material Jurisdiction of Courts*

**Art. 27.- Material jurisdiction of the Federal First Instance Court.**

The Federal First Instance Court shall have a first instance material jurisdiction on offences allocated to Federal First Instance Court under "Schedule A".

**Art. 28.- First instance material jurisdiction of the Federal High Court.**

The Federal High Court shall have a first instance material jurisdiction on the following matters:

(1) Offences allocated to Federal High Court under "Schedule A";
(2) Offences committed in violation of International Treaties ratified by Ethiopia;
(3) Application for change of venue from one Federal First Instance Court to another Federal First Instance Court or to the federal High Court itself;
(4) Regarding delegated powers of states courts, application for change of venue from one State High Court to another High Court of the same state or to the Federal First Instance Court or to the Federal High Court itself,
(5) Execution of foreign judgements.

**Art. 29.- Appellate jurisdiction of the Federal High Court**

The federal high court shall have appellate jurisdiction over:

(1) criminal decision of the Federal First Instance Court; and
(2) criminal decision of the State High Court by virtue of its delegated power.

**Art. 30.- First instance material jurisdiction of the Federal Supreme Court**

The federal Supreme Court shall have first instance material jurisdiction over the following matters:

(1) petitions of Change of Venue from one Federal High Court to another Federal High Court; or
(2) regarding delegated powers of state courts over criminal matters, petitions of Change of Venue from one State Supreme Court to another State Supreme Court or to a Federal High Court.

**Art. 31.- Appellate jurisdiction of Federal Supreme Court**

The federal Supreme Court shall have an appellate jurisdiction over the following matters:

(1) Criminal decisions of the Federal High Court based on its first instance jurisdiction;
(2) Criminal decisions by the Federal High Court, using its appellate jurisdiction, reversing the decision of the Federal First Instance Court;
(3) Criminal decisions of the State Supreme Court using its delegated first Instance Jurisdiction;
(4) Decisions of the State Supreme Court, using its delegated appellate jurisdiction, reversing the decision of the State High Court issued by virtue of its delegated first instance jurisdiction.

**Art. 32.- Cassation jurisdiction of the Federal Supreme Court**

The federal Supreme Court shall have a cassation power over the following criminal decisions with fundamental error of law:

(1) final decision by Federal High Court in its appellate jurisdiction;
(2) final decisions by the Federal Supreme Court;
(3) final decisions by State Supreme Courts;
(4) final decisions by Military Courts.

**Art. 33.- First instance material jurisdiction of state first instance courts**

State first instance courts shall have first instance material jurisdiction over criminal matters allocated to state first instance courts under "Schedule A".

**Art. 34.- First instance material jurisdiction of state high courts**

State high courts shall have jurisdiction over:

(1) offenses allocated to state high courts under "Schedule A" the commission of which is limited to the local administrative boundary of the state;
(2) offences allocated to Federal First Instance Court under "Schedule A" by virtue of its delegated jurisdiction;
(3) petitions of change of venue from one State First Instance Court to another State First Instance Court or to the State High Court itself.

**Art. 35.- Appellate jurisdiction of state high courts**

The state supreme court shall have appellate jurisdiction over criminal decisions of state first instance courts.

**Art. 36.- First instance material jurisdiction of state supreme court.**

The state supreme court shall have first instance material jurisdiction over:

(1) offences allocated to Federal High Court under "Schedule A" by virtue of its delegated jurisdiction;

(2) petitions of change of venue of a criminal matter from one State High Court to another State High Court;

(3) regarding delegated powers of state courts over criminal matters, petitions of Change of Venue from one State High Court to another State High Court or to the State Supreme Court itself.

**Art. 37.- Appellate jurisdiction of state supreme courts**

The State Supreme Court shall have appellate jurisdiction over the following matters:

(1) Criminal decisions of the State High Court based on its first instance jurisdiction;

(2) Criminal decisions by the State High Court, using its appellate jurisdiction, reversing the decision of the State First Instance Court.

**Art. 38.- Joinder of charges**

(1) Where the public the prosecutor or accused submits application for joinder of charges:

(a) Where the charges are pending before courts having similar material jurisdiction, the appellate court may, where it determines that a joint trial would not limit the right of the accused to defend himself or that it would ensure a fair decision, order a joint trial by either court by taking in to consideration the gravity of the charges.

(b) When the charges fall partly under the jurisdiction of First Instance Court and partly under the jurisdiction of High Court, they shall be tried jointly by the High Court.

(c) When the charges fall partly under the jurisdiction of a Federal Court and partly under the jurisdictions of state courts with first instance jurisdictions, they shall be tried jointly by the Federal Court.

(d) When the charges fall under the jurisdictions of different courts in a state and when it is impossible to determine the serious charge, the State Supreme Court of the state shall determine which court shall try the matter.

(e) Where charges fall under the jurisdictions of courts of different states, the court having jurisdiction over the serious charge shall try them jointly.

(2) When it is difficult to determine the serious charges in accordance with sub-article (1)(d) of this Article, the federal Supreme Court shall determine the serious charge.

**Art. 39.- Criminal jurisdiction not expressly allocated**

The Federal First Instance Court shall assume material criminal jurisdiction over any matter that is not expressly allocated to other courts.

**Art. 40.- Jurisdiction over reinstatement application**

The court which delivers the final judgment over a criminal matter shall have jurisdiction to decide on requests of reinstatement relating to the same matter.

*Section 3 - Local Jurisdiction*

**Art. 41.- Regular local jurisdiction**

(1) Federal Courts shall have local jurisdiction over offences committed within the local administrative limit within which they are situated and listed under "Schedule A" to this Code.

(2) Federal Courts shall have local jurisdiction over offences committed in Addis Ababa and Dire Dawa cities.

(3) Federal Courts shall have local jurisdiction over offenses which are committed or have consequence outside Ethiopia.

(4) State Courts shall have local jurisdiction over offences committed within the local administrative limit of the state and listed under "Schedule A" to this Code.

**Art. 42.- Jurisdiction when a criminal act and its consequence occur in different places**

Where a criminal act is committed in one locality but having consequence in another locality, the offence may be tried by the court having local jurisdiction in the local administration limit where such act is committed or where such consequence is ensued.

**Art. 43.- Jurisdiction in case of two offences involving continuity of acts**

Where criminal acts which constitute two offences are committed in different local administrations, the court having local jurisdiction to try one of the offences shall have jurisdiction to try both offences.

**Art. 44.- Trial where the place of offence is uncertain**

Where it is uncertain in which of the local administrations the criminal act was committed or its consequence was ensued, it may be tried by a court having material jurisdiction over one of such local administrations.

**Art. 45.- Offence committed on a journey**

An offence committed whilst the suspect is in the course of performing a journey shall be tried by a court having local jurisdiction in the place where the suspect or the victim or the thing, by means of which the offence was committed, passed through or arrived.

**Art. 46.- Concurrent local jurisdiction**

(1) When a criminal matter falls under the local jurisdiction of different Federal courts, the court before which the charge is instituted first shall have a primary local jurisdiction over the matter.

(2) When a criminal matter falls under the local jurisdiction of multiple state courts within the same state, the state court before which the charge is instituted first shall have a primary local jurisdiction over the matter.

(3) When a criminal matter falls under the local jurisdiction of state and federal courts or courts of different states having the same material jurisdiction, the court before which the charge is instituted first shall have local jurisdiction over the matter.

(4) The court which does not have a primary local jurisdiction in accordance with this provision shall close the file.

**Art. 47.- Change of venue**

(1) The public prosecutor or the accused may petition to an appellate court for a change of venue from a court having local jurisdiction to another court having no local jurisdiction.

(2) Change of venue shall be granted pursuant to sub-article (1) of this article where it is believed that:

(a) a fair and impartial trial cannot be held by the court before which the charge is instituted;

(b) the place of the trial is not convenient for the parties or their witnesses;

(c) the case cannot be disposed of expeditiously; or

(d) for any other valid reason it is difficult to have the case litigated and to dispose of it the usual way.

(3) Where the court before which the application of change of venue is submitted determines either of the grounds of change of venue listed under sub-article (2) of this Article exits, it may decide:

(a) the case to be tried by any court having material jurisdiction regardless of whether or not it has local jurisdiction; or

(b) to try the case itself.

(4) Where the application of change of venue is made before the Supreme Court, such court is barred from trying the case itself.

(5) The order issued pursuant to sub-article 3 of this Article shall be final and non-appealable.

## *Chapter 4 - Powers of Other Justice Organs and Withdrawal*

### *Section 1 - Powers of Other Justice Organs*

**Art. 48.- Powers of federal Justice organs**

(1) The Federal Attorney General shall have the power to lead the investigation of, and conduct the prosecution of, offences falling under the jurisdiction of federal courts and committed within the relevant local administration limit.

(2) The federal police shall have the power to investigate offences falling under the jurisdiction of federal courts and committed within the relevant local administration limit.

(3) Federal prisons shall execute judgments rendered by federal courts.

**Art. 49.- Powers of state justice organs**

(1) The State Attorney General's Office shall have the power to lead the investigation of, and conduct the prosecution of, offences falling under the jurisdiction of state courts and committed within the relevant local administration limit.

(2) The state police shall have the power to investigate offences falling under the jurisdiction of state courts and committed within the relevant local administration limit.

(3) State prisons shall execute judgments rendered by state courts.

**Art. 50.- Delegation of power**

(1) The federal prosecutor, police and prison may delegate, as appropriate, some of their power conferred to them by this Code to state justice organs.

(2) The federal justice organs shall bear the necessary costs the state justice organs incur while discharging their delegated powers as per sub-article (1) of this Article.

*Section 2 – Appointment of judges*

**Art. 51.- Matters reviewed by five or more judges.**

The following matters shall be reviewed by five or more judges at the Supreme Court level:

(1) matters reviewed in cassation;

(2) matters of the death penalty brought before the court;

(3) matters regarding which two or more Supreme Court benches have given differing decisions;

(4) matters which the Council of Judges of the Supreme Court has decided to be tried by more than five judges.

**Art. 52.- Matters reviewed by three judges**

(1) The following matters shall be reviewed by three judges at any level:
   (a) offenses which are punishable by a maximum of fifteen years rigorous imprisonment;
   (b) offenses which are punishable by less than ten years rigorous imprisonment which the Council of Judges of the Supreme Court has decided to be tried by three judges;
   (c) matters ordinarily tried by the regular bench of the Supreme Court.

(2) Notwithstanding the provisions of sub-article (1) of this article, the following matters may be reviewed by one judge:
   (a) matters brought before court after reconciliation, plea bargaining and other alternatives to trial;
   (b) ascertaining the competence of a charge;
   (c) ordering that the accused or a witness be arrested and brought before court, where they have been served with summons and have failed to appear, or giving the appropriate order where they have failed to appear due to not receiving summons;
   (d) giving an adjournment where the parties have not presented their evidences due to valid reasons;
   (e) giving an adjournment where the proceeding is not held on the appointed date due to force majeure; or
   (f) change of venue.

(3) Notwithstanding sub-article (1) of this article, the following matters shall be reviewed by two judges:
   (a) giving the appropriate order regarding bail;

(b) giving an injunction order pursuant to an application and hearing appeals regarding grievances;

(c) hearing objections against a charge and giving the appropriate orders;

(d) reviewing an application to set aside a judgment rendered in absentia and giving the appropriate order.

(4) Where a tie occurs between the judges in deciding on matters in accordance with sub-article (3) of this article, the matter shall be reviewed and decided by full bench.

**Art. 53.- Matters reviewed by one judge**

The following matters may be reviewed by one judge at any level:

(1) Offenses which are punishable by less than ten years rigorous imprisonment;

(2) Offenses which are only punished by fine;

(3) Search and seizure, adjournment and similar orders; or

(4) Disclosing a judgment or decision rendered by three or more judges to the parties.

**Art. 54.- Rendering of decision**

(1) Any judgment, decision, ruling or order shall be rendered by unanimous vote.

(2) Where unanimous vote cannot be attained, the judgment, decision, ruling or order which has majority vote shall be court's judgment, decision, ruling or order.

**Art. 55.- Public trial**

(1) Notwithstanding the provisions of article 12 of this Code, where there is a request to hold a proceeding in camera, such request shall be reviewed and decided in camera.

(2) Where the proceeding is held in camera, parties to the proceeding shall be notified that any information that they acquire in such proceedings shall be kept confidential.
(3) Unless otherwise provided or ordered by the court, a public trial shall also be open to media.
(4) Unless expressly prohibited by law, any decision given by any court shall be disclosed to the public.

**Art. 56.- Maintaining order in proceedings**

The presiding judge shall:

(1) maintain proper order in proceedings to ensure that everyone is treated equally, to ensure the rule of law, and to ensure that the parties present their arguments comfortably and freely;
(2) take appropriate measures in accordance with the law against persons who violate such order.

***Section 3 - Withdrawal from criminal investigation and proceedings***

**Art. 57.- General**

(1) Any judge, prosecutor or investigator shall be withdrawn from criminal justice proceedings and replaced by another when:
    (a) he is a person accused or a victim of the crime, or he is a spouse of the victim or the accused;
    (b) he is related to the accused or victim by consanguinity or by affinity;
    (c) there is conflict of interest involving himself or his relatives;
    (d) he was previously involved in the case as prosecutor, judge, defence lawyer or consultant;
    (e) he was involved in the case as an expert witness, interpreter or witness;

(f) he is not assigned to the case as per the law;

(g) there are sufficient grounds other than those listed under sub-article (1) (a) to (f) of this Article which could prevent a fair or impartial decision from being given.

(4) Any defence lawyer shall be withdrawn and replaced by another where:

(a) he was previously involved in the case as a judge, prosecutor, investigator, defence lawyer, conciliator, witness, or expert witness;

(b) pursuant to advocates' code of conduct, conflict of interest is likely to arise.

**Art. 58.- Previous involvement in a case**

(1) Any judge who was previously involved in the rendering of a judgment, decision, ruling or order on a criminal case shall not be appointed to preside over the same case again.

(2) Notwithstanding sub-article (1) of this article, previous involvement in adjournment, leave to appeal, application to re-open proceedings, civil, ethics or other similar proceedings related to a case shall not be considered as having previously presided over the case.

**Art. 59.- Application for removal**

(1) Any judge, prosecutor, investigator or defence lawyer shall withdraw of his own motion as soon as he is aware of the existence of either of those grounds listed under Articles 57 and 58 of this Code which disqualify him from participating in the process.

(2) Notwithstanding the provisions of sub-article (1) of this Article, the prosecutor or the accused may file a petition for removal.

(3) The petition shall be reasoned and supported with evidence.

**Art. 60.- Time of application**

An application for withdrawal shall be made immediately after the prosecutor or accused becomes aware of the reason for making such an application.

**Art. 61.- Presentation of the Application**

An application for withdrawal from investigation or trial process shall be made to:

(1) the appropriate bench, if it relates to the judge;
(2) the immediate superior, if it relates to the prosecutor or the investigator;
(3) the head of the institution, if it relates to a public defender;

**Art. 62.- Rendering of decision**

(1) The person against whom an application for withdrawal is made in accordance with article 61 of this Code shall be entitled to give his opinion on the matter.
(2) Where the application for withdrawal is made against a judge:
    (a) The judge against who the application for withdrawal is made shall review and decide on the matter; were the application is made to a bench consisting of more than one judge, the judge whom the application is not made against shall review and decide on the matter.
    (b) Where the judge against whom the application is made decides that he shall not withdraw, he shall refer the matter to another bench.
    (c) Where there is a tie between the judges who review the application, the decision of the senior judge in terms of appointment shall have precedence.
    (d) Where the application is made against the judge of a Woreda Court presided by only one judge, the appellate court shall decide whether or not the judge against whom the application is made shall withdraw and, where such judge is to withdraw, assign a judge having material jurisdiction to hear the case.
(3) The application for withdrawal shall receive a decision forthwith and before proceeding with the trial; an adjournment of not more than three days shall be

given where the proceeding is believed to require the hearing of evidence and reviewing of the file.

(4) A decision given in accordance with sub-article (2) of this article shall be final.

(5) Notwithstanding the provision of sub-article (4) if this article, where an application for withdrawal is rejected and a decision is rendered on the charge by the judge against whom such application was made, the person who previously made the application for withdrawal may appeal against the decision regarding the application for withdrawal and the decision on the case jointly.

# BOOK TWO

# CRIMINAL INVESTIGATION

## *Chapter 1 - Setting Justice in Motion*

**Art. 63.- General**

(1) Criminal investigation shall be carried out by investigating police officer. It is the responsibility of the public prosecutor to lead and supervise the investigation.

(2) The police shall begin investigation and report to the public prosecutor regarding commencement of such investigation where it has come to know about commission of an offence through:

(a) patrol, follow up, research or similar mechanisms;

(b) accusation or complaint;

(c) it receives a tip and has reason to suspect that a crime has been committed;

(d) flagrant offences; or

(e) instructions from the public prosecutor to undertake criminal investigation.

(3) The investigating police officer shall undertake such investigation notwithstanding the complaint, information, tip or instruction given to the police under sub-article (2) of this Article is open to doubt.

(4) The investigating police officer shall record each activity of investigation undertaken each day in the investigation file. The investigation file includes any court order and instructions form the public prosecutor.

**Art. 64.- Accusation**

(1) Any person who has information about the commission of an offence may communicate same to the police or public prosecutor nearby with a view to criminal proceedings being instituted.

(2) Notwithstanding the provisions of sub-article (1) of this Article, where substantive law provides an offence is a reportable offence, such person has the duty to report such information.

**Art. 65.- Complaint**

(1) Where an offence is a punishable only upon complaint, the injured person or his representative may file his complaint to the nearby police or public prosecutor's office in any convenient manner. Where the victims are two or more, they may file their complaint either jointly or individually.

(2) Where the injured person died before filing his complaint, such complaint may be filed by his descendants, spouse, and ascendants, respectively.

(3) The complaint of an injured person who is not of age or a person legally interdicted may be filed by the parent or guardian of such person.

(4) Where the complainant fails to appear in person and present his case orally within ten days of filing the complaint, the complaint shall be struck out.

**Art. 66.- Recording of accusation or complaint**

(1) Any accusation or complaint shall be recorded forthwith upon being filed with the police or public prosecutor's office. Such office shall not refuse recording any complaint.

(2) Where the accusation or complaint is made to the police, the investigating police shall record such complaint and inform the public prosecutor of the same immediately. Where the complaint is made to the public prosecutor's office, the office shall give the police instructions to start investigation forthwith.

(3) The investigating police officer to whom the accusation or complaint is made or referred shall forthwith record the date and place of commission of the crime, the full name of the suspect, name and address of witnesses and other relevant information.

(4) The investigating police officer shall then carry out preliminary screening forthwith in accordance with the provisions of Article 71 of this Code.

**Art. 67.- Complaint made to office without authority**

Where a complaint is made to an office without authority, such office shall forthwith forward such complaint to the police or public prosecutor's office.

**Art. 68.- Withdrawal of complaints and its result**

(1) A complaint may be withdrawn by the complainant or his representative for any reason any time before judgement. The withdrawal shall be final.

(2) Where the complaint is withdrawn, the file shall be closed; any item seized or exhibit shall be returned to the suspect, the accused or the person from whom it was taken.

(3) Where a complaint is lodged against several offenders, despite the withdrawal of the complaint in respect of one of them, the proceedings may continue against the rest of them.

**Art. 69.- Anonymous accusation**

(1) Any person who has information regarding the commission of an offence may report same to the police or the public prosecutor without being obliged to disclose his own identity.

(2) An anonymous accusation made under sub-article (1) of this Article which discloses the commission of an offense and is on the face of it circumstantial and credible shall be investigated by the police with a view to ascertaining the truth or otherwise of the accusation in accordance with the provisions of this Code regarding investigation.

**Art. 70.- Providing information to victims**

The investigating police officer shall, upon request, provide information to the complainant regarding measures taken and the status of the investigation provided it does not put at risk the security of individuals or interfere with the investigation process.

**Art. 71.- Preliminary screening**

(1) Based on the legal opinion of the public prosecutor, the investigating police officer shall carry out a preliminary screening on the offense regarding which a complaint or accusation has been made or which shall be investigated under this Code and ascertain whether:

(a) such conduct is a criminal conduct;

(b) the act is a flagrant offence, contravention, whether it can be resolved though reconciliation, customary dispute resolution or other alternatives to trial; or

(c) the investigation file should be closed by the public prosecutor without the need for further investigation; or

(d) the nature of the conduct is not clear demanding further investigation.

(2) The investigating police officer who has carried out the preliminary screening under sub-article (1) of this article shall forthwith apprise the public prosecutor about his decision.

**Art. 72.- Flagrant offences**

(1) Where the preliminary screening carried out under Article 71 of this Code reveals the conduct is a flagrant offence, the invaginating police officer shall:
   (a) gather and properly organise the evidence;
   (b) where necessary, visit the scene of the crime in order to gather and preserve evidence;
   (c) record and preserve exhibits; where an item is not relevant as evidence, return the material to the person from whom it is taken or the owner;
   (d) carry out further investigation where necessary;
   (e) forthwith forward the investigation file to the public prosecutor where the investigation is completed.

(2) An offence shall be deemed flagrant where the offender is found committing the offence, attempting to commit the office, or has just committed the offence and apprehended at the scene or has escaped and is chased by witnesses or members of the public or when a hue and cry has been raised.

**Art. 73.- Closing the investigation file after a preliminary screening**

(1) After the preliminary screening is made according to the provisions of this Code, where it is found that the act is not a crime, or is barred by limitations, or amnesty or pardon is granted, the police shall forward the investigation report to the public prosecutor for an appropriate decision.

(2) For the purpose of this article, an investigation file shall mean a document without a criminal file number which is prepared in order to carry out preliminary screening.

**Art. 74.- Further investigation**

(1) Where the preliminary screening made under Article 71 of this Code indicates the conduct is a criminal conduct, the public prosecutor shall order a criminal investigation be undertaken.

(2) Where, based on the preliminary screening, the nature of the conduct is not clear the public prosecutor shall order further investigation, and enter a decision based on the finding of such investigation.

(3) Notwithstanding the provisions of sub-articles (1) and (2) of this Article, if the investigating police officer reasonably believes the conduct is a criminal conduct based on the preliminary screening, he shall start criminal investigation without expecting the decision of the public prosecutor.

## *Chapter 2 – Investigation*

### *Section 1 – Commencement of investigation and gathering of information*

**Art. 75.- General**

(1) Criminal investigation shall be carried out by the investigating police officer. The public prosecutor shall be responsible for leading and supervising the investigation.

(2) Where an investigator who has received an accusation or complaint has reason to believe that a crime has been committed, he shall initiate an investigation and notify the public prosecutor forthwith of such investigation by any convenient means.

(3) Without prejudice to the responsibility of the public prosecutor to lead and supervise any criminal investigation, the public prosecutor has the power to, at any stage of investigation, provide advice and support to the investigator, give the appropriate instruction, ensure that investigations are carried out in accordance with the law and, where necessary, carry out the investigation jointly with the police.

(4) Without prejudice to the provisions of sub-article (1) of this Article, the investigating police officer shall implement all the instructions given from the public prosecutor in relation to an investigation.

**Art. 76.- Investigation**

(1) Investigation may be carried out by:
   (a) taking and examining witnesses' statements;
   (b) conducting search and seizure of persons, property and premises, including the suspect;
   (c) conducting observation and gathering evidence at the scene of the crime;
   (d) soliciting evidence from third parties;
   (e) taking expert opinion evidence;
   (f) taking samples;
   (g) using special investigation techniques; or
   (h) taking statements from the accused.

(2) A criminal investigation shall be conducted based on information and evidence.

**Art. 77.- Use of proportional force during investigation**

(1) The investigating police officer may use proportional force in order to effect arrest of the suspect, to carry out search and in the use of special investigation techniques.

(2) Where the police uses force in the discharge of his responsibilities, he shall ensure that such use of force is absolutely necessary and there is no other way to achieve the intended purpose.

***Section 2 - Recording Witnesses' Statements***

**Art. 78.- Witnesses' statements and investigation.**

(1) The investigating police officer may summon any person or expert and solicit information or evidence, expert opinion, regarding the crime committed, the suspect or related matters.

(2) Notwithstanding the provisions of sub-article (1) of this Article, the provisions of Article 264 of this Code relating to privileges shall be respected.

**Art. 79.- Summoning witnesses.**

(1) The investigation police officer shall issue summons to a person who may give testimony.

(2) The summons that is issued under this Article shall contain:

(a) full name of the witness;

(b) the year, month, date, hour and place such testimony is to be taken;

(c) nature of the crime in respect of which the testimony is sought; and

(d) other necessary details.

Such summons may be served on such witness in person, in writing, on telephone or any other effective means.

**Art. 80.- Taking statements of witnesses.**

(1) The investigating police officer may take witnesses' statements in his investigation room or at the scene of the crime.

(2) Notwithstanding sub-article (1) of this Article, where the witness' statement cannot be taken in the investigation room due to sickness, age or any other compelling reason, such witness' testimony may be taken at the place where the witness is located or any other place the circumstance demands.

(3) Before the witness makes his statements, the investigating police officer shall:

(a) tell the witness that he has a privilege against self-incrimination, that he makes such statements on his own free will and that he should only state what he knows, that he will be afforded the necessary legal protection;

(b) where the witness is a person who is traumatised by crimes such as rape or a person who is not of age, ensure that he is accompanied by his parents or guardian and by a psychologist and social worker, and introduce such witness to such person.

(4) Witnesses' statement shall be taken as follows:

(a) The witness may reply verbally, by signing or in any other manner convenient to the witness to the questions put to him from the investigating police officer.

(b) The statements may be recorded in a manner as stated by the witness; as deemed necessary, the process may be recorded by video or audio. The manner of taking the statement, the identity of the witness, his address, and that he gave his testimony voluntarily shall be recorded at the beginning and the end of the statement.

(c) After such statement is read over to the witness, he shall sign on each page. Where he refuses to sign on the statement, such shall be stated on the record.

**Art. 81.- Two or more witnesses.**

It is prohibited to take joint statements from two or more witnesses at once in the same place.

*Section 3 - Search and seizure*

**Art. 82.- Search and seizure based on court warrant.**

(1) Search or seizure of persons or premises without a court warrant is prohibited.

(2) A search warrant may be granted by any court. A court may grant a search warrant only where it deems such search and seizure helps the investigation.

(3) Any search warrant should clearly indicate the place to be searched and items to be seized. Search of places or seizure of items not stated in the search warrant is prohibited.

(4) For the purpose of implementation of the provisions relating to search and seizure under this code, "place" includes house, vehicle, aircraft, boat, electronic storage devise and any other storage item and place.

(5) The court granting the search warrant shall decide how long such warrant shall remain valid. The court shall take into consideration the number of items to be

seized, the place to be searched and the number of people participating in the search.

**Art. 83.- Search and seizure without a court warrant.**

Notwithstanding the provisions of Article 82 of this Code, search and seizure may be carried out without a court warrant where:

(1) the suspect is followed in hot pursuit and enters premises or disposes of articles which are the subject matter of an offence in the premises; or

(2) there is an accusation filed before the investigating police officer for a crime punishable with at least 7 years imprisonment and the police has grounds to suspect that evidence in respect of such offence is concealed in any place, and by reason of delay in obtaining a search warrant such evidence is likely to be removed.

**Art. 84.- Search of persons arrested.**

(1) An arrested person may be searched by a person of the same sex as the arrested person; the search shall be carried out in a manner that is not harmful to his personal safety and security.

(2) Where the arrested person is not willing, the investigation police officer may conduct the search by employing proportional force.

**Art. 85.- Execution of search and seizure.**

(1) Where the search is carried out based on a search warrant, the investigating police officer shall read out the warrant to the person in possession of the premises and shall show it to such person if he so requests.

(2) Where the premises to be searched is closed or the person in possession of such premise is not around or denies the police access and the search cannot be carried out in any other way, the police may use a reasonable force to make entry.

(3) Unless the court expressly orders otherwise, searches may be carried out only between the hours of 6 A.M. and 6 P.M.

(4) The investigating police officer shall make a list of the items seized, have verified and signed by at least two independent witnesses unless circumstance makes it impossible. Where it is possible, the process of the search may be recorded by video and audio.

(5) The police shall have the person from whom the items were taken sign on the list of items seized for which he shall also be given receipt. Where the person is not present or is not willing to sign on the document, such fact shall be stated.

(6) From among the items seized, the investigating police officer shall identify those which are relevant as evidence and retain and preserve the same; he shall return any item that is not relevant as evidence to the person from whom it was taken and have such person sign receipt of the same.

**Art. 86.- Search of government or corporate offices.**

In carrying out search in government or corporate offices, the investigating police officer shall ensure the attendance of the head of such office or his representative. Where the head of the office or his representative is unable or unwilling to attend the search, the search may be carried out in the presence of at least two independent witnesses.

**Art. 87.- Search carried out on objects.**

(1) Where the search is carried out on a container or an electronic storage device and the item sought cannot be found easily, the investigating police officer may use reasonable force to access the item or take custody along with the container or preserve it in the existing state until having access.

(2) Where the size of the container is big or the search inconveniences the day to day activities of residents or owners, the investigating police officer, on the order of the court, can transfer the container to a different place for purpose of the search.

(3) Where the container is attached to or mixed with another object and any attempt to separate the two is harmful to the object or individuals, the investigating police officer shall, on the order of the court, preserve the object in the existing state.

(4) The investigating police officer may keep electronic evidence by converting it to document, seizing it along with the storage device or transferring it to another device.

**Art. 88.- Items not listed in the search warrant.**

In the course of carrying out a lawful search, where the investigating police officer identifies an illegal item and the investigating police officer has reason to believe that a crime punishable by at least 5 years rigorous imprisonment is committed and has come to know that such item is harmful to public health or safety, he may seize such item notwithstanding it is not in the list of items the police originally sought.

**Art. 89.- Preservation of exhibits.**

(1) Exhibits shall be numbered and marked and be preserved in a place designated for this purpose until decision is made.

(2) Where the seized item is illegal to be possessed by individuals, a sample or picture shall be taken and the object shall be forfeited to the government.

(3) Where the possession of the item requires a special permit and the person from whom it is taken does not have one, after taking a sample or image, the item may be preserved or it may be sold as any government sale.

**Art. 90.- Decision on seized items.**

(1) Where the item seized is perishable or the preservation of which is difficult or expensive, the public prosecutor may order the item be sold and the money be deposited in the government account, after taking samples or having a substitute evidence in any possible manner.

(2) Where the item seized is a domestic animal, after a photograph or video is taken, the cattle may be returned to the person from whom it was taken or it may be sold on auction and the money deposited in government account.

(3) Where the item is found not useful or necessary as evidence or it cannot be lawfully forfeited to the government and the public prosecutor believes the item may be returned to the person from whom it is taken, he may order the return of the item to such person forthwith; where such item can be forfeited to the government or one requires a special permit, article 89 of this Code shall be applicable.

(4) Where the lawful owner or possessor cannot be established under sub-article (3) of this Article, the public prosecutor may open a civil case before the court having jurisdiction for the determination of the lawful custodian of the object.

(5) Until a final decision is made on the matter, without prejudice to provisions in other laws, the public prosecutor may order a vehicle or other object used for the commission of a crime, if it cannot be confiscated, be returned to the person on sufficient guarantee after taking a picture and video of the same.

(6) Where the events indicated in sub articles 1 to 4 of this Article occur after a charge is filed before a court, the court may decide in a similar manner.

**Art. 91.- Evidence in the hands of a person who is not a suspect.**

(1) The investigating police officer may order the production of evidence in the possession of a person who is not a suspect.

(2) Up on taking the item, the police shall give receipt to such person form whom the item is taken. Until decision is made on the matter, the investigating police officer may preserve such evidence or return such evidence to the person from whom it is taken after having it copied, videotaped or photographed or keeping it by any similar substituted means; the police shall apprise the public prosecutor of such action.

(3) Where the person is not willing to produce such evidence, the investigating police officer may file petition to a court for such an order.

(4) The court before which such petition is filed may order such evidence be handed over to the police based on its relevance to the matter; the court shall also give order regarding the preservation and return of such evidence.

**Art. 92.- Evidence in government and other institutions**

(1) Where evidence is found or generated by any government or other office, the investigating police officer may require such entity in writing to surrender such evidence.

(2) Any entity required to produce evidence under sub-article (1) of this Article shall hand over such evidence to the investigating police officer unless it is prohibited by the law.

**Art. 93.- Evidence in financial institution.**

(1) The court may order that a bank account or money transfer statement needed as evidence be handed over to the investigating police officer.

(2) An order given under sub-article (1) of this article shall contain:

(a) the full name and address of the suspect;

(b) the alleged offense committed by the suspected;

(c) the information sought from the financial institution;

(d) the name of the investigating police officer executing or causing the execution of the order.

***Section 4 - Investigation and collecting evidence at the Scene of the Crime***

**Art. 94.- Objective**

The objective of collecting evidence at the crime scene is to prevent loss and contamination of forensic, technical and physical evidence, and collect and preserve such evidence before it is lost or contaminated.

**Art. 95.- Presence at the scene of the crime.**

(1) The investigating police officer has to arrive at the crime scene immediately where it is necessary to collect evidence from such place.

(2) The investigating police officer shall, upon arriving at the crime scene:

(a) determine whether any person is wounded or killed; ensure such victim gets the necessary medical attention, or where the victim is dead, send the corpus for autopsy;

(b) safeguard the parameter and preserve evidence;

(c) identify, collect, record and preserve evidence; and

(d) take other necessary measures.

*(3)* The public prosecutor at his own will or on the request of the investigating police officer may avail himself at the crime scene.

**Art. 96.- Investigation at the crime scene.**

(1) Investigation shall be conducted at the crime scene or where evidence is found by following leads, recovering corpus, by searching places, things where it is deemed information or documents may be found.

(2) The crime scene shall be safeguarded until the investigation is completed. Where it is deemed necessary, the crime scene may be protected for a maximum of seven days after the completion of the investigation.

(3) Evidence collected at the crime scene shall be recorded in accordance with its nature and identity, separately preserved, an explanation note for each evidence shall be prepared and preserved by affixing a seal. Such process may be video recorded where necessary.

(4) An investigating police officer who has preserved evidence in accordance with sub-article (3) of this Article shall state the date at which the evidence is collected and affix his signature to each explanation note.

(5) Where collecting the evidences or the situation analysis requires more than a day, the investigation shall be Done at a place other than the crime scene"

(6) Notwithstanding the provisions of sub-article (5) of this Article, where collecting or analyzing evidence at the crime scene would not have a negative effect on the evidence, the investigation shall be carried out at the crime scene.

(7) Notwithstanding the provisions of sub-article (6) of this Article, where collecting or analyzing evidence at the crime scene would not have a negative effect on the evidence or it is deemed that the evidence can be collected or analyzed by other means, the investigation may be carried out at an appropriate place away from the crime scene.

**Art. 97.- Investigation of corpus.**

(1) Where the victim is dead or the corpus is concealed, buried or spoiled in some other way, the investigating police officer shall ensure the careful recovery of the corpus.

(2) The investigating police officer shall collect or cause the collecting of traces or other samples which are used for forensic and technical investigation from the corpus; he shall also have the necessary professional analysis carried out forthwith.

(3) Where the identity of the corpus is not known, the investigating policer shall inform the appropriate body to carryout burial.

**Art. 98.- Laboratory examination.**

(1) Where it is deemed further investigation is necessary on the evidence gathered and the analysis made, the investigating police officer and other investigation

professionals may have laboratory examination be carried out on such evidence.

(2) Laboratory examinations shall be carried out to:

(a) identify the manner and circumstance of the commission of the crime;

(b) properly identify the tools used for the crime and other objects;

(c) properly analyze the connection of evidences collected at the crime scene to the crime committed;

(d) in light of the witnesses' statements recorded at the crime scene, to reconstruct the commission of the crime or to contrast with such testimony;

(e) to compare the consistency or contradiction of the testimonies of different witnesses recorded at the crime scene.

**Art. 99.- Participation in investigation and re-enactment of the crime.**

(1) A person who gave testimony under Article 80 of this Code:

(a) where it is deemed necessary for the investigation may be required to participate in a laboratory examination and to give his testimony again.

(b) where the investigation is carried out by aligning testimony recorded at the scene with a view to re-enact the commission of the crime or to compare with such progress, the testimony may be seen against the established facts; the witness shall testify in detail about his observation or his participation.

(2) Where in the course of the investigation re-enactment is deemed to be necessary in order to ensure the credibility of evidence, the investigating police officer shall explain to the witnesses about the activities to be carried out during the re-observation; where necessary, the public prosecutor may attend the process and it may be video recorded.

(3) The witness or the expert who took part in the re-enactment shall ascertain or describe the process and what was depicted or narrated at the re-enactment.

(4) The experts or witnesses may not be made to show the process under sub-article (3) of this Article together. Each individual shall depict this part separately, and shall give his explanation without the interference and enquiry from a third party.

(5) An organ which participated in investigation may require the process of re-enactment may be done all over again; it may ask a witness or a person who participated in the investigation to depict or describe his role in the re-enactment process.

**Art. 100.- Expert report and testimony.**

(1) An expert who has carried out scientific, technical or laboratory examination, or who gave opinion on specialized knowledge in accordance with the provisions of this section shall prepare a report regarding his opinion or the result of his examination.

(2) A report prepared under sub-article (1) of this Article shall make clear the input the expert used as a basis for his opinion or his examination, the examination procedure he employed and the reason the procedure is preferred, the findings of his examination and the existence of any other possible outcome.

(3) An expert who took part in scientific, technical or laboratory examination, and who drew up the report shall testify before the court regarding his opinion.

### *Section 5 - Special Investigation Techniques*

**Art. 101.- Objective.**

The objective of special investigation technique is to investigate organized crimes where in ordinary investigation technique is not effective, especially in crimes of

corruption, illegal human trafficking and crime of terrorism where such investigation technique becomes necessary.

**Art. 102.- Power of the court.**

Special investigation technique may be employed on the authorization of the Federal High Court or the State Supreme Court where the court believes that it can achieve the ends sought under Article 101 of this Code.

**Art. 103.- Special investigation technique.**

Special investigation technique may be employed by:

(1) intercepting correspondence, wiretapping and interception of other electronic communications;
(2) installing and retrieving audio and video recording devices in private premises or by following traces of communication;
(3) infiltrating the suspects' group, follow up, audio and video recording their activities;
(4) creating simulated communication and documents.

**Art. 104.- Preconditions to be complied with.**

(1) On the permission of the public prosecutor, the investigating police officer may petition the court to employ special investigation technique.
(2) The court before which such petition is filed in accordance with the provisions of sub-article (1) of this Article may grant the authorization where, for good reasons, it is convinced that:

(a) the sophisticated nature of the commission of the crime makes obtaining evidence using ordinary investigation techniques difficult;
(b) the special investigation technique has superior utility to gather evidence, fruits of the crime, or to arrest the suspect.

(3) The authorization order of the court shall include:

(a) name and address of the suspect, where known;

(b) as appropriate, the address of business or residence premise where the authorization may be executed;

(c) the time period within which the authorization shall be executed;

(d) the evidence sought to be collected; and

(e) any other appropriate information.

**Art. 105.- Time limit.**

(1) The special investigation authorization granted by the court shall not be exceeding two months.

(2) Notwithstanding the provisions of sub-article (1) of this Article, where the investigating police officer petitions the court for an extension of the time, the court may for good cause extend its authorization of using special investigation technique for not more than one month.

**Art. 106.- Reporting to the court.**

(1) The investigating police officer shall report to the court regarding the evidence gathered though the special investigation technique within the time fixed in the authorization order. The investigating police officer shall submit its final report at the end of the special investigation.

(2) The investigating police officer's report so produced shall specify the evidences collected by categorizing such evidence that are relevant and that are not.

(3) The court shall, based on the report submitted, verify whether the investigation is conducted in accordance with its order. Where the court finds the special investigation technique is used in contradiction to the order of the court, the court may rescind the authorization or give any other order it deems necessary.

(4) Where the evidence collected though the special investigation technique is not relevant to the case, the investigating police officer in consultation with the public prosecutor shall destroy such evidence.

**Art. 107.- Inadmissibility of evidence.**

Any evidence obtained through special investigation technique in violation of the preceding provisions is inadmissible.

*Section 6 - Arrest, Interrogation and Treatment of the Suspect*

**Art. 108.- Arrest of the suspect.**

(1) Unless investigation makes the arrest of the suspect necessary, all criminal investigation shall be conducted without arresting such suspect.

(2) Notwithstanding the provisions of sub-article (1) of this Article, where the investigating police officer has sufficient evidence to believe a grave offense has been committed or the commission of the offense is on the face of it circumstantial and credible, the suspect may be arrested or kept in custody in accordance with the provisions of this Section. Such arrest shall be carried out in a manner which respects the human rights and dignity of the suspect.

(3) Investigations in juveniles' cases, contraventions and crimes committed though the mass media shall be conducted without arresting the suspect.

(4) A person enjoying immunity shall not be arrested unless he is caught red handed while committing a grave crime or his immunity is lifted by the competent authority.

(5) A person who enjoys diplomatic immunity shall be arrested and charged in accordance with the rules of international law.

**Art. 109.- Summoning the suspect.**

(1) Where the investigation police officer has sufficient reason to suspect that a person has committed an offence, he may summon such suspect by any effective means to report to the investigation for questioning.

(2) The summons the police issues to a suspect shall contain the relevant particulars of a court summons as provided for under Article 221 of this Code.

(3) Where a suspect who is effectively served police summons fails to appear, the investigating police officer may arrest such person by obtaining an arrest warrant.

**Art. 110.- Arrest warrant.**

(1) A suspect may only be arrested or jailed or detained on a court warrant.

(2) The court may grant an arrest warrant where the attendance of the suspect could not be obtained otherwise and his appearance is necessary for the investigation.

(3) An arrest warrant may be granted by any court near the place of investigation upon the application of the investigating police officer's application. However, in urgent cases, such application any be made to any court. The arrest warrant shall be produced at any time immediately upon request.

(4) The content of the arrest warrant includes the name and address of the suspect, the crime he is suspected of, the name of the court which granted the arrest warrant, the date, month and year the arrest warrant is issued and the time for which the warrant remains effective and other relevant particulars the court deems necessary.

(5) An arrest warrant granted by any court shall be executed anywhere within the federation without any additional formality; any person or institution has the duty to execute the arrest warrant.

**Art. 111.- Urgent circumstances.**

(1) In urgent circumstances where there is no time to appear in court, the investigating police officer may petition the nearby court for an arrest warrant on telephone or any other means.

(2) The investigating police officer shall file his written petition for confirmation within 24 hours. Where no written petition is filed or the court has rejected the petition, the arrest warrant is deemed not granted; the arrested person shall be released and bail obligations terminated, if any.

**Art. 112.- Arrest in flagrant cases.**

(1) Police or any person may arrest a person without an arrest warrant where he is found committing a crime punishable with at least three months simple imprisonment.

(2) In case of a crime punishable up on complaint, the suspect may only be arrested where the victim lodges a complaint.

(3) A person who arrested a suspect shall forthwith hand over such person to the nearby police station.

**Art. 113.- Duty to cooperate.**

(1) Any person when so requested by the police shall cooperate in arresting a person with or without arrest warrant unless the arrest endangers his person or property.

(2) Where a person who arrested a suspect appears to testify regarding the commission of a crime, such person shall give his statement in accordance with the provisions of article 80 of this Code.

**Art. 114.- Procedure in arresting the suspect.**

(1) The investigating police officer making an arrest shall first establish the identity the person to be arrested and identify himself to the person being arrested.

(2) Where the arrest is made with a warrant, the police officer shall read out the warrant to the person to be arrested and show him such warrant. Where the arrest is made with warrant granted orally, the police shall inform the person to be arrested of such oral arrest warrant.

(3) Where the person to be arrested is not submitting to the custody of the police officer by word or action, the police officer may actually touch or confine the body of the person to be arrested.

(4) Where the person to be arrested forcibly resists the arrest or attempts to abscond, the investigating police officer may use a proportional force under the circumstances to arrest the suspect.

(5) In accordance with the address provided by the arrested person, the police shall inform the arrest to the family or close relative or the embassy or consular office of the arrested person.

**Art. 115.- Taking fingerprint, photograph and other specimen.**

(1) The investigating police officer may request to take fingerprint, photograph or handwriting, voice, hair, urine, blood and saliva specimen from the arrested person.

(2) Notwithstanding the provisions of Article 20 of the Civil Code, where the investigating police officer deems it necessary, he may require a registered medical practitioner to make such medical examination of the person arrested and to report the results of such examination in writing.

(3) Where the arrested person is not willing to give blood, urine, hair or similar specimens, the court shall take judicial notice of the same.

(4) The investigating police officer may, with the agreement of the victim of an offence or, where he is incapable, with the consent of the parent or guardian, require a registered medical practitioner to make such medical examination on the victim; the physician shall submit the results of his examination in writing.

(5) Notwithstanding the provisions of sub-article (1) of this article, where the suspect is not willing to have his photograph and fingerprint taken, proportional force may be used to take the same.

**Art. 116.- Statement of the accused person.**

(1) After the name, sex, age, nationality and address of the person summoned or arrested is confirmed, he may be requested to give his statement on the accusation or complaint filed against him.

(2) Before the suspect makes statements, the investigating police officer shall inform such person that he shall not be compelled to answer, he has the right to remain silent and that any statement he makes may be used as evidence against him in court; it shall also be stated in writing that such process is duly complied with.

(3) Notwithstanding the provision of sub-article (2) of this Article in respect of the right of the accused to remain silent, the suspect has the obligation to provide correct information regarding his name, sex, age, nationality and address.

(4) Where the suspect elects to make statements, he may reply orally, in writing using sigh language or interpreter, as appropriate. Where the suspect makes statements with the help of an interpreter, the interpreter shall affirm the accuracy of the interpretation.

(5) The interrogation of the suspect may be video or audio recorded.

(6) The investigating police officer shall record only the statement of the suspect; he shall sign on such statement and shall have it signed by the suspect. Where the suspect refuses to sign on the statement, the investigating policer shall enter in the record to that effect.

(7) The interrogation may be carried out in the investigation room or at the crime scene. Where the suspect has a lawyer, he may be present at such interrogation.

**Art. 117.- Bail granted by the investigating police officer.**

(1) Without prejudice to the provisions of Article 118 of this Code, where the suspect is arrested for minor crime, the investigating police officer may release such person on own recognizance, with or without sureties.

(2) Where it is doubtful the crime is committed or the crime is committed by the arrested person, the investigating police officer may release the such person on surety or own recognizance.

(3) Where the person arrested is released on bail under sub-articles (1) and (2) of this article, he may be required to sign a bond to:

(a) appear before and report in person to the investigating police officer at certain times and places;

(b) stay away from a certain place;

(c) refrain from meeting with witnesses or victims;

(d) stay confined to a certain area or place; or

(e) comply with other similar preconditions.

(4) The conditions of bail under sub-article (3) of this article may include one, two or more or all of such conditions.

(5) The investigating police officer may follow up or order follow up to ensure that the conditions of bail under sub-article (3) of this article are complied with.

(6) In determining the amount of the surety, the investigating police officer shall take into account the gravity of the offence and the means of the arrested person.

(7) The bond posted by the person arrested as per the provisions of this Article shall be kept in accordance with the government finance administration regulation.

**Art. 118.- Appearance before the court.**

(1) Where the arrested person is not released on police bail, he shall be brought before the nearest court within 48 hours. Such time shall not include the reasonable time to produce the arrested person to court.

(2) The investigating police officer shall prove to the court that there is evidence based reason to believe that the person arrested has committed an offence and his the arrest is necessary for the investigation.

(3) Where the court believes the continued detention of the arrested person does not help the investigation, the court shall release the arrested person on bail. However, where it is doubtful the alleged crime is committed or that it is committed by the arrested person, the court may release the arrested person unconditionally.

**Art. 119.- Remand.**

(1) Where the investigation is not completed and the continued detention of the arrested person helps the investigation, the court may remand the person arrested in custody for up to fourteen days.

(2) The length of time for remand in custody under sub-article (1) of this Article shall be determined taking in to account the gravity of the crime and complexity of the investigation, the nature and magnitude of the evidence to be collected and other related matters.

(3) The total duration of remand in custody that may be granted under sub-article (1) of this Article may in no case exceed four months.

(4) Where investigation is completed and remand for investigation is not necessary, the court may release the arrested person on bail in accordance with this Code or remand him in custody for a period not exceeding 20 days to enable the public prosecutor to file charges under Article 204(2) of this Code.

**Art. 120.- Effect of investigation not completed.**

(1) Where the investigation is not completed within the time of remand provided above, the court may release the arrested person on bail and the investigation shall continue accordingly.

(2) Where the investigation is not completed within the time of remand, without prejudice to the provisions of this code regarding injunction, the court may order to release any property under injunction or seized in relation to the commission of the crime.

(3) The court shall order the investigating police to hand over the investigation file to the public prosecutor and the public prosecutor shall decide on the investigation file in accordance with Article 154 of this Code.

**Art. 121.- The right of the arrested person.**

(1) Any person in custody has the rights prescribed for persons in prison.

(2) Any person arrested under this Code has the right to visitation, in private, by his spouse, close relatives, friends, religious father, doctor and his lawyer.

(3) The jail shall support the arrested person obtain a guarantor or information regarding the crime he is suspected of.

**Art. 122.- Statement made to the court.**

(1) Any court may record any statement or confession made to it by a suspect at any time before the opening of preliminary proceedings or the trial.

(2) The court shall ask the person who makes the statement under sub-article (1) of this article whether he is making such statement of his own free will and confirm and record the same.

(3) No police officer shall be present in the courtroom when the suspect makes his statement.

(4) The court shall record the full statement or confession of the suspect in writing, audio or video; the court shall sign on the statement or confession after it is read out to the suspect and the suspect has confirmed its accuracy.

(5) The investigating police officer shall send a copy of the statement to the concerned public prosecutor.

## *Chapter 3 – Injunction and Administration of Property*

### *Section 1 – Injunction*

**Art. 123.- Principle.**

(1) An injunction order may be given by court against any property on money related to a crime committed and such property may be seized or administered by the appropriate body.

(2) Without prejudice to the provisions of this code otherwise, the court may grant an injunction order under this code where a property is:

(a) subject to confiscation under the Criminal Code;

(b) an item the possession of which is prohibited or requires a special permit.

(3) The property which is injuncted under this article shall be proportional to the fine which may be imposed on the suspect for the crime of which he is suspected, the alleged benefit derived from or the damaged caused by the crime.

(4) The following properties shall not be subject to injunction under sub-articles (2) and (3) of this article:

(a) household items and furniture that are used by the suspect or the defendant and his family; and

(b) where the suspect or the defendant does not have any other livelihood; and they live by the income derived from the such property, that part of the property to meet the basic needs of the defendant and his family;

**Art. 124.- Application for injunction.**

(1) The public prosecutor or the investigating police officer may in accordance with the provisions of Article 123 of this Code petition the court for an injunction.

(2) The petition for an injunction order may be made either before or after a criminal charge is filed.

**Art. 125.- Content of the application.**

An application seeking an injunction under this Code shall contain:

(1) a brief description of the crime, the successive measure taken and the status of the case where charge is not filed;

(2) evidence based statement creating a reasonable belief the property is acquired under circumstance provided for under Article 123 of this Code;

(3) list of the property, the identification and address where the property is found; and

(4) the reason for the injunction petition and other material facts.

**Art. 126.- Granting injunction.**

(1) The court may, after reviewing the petition and where it deems the injunction necessary, grant injunction that the such property may not be sold or ownership may not be transferred to third party. The court shall serve the injunction order to the relevant entity and, where practical, to the suspect or the defendant.

(2) Where the court renders injunction under sub-article (1) of this Article in absentia, the investigating police officer shall serve the injunction order on the suspect, the defendant or his agent or the whose name is stated in the order.

(3) Where the property injuncted is perishable, the court shall order the property be sold on auction and the proceeds be deposited.

**Art. 127.- Withdrawal or modifying injunction.**

(1) Any person who is served on or informed of an injunction order granted under Article 126 of this Code, or any third party affected by the injunction may petition the court to withdraw or modify the injunction order.

(2) The application for withdrawal or modifying injunction shall state the type of the property, address and description of the property, the reason the injunction should be withdrawn or modified and other relevant evidences.

(3) The court shall, after taking the views of the public prosecutor, give an order it deems appropriate on the application submitted under this Article within a reasonably short time.

**Art. 128.- Termination of injunction order.**

The court may terminate the injunction order at any time where no charge is filed against the suspect, the charge is withdrawn, struck out, amended or changed, or the defendant is acquitted.

## *Chapter 4 – Preliminary Inquiry*

**Art. 129.- Objective**

The objective of preliminary inquiry is to record and maintain the evidence of the public prosecutor and any evidence that the suspect would like to have recorded.

**Art. 130.- Offenses for which preliminary inquiry shall be held.**

(1) Unless the public prosecutor decides to file a charge directly, preliminary inquiry shall be held at the First Instance Court with the request of the public prosecutor for a person suspected of committing a crime referred to as a grave offense under "Schedule A" of this Code.

(2) Without prejudice to the provisions of sub-article (1) of this Article, where a grave offense which requires the holding of a preliminary inquiry is committed

concurrently with another crime, the preliminary inquiry may be held in respect of all such crimes.

(3) The court which holds the preliminary inquiry shall record the evidences presented by the public prosecutor and the suspect; it shall send such evidences to the court which tries the case upon request.

**Art. 131.- Court having jurisdiction.**

(1) The First Instance Court which has local jurisdiction over the place where the crime is committed shall have jurisdiction to hold preliminary inquiry.

(2) Notwithstanding the provisions of sub-article (1) of this Article, for the purpose of producing witnesses, the public prosecutor may petition any First Instance Court to hold a preliminary inquiry.

(3) In making a decision under sub-article (2) of this Article, the public prosecutor shall take into account its convenience to the accused person.

**Art. 132.- Petition for preliminary inquiry.**

(1) Where the public prosecutor, after examining the file, decides that the case shall be examined by the court of preliminary inquiry, he shall make a petition to such court to hold a preliminary inquiry.

(2) The court before which a petition is made under sub-article (1) of this Article shall, on the date the petition is made, fix the day on which the preliminary inquiry shall be held and order the public prosecutor, the suspect, witnesses to appear and other evidences to be presented before it on such fixed day.

**Art. 133.- Recording of evidence.**

(1) The court shall, as soon as the suspect appears, order the public prosecutor to state his case and present his evidences.

(2) After the evidence of the public prosecutor is recorded, the court holding the inquiry shall inform the suspect that:

(a) he may, if he wishes to, make a statement in answer to the charge and have any evidence he may have recorded;

(b) he is not bound to say anything but that any statement he may wish to make will be taken down in writing and may be put in at his trial.

(3) A copy of the evidences recorded by the court of preliminary inquiry shall be sent to the public prosecutor and the accused.

**Art. 134.- Additional evidence.**

The court of preliminary inquiry may call any additional person or appropriate entity whose testimony or evidence it thinks necessary for the implementation of this Chapter and record such testimony or other evidence.

**Art. 135.- Summoning of witnesses.**

The court of preliminary inquiry shall inform all witnesses or appropriate entities who have given their testimony or other evidence that they are bound to appear before such court; where necessary, the court may require such persons or entities to execute bonds binding themselves.

**Art. 136.- Contents of record.**

(1) The copy sent to the public prosecutor and the accused person under Article 133 sub-article (3) of this Code shall contain the particulars provided under sub-article (2) of this article.

(2) The record shall contain the following particulars:

(a) the serial number of the case;

(b) the nature of the offense, the date on which it is committed and, where appropriate, the value of the property or the status of the person against which the crime is committed;

(c) the date of the accusation and the name and address of the accuser;

(d) the name, address, occupation, sex, age, nationality, marital status, if known, of the suspect and other relevant information;

(e) the date the accused was arrested or the date of the warrant of arrest;

(f) the date on which the accused was first brought before a court;

(g) the name of the public prosecutor and, where necessary, of the attorney of the accused;

(h) the statement made before the court of preliminary inquiry;

(i) other evidences of the public prosecutor and the suspect recorded; and

(j) the day on which the preliminary inquiry is held.

**Art. 137.- Treatment of the accused**

(1) Except for special cases where the suspect is kept under custody for other reasons under this Code, the court of preliminary inquiry shall release the suspect on bail.

(2) Where it is doubtful whether the crime is committed or the suspect has committed the crime, the court of preliminary inquiry may release the suspect without bail.

# BOOK THREE

# BAIL

## *Chapter 1 - General Provisions*

**Art. 138.- Principle.**

(1) Arrested or accused persons have the right to be released on bail.

(2) The court may deny bail or may order the suspect to enter a bail bond sufficient to secure his attendance.

(3) Bail may be granted by a court or the investigating police officer, as appropriate.

(4) A bail bond entered under this Article shall apply to any investigation, prosecution and trial proceedings.

(5) Notwithstanding sub-article 4 of this Article, the court hearing the case may, as appropriate, amend, alter or reverse the order on bail.

**Art. 139.- Circumstances where bail may be denied by the court.**

The court may deny bail where it has sufficient reasons to believe that the suspect or the accused, if set free:

(1) may not appear at the time and place required; or
(2) will interfere with witnesses or tamper with evidence.

*Chapter 2 - Bail obligation*

**Art. 140.- Application for bail.**

(1) An arrested or accused person may apply for bail in writing, orally or in any other convenient form. Where it is not possible to apply for himself or through his counsel, the application for bail can be made through his family or his representatives.
(2) The application for bail shall contain a summary of the reasons for making the application and the nature of the bail bond the applicant is able to enter into.
(3) Application for bail shall be submitted under this article to:
    (a) the court before which the accused appears first, if the case is on remand;
    (b) the court of preliminary inquiry, if preliminary inquiry is being held; or
    (c) the court trying the case, if charge has been instituted.

**Art. 141.- Decision on application for bail.**

(1) The court to which an application for bail is made shall decide without delay.
(2) Within the time the court decides, it shall call upon the prosecutor or the investigating police officer for comments. The court shall make its decision within 48 hours of receiving such comments.
(3) The court shall make its decision in writing and state its reasons thereof.

**Art. 142.- Bail allowed.**

(1) Where the application for bail is allowed, the court shall determine the nature and amount of bail the suspect or the accused is required to enter.

(2) Where spouses parenting a minor child are arrested at the same time, the court shall grant bail to the parent who is more indispensable for the upbringing of the child.

(3) The bail the court determines pursuant to sub-article (1) of this Article may include own recognizance, surety or security.

(4) The court shall determine the nature and amount of bail having regard to:

(a) the manner of commission of the crime, the number of counts, the seriousness and nature of the charge(s);

(b) whether the suspect or accused has previously fulfilled his bail obligations;

(c) the likelihood that the suspect or accused would abscond;

(d) the resources, income and social status of the suspect or accused or his guarantors;

(5) The suspect or accused shall sign a bail bond upon release on own recognisance.

(6) The court may, upon granting bail, order the person released on bail to execute, while the bail is in force, one or more obligations described under sub-Article 3 of this Article.

(7) Where the applicant is suspected of crime of brawls or quarrels, or violence against women or children or similar offence, the court may require guarantee of good conduct as a precondition to bail.

**Art. 143.- Indicating bail on arrest warrant.**

(1) A court issuing arrest warrant may endorse bail on the warrant; the suspect shall be released promptly upon complying with the bail.

(2) The arrest warrant may state, as appropriate, the type and amount of bail as well as other corrective measures.

(3) The investigating police officer directed to execute the warrant shall notify to the court the release of the arrested person and return the bail order to the court.

**Art. 144.- Suspect or accused unable to produce bail bond.**

Where persons accused or suspected of simple or medium crimes are unable to enter bail bond or bring surety, the court may amend or alter its decision and release them on own recognizance with additional corrective measures.

**Art. 145.- Release.**

(1) Where the court decides to release the suspect or accused on bail, it shall order his release upon complying with all formalities.

(2) The jail, detention centre or prison to which the order is directed shall release the suspect or accused immediately upon receipt of such order.

**Art. 146.- Mistake or fraud.**

(1) The court may, on its own motion or upon the application of the prosecutor, order for the arrest of the released person when it believes that the bail is granted through intentional misleading, deceit or fraud.

(2) The court may, upon requiring the suspect or accused to give his opinion, revoke his bail and order his remand where it is established that the bail was granted based on one of the grounds mentioned under sub-article (1) of this Article.

(3) Where the court believes that the bail is mistakenly granted for reasons other than those mentioned under sub-article (1) of this Article, it may, upon receiving the opinions of the suspect or accused and the prosecutor, may order the suspect or accused to produce additional sureties.

(4) Where the suspect or accused refuses or is unable to produce the surety, the court shall give any order as it deems fit pursuant to Article 145 of this Code.

**Art. 147.- New facts.**

(1) Where certain facts, which were unknown when the bail was granted or denied, are disclosed or where new facts emerge subsequently, the court may at any time, of its own motion or on the application of the prosecution or any interested party, reconsider the conditions on which bail is granted and may order, as appropriate, the suspect or accused to be remanded, released on bail or produce new sureties.

(2) The court shall hear the public prosecutor, the accused or defendant before issuing such order.

**Art. 148.- Termination of bail bond.**

(1) Where the suspect or accused is acquitted or sentenced, the court may order to terminate the bail after ascertaining that there are no reasons why the bail bond shall be forfeited to the government.

(2) Where the guarantor of a bail bond dies, the bail shall lapse as of the date such guarantor has died. The bail bond shall be released where the court is satisfied that the deceased guarantor has, before his death, properly discharged his duty under the bail bond or has failed to discharge such obligation due to sufficient reasons. The court shall require the suspect or the accused released on bail to produce new sureties.

(3) Sub-article (2) of this article shall be applicable where the guarantor loses capacity.

*Chapter 3 – Breach and Discharge of Bail*

**Art. 149.- Bail obligation.**

(1) Where the suspect or accused is released on own recognisances or other surety, he shall appear at any time and place fixed by the court or on each adjournment in the course of hearing the case.

(2) The guarantor shall be responsible for securing the appearance of the suspect or accused person released on bail at the time and place fixed by the court or on each adjournment in the course of hearing the case.

(3) Where the suspect or the accused produces more than one guarantor, they shall be jointly and severally liable.

**Art. 150.- Failure to appear.**

(1) Where the suspect or accused released on bail:

(a) fails to appear on the date fixed, the court shall issue a warrant for his arrest and summon the guarantor for explanation.

(b) fails to appear on the date fixed and the guarantor appears voluntarily, the court shall hear the guarantor's explanation as to why the suspect or accused has failed to appear.

(2) Where the guarantor fails to show good cause that prevents the suspect or accused from complying with the bail as per sub-article (1)(a) and (b) of this Article, the court shall order the forfeiture of the bail bond.

(3) Where the guarantor fails to show good cause that prevents the suspect or accused from complying with the bail as per sub-article (1)(a) and (b) of this Article and where the bail bond involves a property security, the court shall order the sale and forfeiture of the amount commensurate with the value of the bail bond. The sale of the property shall be discontinued where the bail money is deposited before the property is sold.

(4) Where the suspect or accused violates the terms of the bail bond, the court may summon the guarantor to appear and give explanation as provided under sub-articles (2) and (3) of this article, as appropriate. Where the guarantor fails to appear or fails to show good cause that prevents the suspect or accused from complying with the bail, the court shall order the forfeiture of the bail bond or, where the bail bond involves a property security, the sale and forfeiture of the

amount commensurate with the value of the bail bond and, as appropriate, revoke or modify the bail or give any other order it deems appropriate.

(5) The court may, as appropriate, execute itself any order given under sub-articles (2), (3) and (4) of this Article or order the public prosecutor or any other executing body to execute the same.

(6) The court may order to revoke the bail where any of the conditions of bail indicated in sub-article (1) of this article are violated and such an application is made by the appropriate body to the satisfaction of the court.

**Art. 151.- Discharge of sureties.**

(1) The guarantor may apply for discharge for any reason by bringing the suspect or accused to the court.

(2) Where the guarantor is of the opinion that the suspect or accused may abscond, he may apply to the court so that the latter is arrested and he is discharged from his obligation. The court shall issue a warrant for the arrest of the suspect or accused.

(3) Where there are more than one guarantors, they may jointly or individually apply to the court for the discharge of their bail bond.

(4) The court shall discharge the guarantor from his obligation immediately upon the appearance of the suspect or accused who had been released on bail.

(5) Where the court discharges the surety, it shall require the suspect or accused to produce other sureties and remand him until he does so.

**Art. 152.- Appeal.**

(1) Where bail has been refused by a court, the application may be made to the appellate court within 20 days.

(2) The court of appeal may, after considering the application, dismiss the application or grant bail on such conditions as it shall fix. The decision of the appellate court under this article shall be final.

**Art. 153.- Decision of the appellate court.**

The appellate court shall consider the matter and render a decision within five days of receiving the application; such decision shall be final.

# BOOK FOUR

# DECISION ON THE INVESTIGATION FILE

## *Chapter 1 - Deciding on the Investigation File*

**Art. 154.- Power of the public prosecutor.**

(1) The power to decide on the investigation file shall vest in the public prosecutor.

(2) With a view to enabling the public prosecutor to make decisions under this article, the investigating police officer shall submit to the prosecutor a report detailing:

(a) The name of the suspect, the complainant or informant, and names of other appropriate persons;

(b) The nature of the complaint or accusation filed and the name of witnesses;

(c) The types of evidence gathered, measures taken to preserve the same, and other investigative activities undertaken.

(3) Up on receipt of the report, the prosecutor shall open a file and may decide to:

(a) order further investigation with necessary instructions and directions;

(b) discontinue the investigation or activate a discontinued investigation;

(c) close the investigation file;

(d) press for a charge or decide not to prosecute;

(e) defer the case to reconciliation, pela bargaining or other alternatives to trial recognized under this Code.

(4) The public prosecutor shall examine the investigation file and make his decision under sub-article (3) of this Article within five work days for simple crimes, seven work days for medium crimes, and ten work days for grave crimes, of receiving the file.

(5) In deciding on the investigation file, the public prosecutor shall take the law, adequate evidence and public interest into account.

(6) A case shall not be prosecuted where the public prosecutor deems that prosecution does not promote public interest even if there is enough evidence to do so.

(7) Notwithstanding the provisions of sub-article (1) of this Article, where there is enough evidence to prosecute a crime that is punishable upon complaint and the public prosecutor authorizes private prosecution, the victim or his representative may file a charge.

(8) Where the public prosecutor is faced with a doubtful case and cannot make a decision under this article, he shall forward such case to authorized prosecutors in the ladder of authority.

**Art. 155.- Independence of the public prosecutor.**

The public prosecutor shall be free from any influence or interference in deciding on the investigation file.

**Art. 156.- Closure of investigation file.**

The public prosecutor shall close the investigation file where the suspect:

(1) has died;

(2) is under nine years of age at the time of commission of the crime;

(3) is implicated in a conduct that does not constitute a crime;

(4) cannot be prosecuted for the offence is barred by period of limitation or is made a subject of pardon or amnesty;
(5) has been acquitted or convicted of the same conduct or the case is pending in court; or
(6) involves a person whose case has already been resolved through reconciliation, plea bargaining or other alternatives to trial based on this law.

**Art. 157.- Decision not to initiate proceedings.**

The prosecutor shall decide not institute a charge where:

(1) he is convinced that there is no evidence that justifies a conviction;
(2) although there is evidence, he decides based on Art 158 of this Code that prosecution does not promote public interest;
(3) the material, legal and mental elements of the crime are not complied with;
(4) it is impossible to find the suspect and the case may not be tried in absentia;
(5) the suspect enjoys immunity and such immunity has not been removed;
(6) due to mental illness or other health problems, the suspect is unable to understand or attend the proceedings or defend his case.

**Art. 158.- Decision not to institute proceedings on grounds of public interest.**

Based on directives issued by the Attorney General as appropriate, the prosecutor shall decide not to institute proceedings in furtherance of public interest where:

(1) the crime is of a nature that it can be better resolved through customary laws and institutions;
(2) prosecution is likely to jeopardize international relations or national security;
(3) the case loses its currency or significance for the proceedings has not been initiated on time due to any reason;
(4) prosecution is likely to entail grave adverse effects.

**Art. 159.- Procedure where decision is made not to institute proceedings.**

The public prosecutor shall:

(1) notwithstanding that any decision made under article 157 sub-article (1) of this Code shall be based on enough evidence, alter such decision and give other appropriate order where new evidence which justifies a change of decision is discovered later;
(2) apply to the appropriate body to remove the immunity of the suspect before making a decision under article 157 sub-article (5) of this Code.

**Art. 160.- Effects of closure of an investigation file or decision not to file a charge.**

(1) Where the public prosecutor closes the file or decides not to institute a charge, he shall: order the release of the suspect under custody and notify same to the court in charge of the remand.
(2) Where the public prosecutor closes the file or decides not to institute a charge, he shall decide as appropriate under the law on any exhibits and injunctions related to the case.

(3) The public prosecutor shall notify his decision to close the file or not to institute a charge in writing to his supervisor, the investigating police officer, the victim, and the suspect.

**Art. 161.- Complaint against the decision of the public prosecutor.**

(1) Where the investigating police officer or the victim or his representative or the suspect or his lawyer is not satisfied with the decisions of the public prosecutor, he may lodge a complaint to authorized prosecutors in the ladder of authority.

(2) The prosecutor to whom a complaint is addressed under sub-article (1) of this Article may, as appropriate, approve, modify, reverse such decision or order further investigation be carried out.

(3) The decision of the Attorney General shall be final.

## *Chapter 2 - Alternatives to the Trial*

### *Section 1 – General*

**Art. 162.- Purpose.**

The purpose of alternatives to the trial is to enable a peaceful, efficient, and cost effective resolution of criminal disputes in a setting that enables truth-finding and ensures community participation in the criminal justice system.

**Art. 163.- Alternatives to the trial.**

Prosecutions may be deferred to any of the following trial alternatives:

(1) reconciliation;

(2) plea bargaining;

(3) traditional institutions system;

*Section 2 – Procedure in Alternatives to the Trial*

*Sub-section 1 – Reconciliation*

**Art. 164.- Purpose.**

The purpose of reconciliation is to ensure peace by reducing repeated crimes and prosecutions and resolving disputes between the victim, accused or his family and the community in which they live.

**Art. 165.- Principle.**

(1) Reconciliation may be carried out at any time before judgment.

(2) Any crime punishable only upon complaint or simple crime is eligible to reconciliation.

(3) Reconciliation shall be effected when the suspect or accused and the victim give their full consent to settle their disputes.

(4) Reconciliation may be initiated by the accused, the victim, community leaders, the court, the public prosecutor or the investigating police officer.

**Art. 166.- Conditions of reconciliation.**

Notwithstanding the provisions of this section:

(1) Where the suspect or accused has committed several offences, only offences that are eligible to reconciliation shall be deferred to reconciliation.

(2) Concurrent offences may be disposed of through reconciliation. Reconciliation shall not apply to recidivists.

(3) Where several persons are involved in crime subject to reconciliation, and reconciliation is successful only with some of them, proceedings shall continue with the rest with whom the reconciliation has failed.

**Art. 167.- Contents of reconciliation agreement.**

The Reconciliation Agreement shall contain:

(1) the name and address of the parties, and that of mediators, if any;

(2) the subject matter of the reconciliation in brief;

(3) the party taking responsibility and the extent thereof;

(4) the type and amount of restitution, if agreed;

(5) form of apology, if agreed;

(6) the name and address of witnesses;

(7) any other relevant information.

**Art. 168.- Effects of reconciliation.**

(1) Having ensured that the reconciliation agreement is not contrary to the law and morality:

(a) the prosecution shall record the agreement, close the file, and discontinue any pending charge;

(b) the court before which the case is pending shall record the agreement and close the file.

(2) No appeal or prosecution shall lie on a case settled through reconciliation under this article.

*Sub-section 2 - Plea bargaining*

**Art. 169.- Purpose.**

The purpose of plea bargaining is to facilitate the defendant's acknowledgement guilt, contrition and rehabilitation.

**Art. 170.- Procedure in plea bargaining.**

Plea bargaining shall not commence unless the accused expresses his willingness to plead guilty and explain the details of the crime in return to sentence or charge concessions.

**Art. 171.- Crimes subject to plea bargaining.**

Any crime may be disposed of using plea bargaining pursuant to the provisions of this Code.

**Art. 172.- Prohibited acts.**

It is prohibited to:

(1) conduct plea bargaining contrary to its purpose, the law and code of ethics;
(2) plea bargain in private prosecutions.

**Art. 173.- Conditions.**

(1) The public prosecutor shall propose plea bargaining to the accused or receive and approve plea bargaining proposed by the accused.
(2) Plea bargaining shall be conducted only as between the prosecutor and the defence attorney. The accused may participate in the plea bargaining whenever possible.
(3) The provisions of this Code with regard to the rights to legal counsel or representation of accused persons who cannot afford to hire an attorney shall be applicable.
(4) Before initiating plea bargaining under sub-article (1) of this article, the prosecutor shall make sure that there is sufficient evidence to sustain a conviction.
(5) The accused shall express in writing his willingness and readiness to waive his trial rights.
(6) Where several persons are involved in a crime, plea bargaining may apply to all or some of the participants.
(7) In a criminal participation involving plea bargaining and trial defendants, where the trial defendant is acquitted, the plea-bargaining defendant having similar participation shall be deemed to have been acquitted.

**Art. 174.- Procedure.**

(1) Where the public prosecutor conducts plea bargaining initiated by himself or the accused, he shall file a charge to the court with an explanation that the matter is deferred to plea bargaining. The court shall confirm that the charge is complete under this Code and grant, with the request of the public prosecutor, such time as it deems appropriate to conduct the plea bargaining.

(2) The public prosecutor shall inform the accused in writing of his decision or consent to conduct plea bargaining and send the charge filed and evidences along with an explanation of the charge to the accused. Where the accused has consented to the plea bargaining, he shall state the same in writing within such time agreed and attach the charge and his defence evidence with the same.

(3) The public prosecutor and the accused shall discuss on such preliminary matters which facilitate plea bargaining and provide for a detailed action plan. No plea bargaining shall be deemed to have been initiated where agreement has not been reached on the action plan or where the accused fails to give his consent or present his motion within in the time limit.

(4) Where the public prosecutor decides to conduct plea bargaining, unless there is force majeure, the pela agreement shall be submitted to the court within thirty days of receiving the consent or application of the accused and before hearing of the public prosecutor's evidence.

**Art. 175.- Confirmation.**

Before plea bargaining, the prosecutor and the defence attorney shall secure from the defendant a written confirmation that he understands:

(1) that he has the freedom to bargain;

(2) the nature and content of the charge, number of counts and the possible sentence the charge attracts;

(3) the benefits and rights he gain and abandons in plea bargaining;

(4) that he needs to participate in the bargaining process and knows the procedure;

(5) that the plea agreement is enforceable upon court approval;

(6) the process and outcome of plea bargaining and other related matters.

**Art. 176.- The Process and scope of plea bargaining.**

(1) Sentence bargaining shall be effected by, with regard to an offense which attracts varying degrees of punishment, replacing a charge which attracts greater punishment with a charge which attracts less punishment or, where a charge attracts different types of punishment concurrently or alternatively, replacing imprisonment by fine, or by changing the number or type of counts or material elements or as otherwise provided by the Directive issued by the Attorney General.

(2) Based on the Plea-Bargaining Implementation Directive and the Sentencing Directive, any plea bargaining shall be informed by the seriousness of the offense, the disposition of the suspect or accused, and the consistency, predictability and fairness of sentences.

(3) The plea agreement shall be made in accordance with the form prepared for such purpose and it shall be signed by the public prosecutor and the suspect or accused and his counsel and two witnesses.

**Art. 177.- Power of the court.**

(1) Both parties together or either of the parties shall submit the plea agreement to the court for approval.

(2) The court may demand the parties or the defence attorney and witnesses to furnish explanation on whether the plea agreement is made in compliance with this Code or order such explanation be submitted in writing.

(3) The court shall approve the plea agreement and record its reasoning where it is satisfied that the agreement complies with the requirements of the law and morality. The agreement shall be effective as of the date of its approval.

(4) Where the court finds the plea agreement does not comply with the requirements of the law or morality, it may, as appropriate, order that it to be modified and submitted again or reject it.

**Art. 178.- A rejected plea agreement.**

(1) Where the court rejects the plea agreement, any party aggrieved by the decision of the court may re-bargain to modify the agreement or appeal against the decision of the court jointly or individually.

(2) Notwithstanding the provisions of sub-article (1) of this Article, the public prosecutor may petition the court to continue the trial.

**Art. 179.- Victim's participation.**

(1) During plea bargaining, the prosecutor shall consult victims. To the extent possible, victims shall attend the bargaining process.

(2) Where a crime subject to plea bargaining involves civil liability, the prosecutor may bargain to settle the civil case provided that he obtains authorization from the victim. Where the crime affects the pecuniary interests of the government, the prosecutor shall seek authorization from the Attorney General.

(3) The bargaining under sub-article (2) of this Article may include the form of reparation or other payments due to the victim. The amount of compensation and a list of other relevant costs shall be produced by the prosecutor.

*Sub-section 3 - Customary Dispute Resolutions*

**Art. 180.- Purpose**

The purpose of customary dispute resolutions is to ensure sustainable peace within the society by resolving disputes through traditional mechanisms.

**Art. 181.- Principle.**

(1) Any criminal case whether in the process of investigation, prosecution or trial may be disposed of through customary dispute resolutions.

(2) Notwithstanding the provisions of sub-article (1) of this Article, customary dispute resolutions shall not apply to crimes against human rights, human dignity and national security.

**Art. 182.- Prohibited acts.**

It is prohibited to apply in one case two or more customary dispute resolutions parallel or blend customary dispute resolutions with other alternative measures or enforce a customary dispute resolution which lacks the defendant`s recognition.

**Art. 183.- Conditions.**

(1) Before diverting a case to customary dispute resolutions, the public prosecutor shall secure the defendant`s consent and make sure that there is sufficient evidence that justifies a conviction.

(2) In deferring cases to customary dispute resolutions, the prosecutor may, as appropriate, consult experts, persons in charge of enforcing customary dispute resolutions, the victim, or anyone with a direct interest.

(3) The prosecutor may, as appropriate, exclude recidivists from customary dispute resolutions.

**Art. 184.- Request to defer a case to customary dispute resolution.**

The public prosecutor may defer a case to customary dispute resolution of its own motion or on the application of of the victim, persons in charge of enforcing customary dispute resolutions, the court or relevant government authority.

**Art. 185.- Concurrent crimes.**

Where a person commits concurrent crimes that are partly subject to customary dispute resolution and partly to trial, they shall all be tried.

**Art. 186.- Form of decisions**

Decisions flowing from customary dispute resolutions shall be reduced in writing in a local language and translated to the working language of the court.

**Art. 187.- Power of the court.**

The prosecutor or the non-custodial punishment executing board, upon ensuring that customary dispute resolution is carried out in compliance with the provisions of this Code, shall get the decision registered before the court having jurisdiction and close the file.

**Art. 188.- Customary dispute resolution not successful.**

The prosecutor may initiate formal proceedings where deferral of proceedings to customary dispute resolution is not materialized or the process is withdrawn or the measure is not partly or wholly enforced and its subsequent enforcement is improbable. In such cases, the court shall on the application of the prosecution resume the trial.

*Section 3 – Diversions*

**Art. 189.- Purpose.**

The purpose of diversions is to promote the fairness and effectiveness of the criminal process through interventions which provide for the custody, treatment and rehabilitation of offenders having regard to their special disposition and age.

**Art. 190.- Eligible persons.**

Diversions shall apply to the following:

(1) persons unable to attend the criminal proceeding due to physical or mental illness;
(2) senile persons;
(3) mentally infirm persons;
(4) alcohol or narcotics addicts;
(5) recidivists due to mental illness generated incompetence; and
(6) juveniles.

**Art. 191.- Diversion measures and authority to decide.**

(1) Diversion measures applicable to persons mentioned under Article 166 of this Code include, as appropriate:

(a) treatment, training, rehabilitation or academic or moral education at defendant's or state's expense;
(b) community service;
(c) confinement in a specific place for a specific period;
(d) reprimand;
(e) any other measure prescribed by law.

(2) The public prosecutor may decide to defer a case to diversion measures where the case is under investigation or has not been decided by the public prosecutor yet.

(3) Deferral of criminal proceedings to measures set forth in sub-article (1) of this Article may be initiated by the accused, the prosecutor or the court; the public prosecutor shall supervise the implementation of such measures.

(4) Where the case relates to a juvenile, deferral of criminal proceedings to measures set forth in this section may be initiated by the court or the public prosecutor.

(5) Notwithstanding the provisions of sub-articles (3) and (4) of this Article, where the crime committed is punishable with up to six months simple imprisonment or contravention, the public prosecutor may defer the case to diversion measures.

**Art. 192.- Contents of the decision.**

(1) Where the prosecution or the court defers a criminal proceeding to diversion measures under this Code, it shall determine:

(a) the effective date and duration of the measure; and
(b) organs responsible for its enforcement and follow up thereof.

(2) In making deferrals to diversions, the public prosecutor or the court may consult relevant bodies.

**Art. 193.- Other persons responsible for enforcement of diversion measures.**

(1) Diversion measures shall be enforced through persons authorized by the Attorney General.

(2) Persons authorized under sub-article 1 of this Article shall have the responsibility to:

(a) enforce procedures and guidelines of diversion set forth by the Attorney General;

(b) execute or cause the execution of any court or prosecution order;

(c) record and keep the necessary information on the accused and furnish same when requested by the court or the prosecution;

(d) report to the court or the prosecution on the progress of the accused;

(e) carry out other related and appropriate responsibilities.

(3) The court, the prosecution or the board for the execution of non-custodial punishment, as appropriate, shall monitor the enforcement of diversion measures prescribed under this Code.

(4) The Council of Ministers shall by a regulation establish Non-custodial Punishment Executing Board with a mandate to lead and coordinate authorized institutions under sub-article (1) of this Article, and enforce their work.

(5) The Attorney general shall put in place procedures and guidelines for the implementation of diversions.

**Art. 194.- Effects of successful diversions.**

(1) Where a case is successfully disposed of through diversions pursuant to this Code, the prosecution or the court shall close the file.

(2) A closure of a file in accordance with sub-article (1) of this Article shall bar any subsequent proceedings. Diversions shall carry no criminal record in subsequent convictions.

**Art. 195.- Effects of diversions not successful.**

(1) Where a diversion has not been enforced or has become ineffective, the court or the prosecution shall make decisions it deems fit having regard to opinions of enforcing institutions or any other relevant institutions.

(2) The decision pursuant to sub-article (1) this Article may include:

(a) Re-enforcement of the diversion measure; with a replacement of the institution in charge of enforcement, if necessary;
(b) Replacement of the diversion measure; or
(c) Referral of the case to the trial.

(3) Notwithstanding the provisions of sub-article (2) of this Article, a criminal proceeding shall not in any case be subject to diversions more than twice. In such cases, a trial shall be held.

**Art. 196.- Appeal.**

Any diversion measure or decision shall be final.

### *Chapter 3 - Institution of Charge*

### *Section 1 - Public Prosecution*

**Art. 197.- Principle.**

(1) The prosecutor shall, after examining of the investigation file, institute a charge where he is convinced that there is sufficient evidence to justify a conviction.
(2) No person shall be prosecuted unless a formal charge is filed.

**Art. 198.- Contents of the charge.**

(1) Each charge shall describe the crime and its circumstances so that it enables the accused understand and defend his case. Such description shall follow as closely as may be the words of the law creating the crime.
(2) Every charge shall contain:

(a) Date, month and year;
(b) The name and address of the court having jurisdiction;

(c) The name, title and signature of the public prosecutor;

(d) The name, gender, age and address of the accused;

(e) The place and time of the crime with sufficient clarity and, where appropriate, the name of the victim or the property in respect of which the crime was committed;

(f) Where the time and place of commission is not exactly known, such time and place deemed appropriate in the circumstances;

(g) The law and article of the law against which the crime is said to have been committed, and the legal and material elements of the crime;

(h) The list and annexes of evidence.

**Art. 199.- Joinder of charges**

(1) Where concurrent crimes defined under Article 60, and Articles 62 to 67 of the Criminal Code are committed, the prosecutor may join the charges.

(2) Where concurrent crimes fall within the jurisdiction of several states and/or federal government public prosecutor's offices, the public prosecutor's office having jurisdiction to prosecute the serious crime takes priority to join the charges.

(3) Where related concurrent crimes of similar severity fall within the jurisdiction of several states and/or federal government public prosecutor's offices, and where it is impossible to determine jurisdiction for joinder purposes, it shall be decided by agreement between the appropriate public prosecutor's offices. Where agreement has not been reached between such offices, the Federal Attorney General shall decide who should prosecute it.

(4) Where the public prosecutor joins charges pursuant to sub-article (1) of this Article, he shall describe each count separately.

**Art. 200.- Severance of charges.**

Where the court of its own motion or on the application of the public prosecutor or the accused is convinced that joinder of charges would undermine the rights of the defence or forestall a fair decision from being given, it may rule the charges to be tried separately.

**Art. 201.- Joinder of offenders.**

(1) Where several persons have participated in the commission of a crime in a capacity defined under Articles 32 to 40, and Articles 60 to 67 of the Criminal Code, they may be joined in a charge.

(2) Several persons who have participated in a crime may be joined in a charge, as appropriate, although they have participated in different capacities.

**Art. 202.- Alternative charges.**

(1) In case of uncertainty as to which of the several crimes are committed, the prosecutor may bring charges in the alternative.

(2) Where it is doubtful which of several crimes the facts which can be proved will constitute, the accused may be charged with having committed the offence which appears the more probable to have been committed and he may be charged in the alternative with having committed all other crimes which the facts to be proved might constitute.

(3) Where the evidence shows that the accused committed a crime with which he might have been charged in the alternative and where such crime attracts greater punishment or is different from the crime which the accused has been charged with, the public prosecutor may amend the charge before the defendant presents his defence evidence.

(4) The procedure of filing charges for aggravated offences shall be as follows:

(a) Where the accused has prior convictions which aggravate the offense, he shall be charged with the offence which is not aggravated and the case shall be tried by the court having jurisdiction to try the aggravated offense.

(b) Where the accused is found guilty of the offense which is not aggravated and where he would have been convicted of the aggravated offense had his prior conviction been presented upon hearing the case, the public prosecutor shall present such prior conviction to the court after rendering of a guilty verdict and before sentencing. The court shall render a sentence as though the accused was charged with the aggravated offense and alter the guilty verdict accordingly.

**Art. 203.- Convictions regarding attempt, preparation, instigation, accomplice of a crime.**

(1) Where the accused is charged with a crime, he may be convicted of having attempted or prepared to commit the crime without a separate charge on attempt or preparation being filed.

(2) Where the accused is charged with a crime as a principal, he may be convicted as an instigator or an accomplice, although he was not charged as such.

(3) Where the evidence shows that the accused committed a crime with which he might have been charged in the alternative, he may be convicted of such crime even if he was not charged with it, provided that such crime is of lesser gravity than the crime charged.

**Art. 204.- Time to institute a charge.**

(1) Having regard to the gravity and the complexity of the crime, where the public prosecutor examines the investigation file and decides to institute a charge, he shall institute a charge within twenty days of such decision.

(2) Where the suspect has been denied bail and is on remand, he shall remain in custody until the public prosecutor institutes a charge.

**Art. 205.- Lapse of time.**

(1) Where the prosecutor is not able to institute a charge within the period prescribed under Article 204 of this Code, he shall appear on the adjourned date before the court which ordered the remand and explain the reasons why charge has not been instituted.

(2) The court may, where it finds the explanation given by the public prosecutor on the adjourned date to be sufficient, grant a maximum of ten additional work days to institute charges.

(3) Should the prosecutor fail to institute a charge within the additional ten days granted or fails to appear and explain as provided under sub-article (1) of this Article or his reasons turn insufficient, the court shall release the accused with or without bail if found in custody.

(4) The accused may petition to the court that his bail, injunction order, exhibit be discharged or any other related motion be granted. The court shall give an order it deems appropriate having regard to the reasons why a charge has not been instituted and other relevant matters.

**Art. 206.- Discontinuance and withdrawal of charges.**

(1) Upon notifying the court, the prosecutor may at any time before judgment withdraw charges on grounds of public interest.

(2) Without prejudice to the right of the public prosecutor to re-open

the case, he may at any time before judgment withdraw a charge upon notifying the court.

(3) Where the public prosecutor withdraws or discontinues a charge, the court shall close the case and order the release of the accused if found in custody. It

shall discharge exhibits and injunction orders, if any. The public prosecutor shall retain copies of such exhibits discharged and attach them to his file.

(4) Withdrawal of charges under sub-article (1) of this Article bars the re-opening of the case.

### *Section 2 - Private prosecution*

**Art. 207.- Procedure.**

(1) Private prosecution may be held where:

(a) Crimes are punishable only upon complaint;
(b) sufficient evidence which justifies a conviction exists; and
(c) the public prosecutor gives authorization.

(2) Should the prosecutor authorise private prosecution, he shall notify same in writing to persons eligible to conduct a private prosecution.

(3) The person authorized pursuant to sub-article (1) of this Article shall, within 15 days of receipt of the authorization, file a charge in a court having jurisdiction. No private prosecution shall lie after the lapse of this period.

(4) The provisions of Article 196 of this Code shall apply to private prosecutions, as appropriate.

**Art. 208.- Responsibility of private prosecutor.**

(1) The private prosecutor shall hold the prosecution at his own expense and responsibility. Court fees and costs of prosecution shall be governed by the provisions of Article 439 of this Code.

(2) The provisions of this Code governing public prosecution shall also apply to private prosecution, as appropriate.

**Art. 209.- Persons entitled to conduct private prosecution.**

(1) The victim or, if authorized by the prosecutor, his representatives are entitled to hold a private prosecution. Where the private prosecutor dies before applying for authorization, before getting authorization, or after getting authorization without initiating a private prosecution, his descendants, parents or spouse may represent him to pursue the prosecution in the following order: the spouse, descendants and parents.

(2) Should the prosecutor authorize private prosecution under sub-article (1) of this Article, he shall monitor that the prosecution promotes the purposes of the Criminal Code and this Code.

(3) Where the prosecutor learns that private prosecutions are held contrary the purposes of the Criminal Code or this Code, he shall apply to the court so that the charge is discontinued. The prosecutor may pursue the proceedings himself, as appropriate.

**Art. 210.- Order to amend charge.**

Where the charge is not filed in accordance with the authorization given to the private prosecutor by the public prosecutor, the court may order to amend the charge in accordance with such authorization.

**Art. 211.- Summoning the parties.**

Where the court accepts the charge, it shall issue summons to accused in accordance with the provisions of this Code. The private prosecutor shall serve the summons.

**Art. 212.- Reconciling the parties.**

(1) Before reading out the charge to the accused, the court shall endeavour to reconcile the parties.

(2) The provisions of this Code regarding reconciliation shall be applicable.

**Art. 213.- Security for costs.**

Where the parties cannot be reconciled and it is necessary for the private prosecutor to give security for costs which the prosecution may cause to the defendant, the court shall decide the amount to be secured.

**Art. 214.- Procedure in case of crimes which attract greater punishment.**

(1) Where, before the handing of a verdict, the public prosecutor comes to know that another crime punishable upon complaint or accusation has been committed, the public prosecutor may petition the court to discontinue the proceedings until such time when he replaces the private prosecutor.

(2) Where the court, before handing a verdict, comes to know that another crime which is subject to public prosecution has been committed, it may order the public prosecutor to replace the private prosecutor in the proceedings.

(3) Should the public prosecutor replace the private prosecutor in accordance with sub-articles (1) and (2) of this article, he may petition the court to amend the charge or file a new charge, as appropriate, with a view to continuing the proceedings.

*Section 3 - Joinder of civil and criminal proceedings*

**Art. 215.- Civil proceedings by the prosecutor.**

(1) Where a crime involves damage to the pecuniary interests of the public or government or indigents, the public prosecutor may join civil proceedings with criminal proceedings.

(2) Notwithstanding the provisions of sub-article (1) of this Article, in sexual crimes against women and children, the public prosecutor shall join civil

proceedings with criminal proceedings provided that he obtains authorization from the victim or his representatives.

(3) Should a government agency be involved as a defendant in the civil proceedings to be instituted under Article, the public prosecutor shall not institute civil lawsuits.

(4) The provisions of relevant substantive law and the civil procedure code shall govern the joinder of civil and criminal proceedings under this Code.

**Art. 216.- Civil party in criminal proceedings.**

(1) A victim may, at any time between the institution of a charge and the commencement of hearing of prosecution evidence, apply to the court hearing the criminal case, to join the proceedings as a civil party.

(2) Where the court grants the motion under sub-article (1) of this Article, the civil party is entitled to have access to evidence presented by the prosecution and the defence and may apply to the court to call additional evidence.

(3) The court may, of its own motion or on the application of the parties, sever the proceedings where it believes that joinder is not in the interest of expedient and accurate justice.

(4) Where a private prosecutor institutes civil proceedings jointly with criminal proceedings, he shall submit his list of evidence for the criminal and civil proceedings separately.

**Art. 217.- Court fees and other costs.**

Court fees and other costs of criminal proceedings and civil proceedings joined with criminal proceedings shall, as appropriate, be governed by the provisions of Article 438 of this Code.

**Art. 218.- Rights of a civil party.**

For the purpose of the civil proceedings, a victim who joins criminal proceedings pursuant to Article 216 of this Code shall have a party status in respect of the criminal hearing and evidence production.

**Art. 219.- Effect of acquittal or discharge.**

Where the accused is acquitted or discharged, the court may adjudicate the civil lawsuit or remand it to the court having jurisdiction.

# BOOK FIVE

# ORDINARY HEARING PROCEDURE, EVIDENCE AND JUDGEMENT

## *Chapter 1 - Ordinary Hearing Procedure*

### *Section 1 - Summons*

**Art. 220.- General.**

(1) The court shall cause the prosecutor, the accused, a witness, an interpreter, or an individual who possesses relevant evidence or any other person required to appear before the court to be summoned to appear before such court.

(2) Notwithstanding the provisions of sub-article (1) of this Article, a person:

(a) on whom a bench warrant is issued;

(b) who is already in court; or

(c) who is informed in court of the next court date;

shall appear before such court without further service of summons.

**Art. 221.- Contents of summons.**

(1) The summons shall contain the name of the person summoned to appear in court, the reasons thereof, the court before which such person appears, the division and the address of such court, the date and hour of appearance, and such other necessary details.

(2) The summons to the accused shall contain the details provided for under sub-article (1) of this Article, the charge and the evidence.

**Art. 222.- Issue and service of summons.**

(1) Summons shall be drawn up by the court.

(2) When the public prosecutor institutes a charge, the court shall forthwith issue to the public prosecutor summons to be served on the accused.

(3) Summons shall be drawn up in writing and should be served on such person at least 10 days before the date of hearing. Where the person summoned is under 15 years of age or judicially interdicted, the summons shall be served on his guardian or tutor; where such person is a corporate person, summons may be served on the head of headquarters or branch office, or an agent.

(4) The police shall be responsible for serving summons to the accused and prosecution witnesses. Summons may be served on defence witnesses by the accused or police.

**Art. 223.- Substituted service.**

(1) Where summons cannot be served in person, it may be served on such person by notice in a newspaper of wide circulation in Ethiopia or on television.

(2) Substituted summons may be served in one or more ways.

(3) Where a person is served substituted summons, the court shall ensure that the substituted service more likely to reach such person is used and that such summons has reached the person or has been communicated through mass media.

**Art. 224.- Obligation to receive summons.**

Any person to whom summons is issued shall receive such summons and provide with evidence confirming receipt of such summons. Where the person summoned is not willing to receive or to give confirmation of receiving the summons, the person serving the summons shall state such facts to the court.

**Art. 225.- Non-delivery of summons.**

Where the summons is not served on the person summoned or not properly served on such person, the court shall fix another date for the hearing and issue another summons to be served on such person.

**Art. 226.- Failure to appear.**

(1) Where the accused person who has been duly summoned has failed to appear as required, the court may, as appropriate, fix another date for the hearing, close the file or issue bench warrant that such person shall be brought before the court by the police.

(2) Where a witness, or a person to produce a document or any other person duly summoned has failed to appear in court, the court shall adjourn the case for another date. Where it deems appropriate, the court may issue a bench warrant that such person be brought before the court by the police or enter such order as is appropriate based on the already presented evidence.

**Art. 227.- Trial in absentia.**

(1) An offence which is punishable by a minimum of 7 years imprisonment may be tried in absentia.

(2) The trial in absentia may be conducted as provided for under sub-article (1) of this Article only after the court establishes that summons has been served on the accused and he has failed to appear on the date fixed, and the consequently issued bench warrant could not be executed and the summons is published in mass media or newspaper having wide circulation. The published summons shall contain the date fixed for the hearing and that the accused will be tried in his absence if he fails to appear.

(3) Where the accused being tried in his absence appears while the hearing is progressing either on his own free will or under arrest, the case continues its course. Where the accused failed to appear for a good reason and the hearing conducted is likely to harm the interest of the accused undermine justice, such hearing shall be set aside and the case shall be heard anew.

(4) Where the case involves several defendants and the hearing of the case anew would undermine the rights of the accused or interfere with ensuring a speedy trial, the case shall be severed.

**Art. 228.- Judgement rendered in absentia.**

Where the accused has proved he failed to appear:

(1) because he has not received a summons to appear; or

(2) he was prevented by force majeure to appear in person or by advocate;

the court shall set aside the judgement given in the absence of the accused and order his re-trial.

**Art. 229.- Re-trial.**

(1) Until such application for setting aside judgment in default is resolved, the judgment rendered may not be executed.

(2) The court hearing the application to set aside the judgment in default may release the accused on bail.

**Art. 230.- Time of application.**

An application to participate in proceedings under Article 227 of this Code shall be made within one month once the circumstances making appearance difficult comes to an end.

**Art. 231.- Cases not to be tried in absentia.**

(1) Cases involving a juvenile shall not be tried in absentia.

(2) Where the accused in a proceeding instituted in accordance with sub-article (1) of this Article fails to appear, the court shall close the case. Such decision to close the case shall not bar re-opening of the case or re-instituting of charges subsequently.

*Section 2 - Pre-hearing matters*

**Art. 232.- Filing the charge.**

A criminal trial shall be initiated where the public prosecutor files the charge before the court having jurisdiction; the charge includes the list of evidence and the evidence.

**Art. 233.- Opening a casefile.**

(1) Where the charge is filed as per Article 232 of this Code is submitted to the court, the Registrar of the court shall, after establishing the name and address of witnesses is properly stated, the charge and the evidence is submitted in sufficient copies:

(a) open a case file;

(b) give the case file consecutive numbers; and

(c) enters a complete information in the register and cause such information to be entered in the database.

(2) The Registrar shall then assign such case file to the appropriate division of the court.

**Art. 234.- Ascertaining legal competence of the charge.**

(1) The division of the court before which such file is assigned shall fix the hearing date after establishing:

(a) the court has jurisdiction;

(b) the material facts stated in the charge are criminal conduct;

(c) the material facts stated in the charge conform to the requirements of the provision criminalising such conduct;

(d) the charge is not barred by limitations;

(e) the charge is submitted with list of evidence and such evidence are attached; and

(f) other essential requirements that shows the propriety of the charge.

(2) Where the court finds it does not have jurisdiction, or the facts stated are not criminal conduct or the charge is barred by period of limitation, it shall dismiss the case stating such facts.

(3) Where the facts stated in the charge and the provisions of the law under which the charge is brought are not compatible or that the charge is vague, the court shall, as appropriate, grant a short adjournment and order that such charge be corrected and filed accordingly.

(4) Where the charge is not corrected and filed within such time granted by the court, the hearing shall be discontinued. Such discontinuance shall not bar re-opening of the case upon filing the corrected charge.

(5) The court may hear the public prosecutor on the matter before giving an order under this Article.

**Art. 235.- Trial to be fixed.**

(1) After establishing legal sufficiency of the charge, the court shall fix the hearing date and enter an order that the Registrar issue summons to the accused, the public prosecutor and, as appropriate, defence witnesses to appear on such date.

(2) Where the accused is in detention, the court shall order the investigating police officer or the prison in whose custody the accused is held to produce him before such court.

**Art. 236.- Pre-hearing matters.**

(1) The court shall, after establishing the legal sufficiency of the charge, decide:
   (a) whether conducting pre-hearing is necessary;
   (b) what matters should be included in the pre-hearing; and
   (c) whether pre-hearing shall be conducted by the judge or by the Registrar of the court.

(2) Pre-hearing activities may be carried out verbally.

(3) Where the court decides that pre-hearing shall be conducted, it shall order summons to be served on the public prosecutor and the accused; such summons shall contain the date of the pre-hearing and the list of matters to be included in such pre-hearing.

(4) The charge and list of evidence shall be sent to the accused at least ten days before the date of the pre-hearing. The matters to be included in the pre-hearing shall be communicated to the accused so as to enable him to appear and give his opinion on such matters.

**Art. 237.- Pre-hearing activities.**

(1) The following activities may be carried out in pre-hearing:

(a) Where the accused pleads guilty to committing the crime indicated in the charge, assigning the case forthwith for trial in an expedited procedure;

(b) Where the accused pleads not guilty, establishing the procedure and order of producing witnesses and other evidences.

(c) Establishing the procedure and order of producing witnesses and other evidences.

(d) Deciding whether the case shall be tried in camera;

(e) Identifying and ensuring the availability of defence attorney, interpreter and other professionals essential to justice;

(f) Determining the hearing procedure.

(2) Where the pre-hearing is conducted by the Registrar of the court, the Registrar shall, immediately after the conclusion of such pre-hearing, submit to the court a detailed and complete report on the activities carried out.

(3) Where the pre-hearing is conducted by the court, it may, as appropriate, decide forthwith on the matters identified.

**Art. 238.- Fixing the date of the hearing.**

Based on the pre-hearing report, the court shall order the public prosecutor and the accused to appear on such date fixed to hear the charge and evidences of the public prosecutor and, as appropriate, the objections of the accused to the charges and his evidences.

## *Chapter 2 - Ordinary Hearing Procedure*

### *Section 1 - General Provisions*

**Art. 239.- Opening of the hearing.**

(1) Before reading out the charges, the court shall:

(a) establish and record the identity of the accused by asking his full name, age, gender, address, profession, level of education, marital status and other information the court deems necessary;

(b) based on the pre-hearing conducted, ascertain whether the accused has counsel and, as may be necessary, an interpreter;

(c) where the accused does not understand the working language of the court and he has no interpreter, after enquiring into the reasons, the court shall appoint an interpreter;

(d) where the accused is not represented because of lack of means and the court believes that miscarriage of justice will occur, it shall order one is appointed at state expense.

(2) The court shall, after it finalises preparations, read out each charge to the accused and ask the accused if he understands the charges.

(3) The provisions of sub-article (1) of this Article shall be applicable to the first appearance of the suspect before court, preliminary inquiry, pre-hearing or any other time the suspect appears before court.

(4) The accused shall not be chained unless there are good reasons to believe that he may be violent, or is dangerous or may try to escape as a consequence of which the court granted such permission.

**Art. 240.- Applicability of the ordinary hearing procedure.**

Unless the application of a special procedure is expressly provided for in this Code, the regular procedure provided for in this Chapter are applicable in all criminal proceedings.

### *Section 2 - Adjournment and Effects thereof*

**Art. 241.- Continuity of the hearing.**

(1) Unless otherwise provided under this Code or any other law, all criminal cases shall be heard and disposed of efficiently as per the regular procedure provided hereunder.

(2) The hearing shall be continuous unless there is sufficient cause an adjournment; the matter for adjournment shall be disposed of on such day as fixed by the court.

**Art. 242.- The period for the ordinary hearing procedure.**

(1) In a regular process, the prosecution case shall be completed for minor offence within 3 months, for medium offences 6 months and for grave offences within 12 months from the date the cases is filed before the court.

(2) Where the court finds a sufficient reason, the court may extend the period fixed in sub-article (1) of this Article by up to one-half of such period.

(3) Notwithstanding the provisions of sub-articles (1) and (2) of this Article, with regard to the provision that the prosecution case for grave offenses shall in any case be completed within 2 years, the Federal Supreme Court shall issue rules of case-flow management based on the seriousness and complexity of cases.

(4) Based on the period fixed for disposing of minor, medium and grave offenses, the Federal Supreme Court shall implement case-flow management based on the seriousness and complexity of cases.

**Art. 243.- Conditions of adjournment.**

(1) The matter for which the hearing is adjourned shall be disposed of on such day as set by the court.

(2) Notwithstanding the provisions of sub-article (1) of this Article, the court may, in the interest of proper justice, adjourn the case on its own motion, or on the application of parties on the following grounds:

(a) the public prosecutor, the accused, or his counsel fail to appear for good cause;

(b) the court decides the accused cannot attend the hearing as provided for in this Code;

(c) objection to the charge is raised and it cannot be decided on the same day;

(d) the accused, on account of having received the charge or finding counsel a only few days before the hearing, or his counsel needs time to prepare for the hearing;

(e) witnesses for the prosecution or the defence are not all present;

(f) additional evidence as per Article 303 of this Code is necessary, or evidence is produced either by the prosecution or the defence which takes the other side by surprise and the production of which could not have been foreseen;

(g) the charge has been altered, or added to or a new charge is brought and the accused requires time to consider before proceeding;

(h) a decision in the trial cannot be give unless other proceedings be first completed; or

(i) the mental stability of the accused requires to be established by an expert; or

(j) additional time is required for evidence from third parties; or

(k) any other ground making adjournment imperative;

The court shall adjourn the hearing for such time as is sufficient to enable the propose for which the adjournment was granted to be carried out.

(3) The hearing for the prosecution or for the defence shall be continuous. However, for the convenience of the judges, the parties and the witnesses, the court may take a short recess; the court may grant adjournment where the hearing cannot be completed in one day and, for good cause, the hearing cannot resume in the next working day.

(4) Without prejudice to the provisions of sub-article (2) of this article, adjournment may not be granted for the purpose of:

(a) activities of the Registrar;

(b) introducing or changing evidence;

(c) correcting the charge by reconciling the material facts with the provision of the law criminalising the act;

(d) deciding on an objection to the charge on the ground of issue of law.

**Art. 244.- Terminating a hearing on account of accused's illness.**

(1) An accused is deemed to be fit for trial.

(2) Without prejudice to the provisions of sub-article (1) of this Article, the accused may, either himself or through his counsel, petition the court to postpone the hearing because of mental or physical illness where the accused is not able to:

(a) state his plea; or

(b) understand the charges and the consequences and is not able to help his counsel; or

(c) defend the charges; or

(d) attend the hearing for other similar reasons.

(3) Where the court believes the petition of the accused to be appropriate, it may order an expert examination and a report.

(4) Where the court believes defendant's illness is transient, it may continue the hearing after a short adjournment. Where defendant's health does not improve, the court may order an expert examination and a report.

(5) Where the report shows the accused is not fit for trial, the court seeks the opinion or the public prosecutor. After hearing the opinion of the public prosecutor and the expert and, where the court deems it necessary, after a short hearing, it may suspend the hearing for not more than one year.

(6) Where the court suspends the hearing under sub-article (5) of this Article, it may order the internment of such person in appropriate institution where the accused is dangerous to himself or to the community, or release him on bail.

(7) Where the defendant's health does not show progress within such time fixed or after one year, the court shall hold the hearing in the presence of the attorney of the accused and give such decision as it deems appropriate.

(8) Where the accused is acquitted or found guilty as per sub-article (7) of this Article, the court shall order the necessary corrective measures to be carried out. Sentences entailing deprivation of liberty and fines may only be rendered where it is established that the health of the accused has been restored and he has not applied to the court for review of judgment while in such a state.

### *Section 3 - Objections to the Charge and Plea of the Accused*

#### *Sub-section 1 – Objections to the Charge*

**Art. 245.- Objection to the charge.**

(1) After reading out the charges, the court shall ask the accused if he has any objection to the charge.

(2) The accused may object to the charge verbally or in writing on the ground that:

(a) the court does not have jurisdiction;

(b) he has previously been acquitted or convicted on the same charge;

(c) the case has been resolved though alternative mechanisms provided under this Code;

(d) the case is barred by period of limitation, pardon or amnesty;

(e) the accused has immunity and such immunity has not been removed;

(f) the case is pending before another court;

(g) the decision in the criminal case against him cannot be given until other proceedings have been completed;

(h) the charges are two or more and all or some of them may be included in one charge;

(i) the conduct for which he is being charged is not a crime or the charge is based on a repealed law;

(j) the charges are improperly joined or severed;

(k) the charge does not conform with the provisions of the law criminalising the conduct;

(l) the charge does not contain essentials;

(m) the charge brought by the private prosecutor is not in conformity with the authorisation of the public prosecutor;

(n) The charge is brought by a public prosecutor without jurisdiction; or

(o) any other reason that prevents the court from entertaining the merit of the case.

(3) Where the court realises there is issue of fact or law that prevents the court from considering the merit of the case, it shall, on its own motion, enter an order it deems appropriate.

(4) Where no objection is raised under sub-article (1) of this Article immediately after the accused has been required by the court to state his objection, the accused shall be barred from raising any such objection at any later

stage in the trial unless the objection be such as to prevent a valid judgment from being given.

**Art. 246.- Settlement of objections.**

(1) The court shall, after recording the objection and communicating the same to the public prosecutor:

(a) ask the public prosecutor's response or opinion;

(b) decide on the objection forthwith where a decision can be made forthwith or where the public prosecutor does not have any response or opinion or the public prosecutor's objection or opinion is rejected.

(2) Where a decision cannot be made forthwith because the court needs time or owing to lack of evidence, the court shall give a short adjournment and enter an order it deems necessary in the next adjournment.

**Art. 247.- Severance of charges.**

Although no such objection has been raised, where several offenders are joined in a charge and where the court is convinced that joinder of offenders would undermine the rights of the defence or forestall a fair decision from being given, it may rule the charges to be tried separately.

**Art. 248.- Alternation and additions to the charge.**

(1) The court may, at any time before judgment, on the application of the public prosecutor, the accused or on its own motion order, as appropriate, the change be altered or modified or any addition be made to it or a new charge be filed where:

(a) the charge displays essential error, misled or is likely to misled the accused, leaves out facts that should be stated, or prejudices the accused in his defence, or is likely to defeat justice; or

(b) the charge is not drawn up in accordance with the provisions of this Code, or the facts stated in the charge and the law said to be violated do not

conform, or unless the charge is heard separately, it prejudices the accused in his defence.

(2) Where the public prosecutor does not modify or alter or file a new charge within the time the court has granted under sub-article (1) of this Article, the court shall dismiss the charge. Where the accused is in custody, he shall be discharged,. Any item seized or injunction ordered in relation to such charge shall be released.

(3) Notwithstanding the provisions of sub-article (2) of this Article, where the public prosecutor, for good reason, was not able to modify or alter the charge or file a new charge, the court may adjourn the hearing for a time not more than originally granted under sub-article (1) of this Article.

(4) Where the charge is altered, added to or modified, the court shall cause such charge to be provided to the accused in writing, read out and explain the new charge to the accused and, where necessary, the accused may present his objection to such charge or the court may decide to proceed with the case.

### *Sub-section 2 - Plea of the Accused*

**Art. 249.- Taking the plea of the accused.**

(1) The court shall, where the accused does not object to the charge or where such objection is rejected, ask the accused whether he pleads guilty or not guilty and record such plea.

(2) Where there are more than one charge, the court shall record the plea of the accused in respect of each charge separately.

(3) The plea of the accused shall be recorded as nearly as possible in the words of the accused.

**Art. 250.- The plea of the accused.**

(1) Where the accused admits without reservation every ingredient in the offence charged and gives sufficient explanations in response to the questions put to him

by the court, the court may enter a plea of guilty and may forthwith convict the accused.

(2) Notwithstanding the plea of the accused as provided for in sub-article (1) of this Article, where the court believes it is in the interest of justice, it may require the public prosecutor to produce his evidence and, as appropriate, the accused to produce his defence evidence.

(3) Where the accused denied the charges, or says nothing in answer to the charge, or admits the charges with reservations, the court shall enter a plea of not guilty and order to hear evidence on the charge or the issue denied.

**Art. 251.- Amendment of plea of the accused.**

(1) The accused may change his plea of guilty to one of plea of not guilty any time before judgement.

(2) Where the accused changes his plea of guilty to one of plea of not guilty, the court shall enter a plea of not guilty; it shall set aside conviction of the accused, if any, and fix a date to hear prosecution witnesses.

## *Chapter3– Evidence and Judgment*

### *Section 1 – Explaining the Charge and Opening Argument*

**Art. 252.- Opening the prosecution case.**

(1) Where the accused has pleaded not guilty, the public prosecutor makes an opening argument before producing his evidence.

(2) The purpose of the opening argument is to explain the charges, the evidence the prosecutor proposes to lead, the sequence of such evidence, and the facts they are tendered to prove. The public prosecutor shall do so in an impartial and objective manner.

(3) The opening argument also introduces the subject the witnesses give testimony about, the name, sex, age, nationality, occupation and address of witnesses, and

list of exhibits and evidence tendered to prove the charge directly or indirectly, and a brief description of the evidence.

(4) After the opening argument for the charges, the public prosecutor shall make an opening argument on the civil claim he filed representing the government or victims as provided for in this Code.

(5) After the public prosecutor's opening argument, the civil party makes an opening argument regarding the civil claim he brought along with the criminal charges.

### *Section 2 - Facts that Need and Need No Proof*

#### *Sub-Section 1 - Facts that Need Proof*

**Art. 253.- Facts that need proof by the public prosecutor.**

(1) The public prosecutor shall prove every fact in issue and every relevant fact thereof by relevant and admissible evidence.

(2) As the case may be, there may be more than one fact in issue in a given criminal case.

(3) A fact in issue or a relevant fact is said to be proved where the court believes the occurrence or non-occurrence of such event or fact is proved by the standard of proof provided for in this Code.

(4) Under this Code, "fact in issue" is a fact where the prosecutor and accused are at variance and the determination of which is of consequence to the determination of the case at hand.

(5) For the purpose of this Code, "relevant fact" means a fact having any relation with the fact in issue, and the proof of which has a tendency to make the existence of such fact in issue more or less likely.

**Art. 254.- Relevant Evidence.**

(1) Relevant evidence means prosecution evidence that proves a fact in issue or any relevant fact thereof.

(2) Without prejudice to the provisions of sub-article (1) of this Article, where the evidence tends to show the existence of a fact that:

(a) is connected with the fact in issue as to form part the same transaction, whether in nature or occurrence, or both facts occurred at the same time and place;

(b) is motive or premeditation to commit the fact in issue;

(c) created occasion or opportunity for the occurrence of the facts in issue;

(d) is preparation to commit the fact in issue or a subsequent activities;

(e) is previous and subsequent conduct of defendant, victim and other persons present at the scene of occurrence;

(f) is cause or effect of the fact in issue;

(g) the circumstance before and after the occurrence of the fact in issue;

(h) similarity of occurrences with the fact in issue;

(i) tends to show state of mind;

(j) otherwise show the occurrence or non-occurrence of the fact in issue;

is relevant evidence.

***Sub-section 2 - Facts that Need No Proof***

**Art. 255.- General.**

The public prosecutor does not have to produce evidence in respect of facts expressly admitted, or facts in respect of which the court is required to take judicially notice, or legal presumptions provided in substantive law.

**Art. 256.- Facts admitted.**

(1) In accordance with Article 250 of this Code, such facts as are admitted by the accused at the trial, or where he confessed pleading guilty, such facts need no proof.

(2) Unless the accused disproved the content of such statements in his defence, facts admitted before another court in accordance with the provisions of Article 122 of this Code are deemed proved.

**Art. 257.- Judicial notice.**

(1) The court shall judicially notice those federal laws published in the Federal Negarit Gazeta or states' laws published in the respective official gazettes.

(2) The court may also judicially notice facts that are matters of common knowledge or that may be proved by resorting to readily available materials that is not subject to reasonable dispute.

(3) Notwithstanding the provisions of sub-articles (1) and (2) of this Article, the public prosecutor shall prove every fact that constitute the crime.

(4) Notwithstanding the provisions of sub-articles (1) and (2) of this Article, the public prosecutor or the accused may petition the court to take judicial notice of a fact in issue or a relevant fact thereof or the accused may object to such petition by the public prosecutor.

**Art. 258.- Presumptions.**

(1) Where it is provided for in the substantive law that the court may deem the existence or inexistence of a related fact from the proof of certain basic facts, the court may deem the existence or inexistence of such fact or require evidence in respect of such fact.

(2) Where it is provided for in the substantive law that the court shall deem the existence or inexistence of a related fact from the proof of certain basic facts, the

court shall, once such basic facts are proved, deem the existence or inexistence of such related fact.

(3) Notwithstanding the provisions of sub-article (1) and (2) of this Article with regard to presumptions, the public prosecutor has to prove the connection between the basic facts and the presumed facts.

### *Sub-section 3 - Admissibility of Evidence*

**Art. 259.- Admissible evidence.**

Unless provided otherwise in the Constitution, this Code or other laws, every relevant evidence is admissible evidence.

**Art. 260.- Inadmissible prosecution evidence.**

(1) The following prosecution evidences are inadmissible:

(a) any confession or evidence the suspect or the accused admitted under coercion;

(b) evidence obtained contrary to the special investigation techniques provided for in this Code;

(c) evidence or statements obtained in the process of implementing procedures alternative to trial;

(d) evidence showing the accused helping victim or of taking any remedial or corrective measures may not be produced to prove guilt thereof;

(e) admissions or confessions of a co-accused against the accused who pled not guilty;

(f) evidence not authenticated as ordered by the court.

(2) Notwithstanding the provisions of sub-article (1) of this Article, such evidence may be used for the purpose of impeachment of a witness.

**Art. 261.- Character evidence.**

(1) Proof of defendant's character by showing conduct or reputation is not admissible to prove the crime he is charged with.

(2) Notwithstanding the provisions of sub-article (1) of this Article, where the accused produced character evidence to prove the victim's bad character in his defence, the public prosecutor may produce contrary character evidence to prove the defendant's bad character.

(3) The public prosecutor may produce any evidence to prove the credibility of his witness.

**Art. 262.- Prior conviction and bad acts.**

Evidence of prior conviction and bad acts of accused may not be admitted in order to prove guilt in a criminal proceeding. However, such evidence may be produced to prove identity of defendant, prior plan, opportunity, preparation, motive, intent or absence of accident.

*Section 3 - Types of Evidence*

*Sub-section 1 - Testimonial Evidence*

**Art. 263.- Competence and obligation of witness.**

(1) Any person who is not precluded by the law is a competent prosecution witness.

(2) A person summoned as a witness by the prosecutor shall appear to testify or to explain why he shall not be compelled to testify.

(3) Where the witness is an expert, the court determines whether such witness is qualified to testify on the subject matter after evaluating his education, experience and other qualifications.

(4) Notwithstanding the provisions of sub-article (1) of this Article, the court may preclude a witness from testifying for senility or tender age, physical or mental

infirmity or for any other reason where the witness does not understand the questions put to him or give rational answer thereto.

(5) An expert who is precluded by a court order from being a witness may not appear as a prosecution witness.

**Art. 264.- Privileges.**

(1) Defendant's religious father, legal counsel or doctor may not be compelled to testify against the accused based on facts he came to know as part of his professional service to the defendant.

(2) A person may not be compelled to testify against his spouse regarding communications made during the currency of the marriage. However, where the information relates to a crime committed against such spouse, such privilege does not apply.

**Art. 265.- Non-compellable witness.**

(1) A person who participated in special investigation techniques as per Article 103 of this Code may not appear as prosecution witness in such matter.

(2) A judge or a prosecutor may not appear as a witness regarding matters he has made decisions on.

**Art. 266.- Government secrets.**

(1) Where the confidentiality of the information is provided by law, the custodian of such information may not be compelled to testify regarding such matters, nor may he be compelled to hand over related documents.

(2) Where the confidentiality of the information is not provided by law but the disclosure of the information is contested, whether such disclosure harms national security, national or public interest shall be decided in closed chamber.

**Art. 267.- Testimony given to another court.**

(1) Where a prosecution witness has died, is mentally infirm, cannot be found, cannot appear before court due to illness or on account of being outside Ethiopia, the statement given by such witness to the court of preliminary inquiry may be read out and admitted as evidence in the trial.

(2) Where the testimony was given in a proceeding at another court in which the defendant was a party and the defendant had the opportunity to cross examine the witness, such testimony may be read out and admitted as evidence in the trial.

**Art. 268.- Testimony given during investigation.**

(1) Statements of witnesses given to the police during investigation may not be produced as evidence.

(2) Where the testimony given by a prosecution witness before court appears to be different from that which was given to the police during investigation, the court may, on the request of either party, look at the investigation file.

**Art. 269.- Number and order of witnesses.**

(1) One or more prosecution witnesses may appear to testify about a given fact.

(2) The prosecutor may call his witnesses in the order of his preference to prove the fact in issue or relevant facts.

**Art. 270.- Oath and affirmation.**

(1) A prosecution witness shall enter an oath according to his religion, belief or custom or make an affirmation to tell the truth before giving his testimony.

(2) If the witness does not understand the consequences of the oath or the affirmation because of young age or other reason, such witness may not be compelled to enter an oath or make an affirmation as provided under sub-article (1) of this Article.

**Art. 271.- Taking testimony.**

Before taking prosecution witness' testimony, the court shall:

(1) record full name, address, age, occupation, and where appropriate nationality of a witness;

(2) enquire his disputes, relations or otherwise with the defendant, the victim or any other person involved in the case and record same;

(3) warn the witness he would be subject to criminal responsibility and the consequent punishment should he commit perjury.

**Art. 272.- Using notes, documents and instruments.**

(1) The prosecution witness shall testify about facts of which he has direct knowledge. He may not use notes or instruments in the course of giving testimony.

(2) Notwithstanding the provision of sub-article (1) of this Article, where the witness:

(a) is an expert witness;

(b) faces difficulty in recollection of certain facts and needs to look at the court record or exhibits;

(c) cannot or finds it difficult to give proper testimony without the assistance of documents or instruments, or the nature of the facts dictates,

the court may permit the witness to give his testimony referring to any such materials.

(3) Where the court permits the witness to testify using such documents or instruments as provided under sub-article (2)(b) of this article, the court shall direct the other party be given or shown the relevant part of such document or the instrument.

**Art. 273.- Propriety of question put to a witness.**

(1) The accused may object to putting of a question to a prosecution witness on relevancy, admissibility or other grounds provided by law. The court shall enter a ruling after taking a reply from the party questioning the witness. Where the witness has already replied to the question objected to, and where the court sustained the objection, it may order the answer to such question be struck off from the record.

(2) In the course of the hearing, if the court believes the question is irrelevant, inadmissible or inappropriate on other grounds provided by law, despite no objection from the other party, stating its reasons it may give an order that the question be reformulated or cannot be asked.

**Art. 274.- Questions in examination-in-chief.**

(1) The public prosecutor shall put questions in examination-in-chief to his witness. The witness shall be questioned about facts that are in issue or relevant to the fact in issue only insofar as he has direct knowledge.

(2) No leading question shall be put to a witness in examination-in-chief.

(3) Notwithstanding the provisions of sub-article (2) of this Article, where the witness:

(a) is a hostile witness;

(b) has lost memory of the facts and needs to be reminded where to start; or

(c) needs support in order to give testimony because of tender age, old age or mental infirmity,

upon permission from the court, the public prosecutor may put leading questions to such witness.

(4) Leading question is a question that presupposes the answer to such question.

(5) For the purpose of this Article, "hostile witness" means a witness who in responding to questions put to him from the proponent displays reluctance,

animosity and hostility, in particular, lacking good faith testifies contradicting the testimony he gave to the police during investigation or to other decision-making organ.

**Art. 275.- Cross-examination.**

(1) After the examination-in-chief, the accused or his counsel may cross-examine the witness. The purpose of cross-examination is to show to the court what is erroneous, contradictory, doubtful, untrue or not credible in the testimony given in the examination-in-chief.

(2) Insofar as it helps achieving the purpose of cross-examination as provided for in sub-article (1) of this Article, the witness may be questioned on matters including those not raised in the examination-in-chief. Where the witness is an expert, he may be cross-examined regarding his competence on the fact in issue or relevant fact he testifies about.

(3) Leading questions may be put to a witness in cross-examination by the accused or his counsel.

(4) Failure of the accused or his counsel to cross-examine on a particular fact does not constitute admission of the truth of the point.

**Art. 276.- Prohibition against questions to disprove the credibility of the witness.**

(1) The court shall not allow the public prosecutor to put to the witness additional questions with a view to disproving a reply given by the prosecution witness in respect of his own credibility or character.

(2) Notwithstanding the provisions of sub-article (1) of this Article, where it is apparent that the reply given by the witness denies a clear fact and is untrue, the court may permit additional questions to be put to such witness to prove the same.

**Art. 277.- Re-examination.**

(1) The public prosecutor may re-examine the witness once the cross-examination is over.

(2) The purpose of re-examination is to show to the court the testimony given on cross-examination which appears to be erroneous, contradictory, doubtful or untrue actually is not erroneous, contradictory, doubtful, or that the testimony is true.

(3) Where there is no cross-examination, there may not be re-examination. Facts that may be raised in the re-examination relate only to those matters raised in the cross-examination.

(4) Leading questions may be asked in re-examination.

**Art. 278.- Clarifying questions by the court.**

In the interest of justice, the court may put questions to the witness at any time for the purpose of elucidating matters.

**Art. 279.- Court witness.**

(1) The court may at any time before giving judgment summon any witness, not summoned by the public prosecutor, whose testimony it thinks necessary in the interest of justice.

(2) The court may ask the witness any question it deems relevant on the facts in issue or relevant facts.

(3) After the court's examination, the court may give opportunity to the prosecutor or the accused or his counsel to ask questions. The opposing party may re-examine such witness.

(4) Where the court deems it necessary in the interest of justice or for the purpose of elucidating matters, it may summon a prosecution witness who has previously testified to testify again.

**Art. 280.- Precautions by the judge.**

A judge taking testimony of witnesses shall ensure:

(1) witnesses who have testified do not meet with those who have not;

(2) defence witnesses are not present in court when prosecution witnesses testify;

(3) Testimonies given through video conference or other similar means of communication are authentic;

(4) The trial environment enables witnesses to give their true testimony;

and that other necessary preparations are made.

**Art. 281.- Recording proceedings.**

(1) The court shall put in the record:

(a) name of the judge, the name of the division, date and file number;

(b) name of the public prosecutor and the name and address of the accused; and

(c) other essential information and circumstances;

in all proceedings.

(2) The judge shall have testimonies of each witness recorded in any convenient manner.

(3) The testimony shall be divided into evidence-in-chief, cross-examination and re-examination. The beginning and end of evidence-in-chief, cross-examination and re-examination shall be clearly stated.

(4) Other evidence shall be marked and recorded.

(5) The evidence shall be recorded in the words of the witness in a narrative provided that the judge may, in his discretion, permit any particular question or answer to be written or recorded in any other manner.

*Sub-section 2 - Documentary Evidence*

**Art. 282.- Proving facts by document.**

(1) The content of a document produced by the public prosecutor may be proved only by producing the original of such document. Where the public prosecutor is unable to produce the original of such document, he may produce a copy thereof authenticated by the appropriate government organ.

(2) Where the accused objects to the introduction of a document by the public prosecutor for genuineness, the public prosecutor should first cause such document to be authenticated.

(3) Notwithstanding the provisions of sub-article (1) of this Article, where the public prosecutor is unable to produce the original or authenticated copy of a document because it is lost, burned or due to any other reason beyond his control, he may prove the content of such document by a copy thereof authenticated with the original document or by producing witnesses.

(4) Where because of the content, bulk, or its technical nature it is difficult or inconvenient for the court to review the document, the content of such document may be proved by the public prosecutor by producing testimony, photograph or video of such document.

(5) Where the document is vague or its contents contradict each other, the public prosecutor may prove the content of such document by producing witnesses.

(6) The public prosecutor may disprove the content of a document or prove that such document has no legal effect by producing any type of evidence.

(7) The public prosecutor may not prove the content of a document by producing witnesses except under the conditions provided under sub-articles (1) to (6) of this Article.

**Art. 283.- Proving occurrence.**

(1) The public prosecutor may prove the occurrence of an event recorded in a public or commercial register by producing such record.

(2) However, before the court holds a fact is proved or disproved as provided for in sub-article (1) of this Article, it may direct the party to establish such record is complete and properly maintained.

**Art. 284.- Authentication of contents of public documents.**

Where the document produced by the public prosecutor is a public document maintained by a government institution authorized to register vital events and similar facts, the court presumes the genuineness of the content of such document where:

(1) the event is recorded within the legally required period or as it occurred or immediately afterwards;

(2) it was recorded by a public servant in the discharge of his duties;

(3) on its face, the document does not have erasures, cancellations or other marks making the document doubtful.

**Art. 285.- Authenticating contents of government documents.**

(1) The content of a government document produced by the public prosecutor is presumed to be authentic.

(2) Notwithstanding the provisions of sub-article (1) of this Article, the court may require the producing party to prove genuineness of such document either on the request of the other party or on its own motion.

**Art. 286.- Authenticating contents of business records.**

Where the document produced by the public prosecutor is a business record that is maintained in accordance with the law or as a normal business routine of the

enterprise, the genuineness the content of such business record may be proved by showing:

(1) the event is recorded as it occurred or immediately afterwards;

(2) the entry is made by a person in the performance of his duty; and

(3) on its face, the document does not have erasures, cancellations or other marks making the document doubtful.

**Art. 287.- Authentication of signatures and writings.**

(1) The court may direct the genuineness of the handwriting or signature of the accused or a witness produced by the public prosecutor as evidence, as appropriate, by comparing with a sample of such person's handwriting or signature, by a witness called by the court itself or produced by the public prosecutor or by an expert.

(2) The court may, for such purpose, order the public prosecutor to produce any document previously written or signed by such person or order the accused or witness to write a few words or phrases or sign his signature.

**Art. 288.- Presumptions regarding seal and signature.**

(1) A seal and signature on a document presented to the court by the public prosecutor as evidence is presumed to be genuine and the person who has put such seal or signature is presumed to have acted within his authority by the time he put such seal and signature on such document.

(2) Notwithstanding the provisions of sub-article (1) of this Article, on the objection from the opposing party or on its own motion, the court may demand the proponent to prove the genuineness of the seal or signature on the document.

**Art. 289.- Presumptions regarding documents.**

(1) Where such is produced by the public prosecutor as evidence, the court shall presume that:

(a) a plan drawn up by an institution legally authorised and made public is genuine;

(b) a judgment published by any foreign government is genuine;

(c) any compilation of public records, published plan or chart drawn up and published by the person whose name appears on such document has been drawn up and published on such date and place and by such person as is shown in the document.

(2) The content of a document certified by a legally authorised institution which is submitted by the public prosecutor is deemed to be accurate and conclusive. However, any type of evidence may be produced to contradict the content of such document.

**Art. 290.- Document in the hands of the accused.**

(1) The court may order the accused to produce documents in his possession which are prosecution evidences.

(2) Where the accused fails to produce documents ordered by the court in the absence of circumstances preventing him, the court may take its own presumption on the matter. However, the court shall not take any presumptions on elements constituting the crime other than those which are proved by evidence.

(3) Where the accused has failed to produce a document ordered by the court or has failed to produce such document at such time ordered, the court may, as appropriate, reject such evidence, take its own presumption, receive and examine such evidence, or order that no questions be asked in cross-examination in relation to such evidence.

**Art. 291.- Document in the hands of a third party.**

Where evidence which is relevant to a fact in issue is in the possession of a third party, the court may, on the request of the public prosecutor, order such third party to produce such document.

*Sub-section 3 - Electronic Evidence*

**Art. 292.- Proving facts using electronic evidence.**

(1) The public prosecutor may prove a fact in issue or relevant fact by electronic evidence.

(2) Under this Code, "electronic evidence" means electronic data, electronic record, system and application including any information recorded or stored by any devise that is readable by human or computer or any other device.

**Art. 293.- Authentication of electronic evidence.**

(1) The content obtained from a properly functioning electronic registration device, or registered or stored in an application is deemed genuine where such information is obtained following the standard procedure.

(2) Notwithstanding the provisions of sub-article (1) of this Article, information registered or stored in an electronic devise, application or system whose reliability is proven may be produced to court printed on paper.

(3) Where the integrity of electronic data could not be proved otherwise, the authenticity of the information may be proved by producing evidence that:

(a) the computer or the electronic devise has been properly functioning, or despite the devise is not functioning by the time the data was recovered, the malfunctioning of the devise does not affect the integrity of the data in anyway;

(b) the electronic record is maintained by the adverse party;

(c) the registration and preservation of the information is made following the customary procedure and the person in charge of the registration or preservation of the data is not under the control of the proponent of the evidence.

(4) The authenticity of electronic evidence may be disproved by producing any type of evidence.

(5) In order to contradict the genuineness of the electronic evidence as provided for under sub-article (4) of this Article, the electronic data, electronic record, the computer or devise on which the data is stored, the information system or the application shall be given to the expert evaluation of the adverse party.

*Sub-section 4 – Exhibits*

**Art. 294.- Exhibit.**

The public prosecutor may produce any material evidence to the court as exhibit to prove a fact.

**Art. 295.- Authentication of exhibits.**

(1) The public prosecutor shall prove the genuineness of the exhibits he proposes.

(2) The public prosecutor may prove the genuineness of an exhibit he has produced by showing identifying unique marks on the exhibit, production serial numbers or similar marks or by calling witness to show the collection, preservation and production of such exhibit.

*Sub-section 5 - Ruling of the Court after Prosecution Evidence is Heard*

**Art. 296.- Prosecutor's burden and standard of proof.**

(1) The public prosecutor shall prove the material and moral ingredients constituting the crime, and other facts in issue and relevant facts beyond a reasonable doubt.

(2) Under this article, a fact in issue or relevant fact is said to be proved by the public prosecutor where the court believes the existence, the occurrence or non-occurrence of the event is proved by the standard of proof provided for in sub-article (1) of this Article.

**Art. 297.- Ruling of the court.**

(1) The court shall acquit the accused without requiring him to enter his defence where, after the case for the prosecution is concluded, the commission of the crime is not proved beyond reasonable doubt.

(2) Once the prosecution evidence is concluded, where the court believes the prosecution case proves the accused committed the crime beyond reasonable doubt, it shall direct the accused to enter his defence on issues identified by the court.

(3) Where the court acquits the accused under sub-article (1) of this Article, it shall also enter an order that the accused be released from detention, attachments and bail obligations be terminated and exhibits be released and other appropriate measures.

## *Chapter 4- The Case for the Defence*

**Art. 298.- Opening the case for the defence.**

(1) The accused or his counsel shall make an opening argument. He addresses the court on facts he believes are proved or not proved by the prosecution evidence and he explains the evidence he leads.

(2) Where the statement of defence is made in writing, the court shall order such argument be sent to the public prosecutor 10 days before the date of hearing of defence evidence.

(3) The accused may elect either to make statements or stand as a witness in his own defence. Such decision of the accused shall be addressed to the court in the opening address.

**Art. 299.- The case for the defence.**

(1) The accused shall give his statements or testimony before other defence witnesses are heard. However, an accused who elected to testify in his own defence can change his mind in which case he cannot make statements.

(2) Where the accused elects to be a witness in his own defence, he shall enter an oath or make an affirmation to testify the truth. He may be cross-examined by the prosecutor. His testimony shall be evaluated as any other witness testimony.

(3) Where the accused elects to make statements, he may not enter an oath or make an affirmation to speak the truth; he may not be cross-examined by the public prosecutor. The court may, however, ask him questions only for elucidation.

(4) The statements given by the accused shall be given a value the court deems appropriate.

**Art. 300.- Evidence in custody of the public prosecutor or the police.**

(1) The police and the public prosecutor shall, either on their own motion or on the request of the of the accused, disclose to the accused exculpatory evidence to use it in his defence.

(2) Where the police or the public prosecutor is not disclosing such evidence as is provided for under sub-article (1) of this Article without sufficient reason, the court shall make its own adverse inference.

**Art. 301.- The standard of defence.**

(1) In order to be acquitted from the charge, the accused, in his defence evidence must create a reasonable doubt in the prosecution case or on the facts constituting the crime.

(2) Where the accused admitted the charges with reservations, he shall prove his affirmative defence by preponderance of the evidence.

(3) The court may hold a fact in issue or a relevant fact is disproved where the court believes the inexistence or non-occurrence of those facts is proved by the standard of proof provided for in this Article.

**Art. 302.- Applicability of the provisions governing prosecution evidence.**

The provisions of Chapter 2 on prosecution evidence in general shall be applicable to defence evidence mutatis mutandis.

## *Chapter 3 - Common Provisions*

**Art. 303.- Additional evidence.**

(1) The public prosecutor or the accused shall present the whole of his evidence at once. However, he may petition the court to produce new evidence the existence of which he was not aware at the time of hearing.

(2) Where the petition under sub-article (1) of this Article is made with the intention of dragging the case and not in the interest of justice, the court shall reject it.

(3) Where the court deems it appropriate in the interest of justice, it may order evidence produced by the public prosecutor or the accused be produced.

(4) Where additional evidence is produced as provided for under sub-article (3) of this Article, the court may order such witnesses to be examined or it may, where they are other types of evidence, request the parties' opinions on them.

**Art. 304.- Irrelevant and inadmissible evidence.**

The court, on its own motion or on the application of the prosecutor or the accused, shall reject evidence that is inadmissible.

**Art. 305.- Objection to evidence.**

(1) The other party may object to evidence on ground of relevancy or admissibility or on the grounds of not meeting other requirements provided under the law either orally or in writing.

(2) The court, after hearing the views of the proponent, shall enter an order on the admissibility of such evidence.

**Art. 306.- Final address.**

(1) After the evidence for the defence is concluded the public prosecutor and the accused shall make clear and detailed closing arguments.

(2) The public prosecutor shall address the court on the charges he led, the provisions of the law, the facts and the evidence; he shall also address the court on the accused's failure to disprove the prosecution's case and the reason the court should convict the accused.

(3) The accused address the court on the charges and evidence of the public prosecutor and his own defence and that he should be acquitted. The accused shall always have the last word.

(4) Where there are more than one accused, unless the court directs otherwise, they shall address the court in the order their name appears in the charge.

(5) A final address under this Article may be made orally or in writing.

**Art. 307.- Amending procedural errors.**

The court may at any time on the application of either party or of its own motion or on the application of any interested third party correct any procedural error, clerical error in name, numerical, identification, summation or any other error in any order given by the court at any stage of the proceeding.

*Chapter 4 - Judgment and Sentence*

**Art. 308.- Judgment.**

(1) After hearing the final address of the prosecutor and the accused, the court shall:

(a) enter a judgment of guilty, if it is convinced that the accused has not defended the charge in accordance with Article 301 of this Code;

(b) acquit the accused, if it is convinced that he has defended the charge in accordance with Article 301 of this Code.

(2) The judgment shall be handed down in writing signed by the judge(s) and read in open court.

**Art. 309.- Judgment Writing.**

(1) A judgment given in accordance with this Code shall contain, respectively:

(a) file number, date, month and year of the judgment, name of the judge and the court;

(b) the charge in brief, the matters disposed of in the course of the litigation, the facts at issue, and summary of evidence adduced to prove the facts at issue;

(c) admitted or non-admitted evidence in brief and the reasons thereof, and the facts, evidences and the law on which the court bases its conclusion and the reasons thereof;

(d) the judgment; where the court finds the accused guilty, orders about execution of sentence; where the court acquits the accused, the judgment relating to bail obligations, conditions of his release, and injunctions, exhibits and other similar matters; and

(e) signature of the judge delivering the judgment.

(2) Picture or other things submitted as evidence but cannot be described in writing, may be referenced in the judgment.

(3) Only the part of the judgment which, based on the conclusions of the judgment, needs to be executed shall be included in the decision.

(4) Matters to be communicated to different bodies, matters related to file management and matters related to appeal shall be stated under order.

**Art. 310.- Submission on sentence.**

(1) Where the court renders a judgment finding the defendant guilty, it shall order the public prosecutor and accused to present their submission on the sentence.

(2) The court, on its own motion or on a request made by the prosecutor or the victim, may allow the victim to give his opinion about the damage he sustained.
(3) The public prosecutor shall present, orally or in writing, aggravating and mitigating grounds of sentence supported by evidence.
(4) The accused shall present, orally or in writing, mitigating grounds of sentence supported by evidence.
(5) Aggravating or mitigating grounds proved to be exist in the course of the litigation shall be admitted without the need to prove.
(6) Without prejudice to the provision of sub-articles (3) and (4) of this Article, the parties may litigate on the mitigating and aggravating grounds as well as the punishment to be inflicted.
(7) The court shall give the prosecutor and accused sufficient time to present their aggravating and mitigating grounds supported by evidence.

**Art. 311.- Sentence.**

(1) The court adjourns the case for a sufficient time to hear evidence or to consider the submission of the parties on the sentence**.** Such adjournment to hear evidence and render a sentence shall not exceed 15 days.
(2) When the court adjourns the hearing in accordance with sub-article (1) of this Article, it may order the accused remain on bail or in custody.
(3) Where the provision of the law, under which the accused is found guilty, prescribes alternative sentences, the court shall choose the simple alternative sentence, provided that there exist no ground necessitating the severe alternative.
(4) In determining the sentence, the court shall start from the legal minimum sentence prescribed by the lawmaker; then determine the sentence based on admitted aggravating factors, and then determine the sentence to be executed based on the admitted mitigating factors.

(5) Where the special and general aggravating factors exist concurrently, the court shall first aggravate the sentence based on the special aggravating factors and then based on the general aggravating factors.

(6) Where the special and general mitigating factors exist concurrently, the court shall first mitigate the sentence based on the special mitigating factors and then mitigate the sentence based on general mitigating factors.

(7) The sentence shall contain entries about the condition of execution of the sentence and orders for the executing organ, and it shall inform the convicted person of his right to appeal.

# BOOK SIX

# EXECUTION OF SENTENCE AND REINSTATEMENT

## *Chapter 1 - General Provisions*

### Art. 312.- Principle.

(1) The execution of sentence and corrective measures shall be carried out with the purpose of achieving the objectives of the Criminal Code and shall always be in a manner respecting human dignity.

(2) Unless otherwise provided under this Code, a sentence shall be executed immediately after being rendered.

### Art. 313.- Order of Execution Sentence.

Where the sentence decided by the court:

(1) is death sentence, the court shall order the convicted person to stay in prison until the approval and execution of such sentence.

(2) is imprisonment, the court shall identify prison in charge of executing of such sentence;

(3) is fine or imprisonment and fine together, the court shall specify the terms of payment and identify the organs in charge of executing such sentence;
(4) is other type of penalty or is alternative measure, the court shall enter an order regarding the conditions in which such sentence is to be executed.

### *Section 1 - Execution of Death Penalty*

**Art. 314.- Conditions of execution of Death Sentence.**

(1) The court rendering judgment of death sentence shall send the judgment and copy of the file to the Supreme Court. A panel of five judges at the supreme court, having confirmed the correctness of the judgment, shall give an order which it deems necessary regardless of whether or not appeal is requested against such judgment.
(2) Where the judgment is rendered by the Supreme Court in its appellate jurisdiction and if a cassation review is not requested, a panel of five judges shall give an order which it deems necessary.
(3) The prosecutor, having ascertained that the death sentence is not reversed or altered by the final judgment of the supreme court or pardon or amnesty, shall present it to the Head of State for approval.
(4) If a death sentence is not executed within two years for any reason, it shall be commuted to rigorous imprisonment of life time.

**Art. 315.- Suspension of death sentence.**

Where an application for the suspension of death sentence is made to the court rendering the judgment in accordance with Article 119 of the Criminal Code, the court, taking in to consideration of the evidence, may suspend the execution.

*Section 2 – Execution of Sentences Entailing Loss of Liberty*

**Art. 316.- Order for the execution of sentence.**

(1) Where the court renders sentence judgment entailing deprivation of liberty, it shall identify the commencement date of the execution and the organ in charge of executing such sentence.

(2) If the judgment is rendered in the absence of the accused, the court shall order the police to arrest the convicted person so that the sentence is to be executed.

**Art. 317.- Application for postponement of imprisonment.**

(1) The convicted person may apply to the appropriate court for the postponement of the imprisonment sentence to another time.

(2) Such application shall be presented together with submission on the sentence and shall contain:

(a) the justifying reasons for which the application is presented and substantiating evidence; and

(b) the duration of time for which the suspension is sought.

(3) The court, having invited the prosecutor to give opinion and, if necessary, hearing evidence or expert opinion, shall decide over such application at the time of rendering sentence.

(4) The judgment rendered in accordance with sub-article (3) of this Article shall be final.

**Art. 318.- Postponement of imprisonment.**

(1) The court may postpone the execution of imprisonment:

(a) where it is confirmed by a doctor that the convicted person is not able to serve the sentence due to severe illness, for a period deemed enough for his recovery;

(b) If the convicted person is a mother of a child under the age of 18 months, until the time when the child reaches the age of 30 months;

(c) If the convicted person is a pregnant woman, until the end of her pregnancy, after she gives birth, until the time when the child reaches the age of 30 months;

(d) If the parent, child or spouse of the convicted person has died or fallen critically ill within two weeks prior to the date of the judgment, for a period of not more than two weeks;

(e) If the wife of the convicted person gave birth one month prior to the date of the judgment or is about to give birth within a month after the date of judgment and if there is no other person to support her, for a period of not more than one month;

(f) If the husband and wife are convicted simultaneously and if there is no other person in charge of taking care of the family, for a period not more than three months, for the wife or one of them.

(g) If the ground for the postponement of the execution is related to urgent and seasonal agricultural works or a sudden unexpected work or matter to be carried out urgently, for a period of not more than three months;

(h) Where there is an activity previously commenced by the convicted person but cannot be performed by other persons and the non-completion of such activity may cause damage, for a period not more than one month.

(i) Where the convicted person is attending a learning program or examination and there is no other way to complete the same, for a period of not more than six months or for a period sufficient to conclude such program or examination.

(2) The execution of sentence shall be postponed in accordance with sub-article (1) of this Article provided that the sentence is not more than five year imprisonment, it is confirmed that the convicted person is not a threat to the

security of the community, he is presenting sufficient guarantee for commencement of the execution of the sentence in the relevant time and it is confirmed that he complies with the corrective measures ordered to be executed.

(3) The postponed sentence shall be considered as sentence executed for such duration provided that the convicted person returns back for the commencement of the execution of the sentence up on the expiry of the period of the postponement.

**Art. 319.- Termination of the postponed sentence**

(1) the postponed sentence shall be terminated and execution of the sentence shall commence where:

(a) The convicted person uses the postponed time for another purpose;
(b) It is proved by any means that the convicted person poses a threat to the security of the public;
(c) The convicted person is suspected, with sufficient reason, of escape;
(d) The grounds for which the convicted person requested postponement of the sentence does not exist or is terminated or found to be false.

(2) The convicted person against whom the postponed sentence is terminated for reasons stated under sub-article (1) of this Article cannot have the postponed time of imprisonment be deducted from the principal sentence. The court may order such person to be denied probation or bail and the money deposited or property attached as guarantee be forfeited.

(3) Where the convicted person, whose sentence has been transferred in accordance with Article 318 of this Code, fails to commence the execution of the sentence up on the expiry of the postponed period, his sentence shall be executed and the money deposited or property attached as guarantee shall be forfeited.

*Section 3 - Fine*

**Art. 320.- Execution of fine**

(1) Where the sentence imposed is fine, it shall be paid forthwith.

(2) Where the offender is not able to pay the fine forthwith, the court shall give order for the payment of the fine in accordance with Articles 93 and 94 of the Criminal Code.

(3) The public prosecutor shall ensure the execution of the order of the court given in accordance with sub-article (2) of this Article.

(4) The property of the offender may be sold for effecting such payment provided that it is proportional to the fine and the process of sale can be terminated at any time when such payment is effected.

(5) The offender ordered to pay fine shall not be imprisoned for the reason that he is not able to pay the fine.

(6) Where the offender is not able to effect the payment of the fine, the court may order conversion of the fine to labour or compulsory labour.

**Art. 321.- Sequence of payment**

Notwithstanding what is stated in other laws, if the property of the offender is sold in accordance with Article 320 (4) of this Code, the proceeds of the sale shall applied to the payment of the expense of auction, compensation decided to be paid to the victim and the fine respectively.

*Section 4 - Execution of Additional Sentence*

**Art. 322.- Additional penalty.**

(1) If the court decides additional sentence, it shall give an express order as to the execution of such sentence.

(2) Where the kind of the additional sentence is such that it is to be executed forth with, it shall be executed immediately up on decision.

**Art. 323.- Order for the execution of additional or corrective measures.**

Where the court decides imposition of corrective measures on the offender, it shall order the concerned organs to execute such measures.

**Art. 324.- Confiscation of property.**

(1) Where the court renders a judgment of guilty, it shall order the confiscation of properties attached in accordance with this Code and properties to be confiscated as prescribed by law.

(2) Where the court renders a decision to confiscate property, it shall give orders regarding the confiscation and administration of such property.

(3) Any person alleged to have interest or rights on the properties ordered to be confiscated may apply to the court. Such application shall be in writing and shall indicate the alleged rights or interest on the property substantiated by evidence.

(4) The court will suspend the order of the confiscation until it decides over the application made in accordance with sub-article (3) of this Article.

(5) The court, after ordering the prosecutor to give opinion on the application made under sub-articles (3) and (4) of this Article, shall decide over such application based on the law and evidence available.

(6) Where, after the court renders a decision to confiscate property:

(a) another property which is the fruit of the crime is discovered;

(b) no order has been given to confiscate such property wherever it is found;

(c) the public prosecutor has proved that the existence of such property was not known at the time of the decision and that he has made reasonable effort to discover such property;

(d) the property was not included in the list of property due an error unknown to the public prosecutor or due to deceit or fraud committed by the accused,

an application may be made to the court to confiscate such property.

(7) The application for the confiscation of property under sub-article (6) of this Article shall be made immediately after the decision is made or the property is discovered.

**Art. 325.- Apology.**

(1) Where the offender admits his fault and decides to make a public apology to the victim or to the person having rights from the victim, the court, taking in to consideration of the local custom, shall identify:

(a) the persons in front of whom the criminal is to make the apology;
(b) the place and time of the execution of the apology;
(c) the government organ, if necessary, to be present at the place where the apology is executed,

and give order for the execution of the apology.

(2) Where the offender so requesting is in prison, the court shall order the prison to execute the apology ceremony and give an order that the offender shall not be released on probation unless such ceremony is executed.

(3) The court shall order, if it deems necessary, broadcast of such apology by mass media or other convenient means.

### *Section 5 – Variation of Penalty*

**Art. 326.- Variation of penalties and orders.**

(1) The court deciding the penalty or corrective measures may vary such penalty or corrective measures in accordance with Article 164 of the Criminal Code.

(2) A penalty or corrective measure rendered in respect of a juvenile offender may be varied in accordance with this Article.

**Art. 327.- Manner of application and decision.**

(1) An application to vary a penalty may be made in writing or otherwise by the public prosecutor, the offender, the person or the head of the institution authorized to execute or supervise the execution of such penalty or corrective measure.

(2) The court shall decide on the application made under sub-article (1) of this Article after making the necessary considerations.

(3) Where the offender is found in a prison which is outside the jurisdiction of the court rendering the sentence, the court having first instance material jurisdiction over the crime for which the offender is sentenced in the locality where the prisoner is found may give an order to vary the penalty in accordance with articles 202 to 207 of the Criminal Code.

*Section 6 - Alternative Penalties*

**Art. 328.- Principle.**

(1) The court, on its own motion or on the request of the convict, may decide alternative sentence instead of the principal ones in accordance with the provisions of this Code. Unless the law prescribes otherwise, the alternative sentence to be decided shall be executed with labour or compulsory labour.

(2) The court shall decide alternative sentence where it is convinced that such employment of measures better achieves the objectives of sentencing and that the convicted person:

(a) is found guilty of a crime punishable with simple imprisonment of not more than three years or fine or simple imprisonment of not more than three years and fine;

(b) is confirmed by health examination that he is fit to carry out compulsory labour; and

(c) he would not pose a threat to the security of the society if punished with labour instead of imprisonment.

**Art. 329.- Matters described in the judgment.**

(1) Where the court decides alternative sentence, the judgment shall contain, as appropriate, entries regarding:

(a) the type of the sentence, place of execution and its duration;

(b) whether it is possible to work outside the specified place;

(c) where it deprives civil rights of the convicted person, the justification of the limitation and its duration;

(d) whether the convicted person is subject to supervision and the organ executing such supervision;

(e) income which the convicted person can generate from his work and amount to be paid for the government; and

(f) the priority of employment to be given for convicted persons by institutions and individuals**.**

(2) The court may order that support and supervision be provided by a social worker, psychologist or other expert to the convicted person during his execution of the sentence.

(3) Where the convicted person is found to be in violation of the execution of the alternative sentence, the court may order to change his remaining sentence to simple imprisonment.

(4) The amount paid to the government from the income the convicted person generates through compulsory labour shall not exceed one-third of such income.

**Art. 330.- Termination of execution of alternative penalty.**

(1) The court may, of its own motion or on the application of any person, order the termination of the execution of the alternative sentence, where:

(a) The convicted person is found to be in violation of his obligation;
(b) The economic status or family responsibility of the convicted person obligate him to terminate the execution of such sentence; or
(c) There are other sufficient reasons.

(2) Where the execution of the sentence is terminated in accordance with sub-article (1) of this Article, the court may order the execution or modification of the sentence or the postponement of the execution in accordance with Article 318 of this Code.

**Art. 331.- Executing organs of alternative penalty.**

The executing organ of Alternative sentence shall be established by law.

*Section 7 - Reinstatement*

**Art. 332.- Objective.**

The objective of reinstatement is to reinstitute the good name of the convicted person.

**Art. 333.- Procedures of Reinstatement.**

(4) Any convicted person, who has executed the sentence or has been pardoned, may apply for reinstatement. The court to which such application is made:

(a) may, before deciding reinstatement, order additional investigation of the matter to be carried out or additional evidence to be presented;

(b) where the application is accepted, it may, in accordance with articles 233 and 234 of the Criminal Code, order the appropriate bodies to cancel the judgment and the name of the reinstituted person from the criminal record file where such entries were registered. Such order may, as necessary, be read in open court or public squares or be broad casted on mass media.

(5) The order given in accordance with sub article (1) of this Article shall be in writing and shall state the justifying reasons.

# BOOK SEVEN

# REVIEW OF JUDGEMENT, APPEAL AND CASSATION

## *Chapter 1 - Review of Hearing in Default*

**Art. 334.- Application.**

(1) A person convicted in a default hearing may petition the committing court stating the justifying reasons so that the judgement may be set aside.

(2) Such petition shall be made within thirty days of the petitioner's knowledge of the judgment or the termination of the circumstances preventing his appearance in accordance with article 227 of this Code.

**Art. 335.- Order on the application.**

(1) The court shall, after establishing the application is made in accordance with the provisions of Article 334 of this Code, send the copy of the application to the public prosecutor to appear on such date as may be fixed by the court.

(2) Where the petitioner has been sentenced to death or imprisonment in absentia, the court shall order that he stays in prison until a decision is rendered on his petition.

(3) Where the petitioner has been sentenced to pay a fine in absentia, the court shall order that he deposits such fine or produces a guarantor.

(4) Where the petitioner, for no good cause, fail to appear on the date fixed for the hearing under sub-article (1) of this Article, the court shall strike out the petition and the decision shall be final.

(5) Where the public prosecutor and the petitioner have appeared, the petitioner shall present his petition, and the public prosecutor present his response. Where the court deems necessary, it may order the petitioner to make his final remarks.

(6) After hearing the public prosecutor and the petitioner, the court shall decide whether petitioner's request should be granted. Where the court rejects the application, it shall close the file and order execution of the judgment the application is filed against.

(7) When the applicant proves he was unable to appear for the trail because he has not received summons or was prevented to appear because of force majeure as per Article 228 of this Code, the court shall set aside any judgement, decision or order, as the case may be, and send the case to another judge or another court for re-trial. Such judge or court shall hear and decide on the case.

## *Chapter 2 - Appeal*

**Art. 336.- Purpose.**

The purpose of appeal is:

(1) to guarantee the constitutional right of the accused to appeal against an order or judgment rendered by a lower court;

(2) to correct an error of law or of fact committed by lower court;

(3) to ensure consistent or close interpretation of the law.

**Art. 337.- Filing of appeal.**

No appellant shall file an appeal without first exhausting available remedies at the lower court.

**Art. 338.- Persons who may file an appeal.**

(1) Only the public prosecutor, the accused or his lawyer may file an appeal against a criminal judgment, decision, ruling or order.

(2) An appeal may be filed against a judgment, decision, ruling or order given on a civil suit filed jointly with a criminal charge. Such appeal may be filed, as appropriate, by the public prosecutor, a victim, the accused, his lawyer or any other person authorized to appeal on the civil case.

(3) An appeal shall be filed before the court which has appellate jurisdiction to try the criminal matter.

**Art. 339.- Appealable matters.**

(1) Without prejudice to other provisions of this Code, any party is entitled to file an appeal against:

(a) any order which has the effect of closing the file for good before judgment;
(b) a decision to grant or deny bail to the accused;
(c) a verdict of guilty or not guilty;
(d) type and degree of penalty.

(2) Where the appellate court affirms the guilty verdict but modifies the penalty, or changed the acquittal verdict, convicted the acquitted person and imposed penalty, second appeal may be filed only in respect of the part changed by the appellate court.

(3) Where a petition for review of judgment rendered in default is rejected due to absence of sufficient reason or force majeure, an appeal may be filed in respect of the guilty verdict or the degree of penalty.

**Art. 340.- Non–appealable Matters.**

(1) The following matters are non-appealable:

(a) unless it is provided otherwise in the Code, matters settled by reconciliation, plea bargaining or diversion;
(b) an order on admissibility of evidence;
(c) interlocutory order;
(d) conviction entered based on a guilty plea;
(e) order regarding a review of judgement;
(f) decision denying leave to appeal;
(g) order or decision rejecting application to review judgment;
(h) decision on application for reinstatement made under this Code;
(i) decision on contravention.

(2) Notwithstanding the provision of sub-article (1) of this Article, where the cases is finally disposed of, such matters may be used as grounds of appeal.

**Art. 341.- Stay of execution of sentence.**

(1) The convicted person may petition the court that rendered the judgment to stay the execution of the sentence within three consecutive work days of rendering of the judgment, decision, ruling or order in order to be able to lodge his appeal.
(2) The court rendering the sentence may grant the stay of execution of sentence for not more than seven consecutive days.
(3) The court may grant the stay of execution of sentence as per sub-article (1) of this Article where the petition is made promptly and it believes the execution of the judgment, decision or order is likely to result in an irreparable damage.
(4) Stay of execution shall not be granted in respect of decisions on compensation or costs and expenses.

**Art. 342.- Power of court of appeal.**

(1) The appellant may petition the appellate court any time before or in the course of the hearing for a stay of execution of a judgment, a decision, a ruling or an order against which the appeal is made. The court shall enter an order it deems appropriate.

(2) Where an appellant is released on bail pending the hearing of his appeal, the execution of the sentence may not commence until the court renders its judgment.

(3) Where the public prosecutor appeals against an order for the return of property, money or exhibit, the appellate court may grant a stay of such order until such appellate court renders judgement.

(4) Preventive measures ordered by the appellate court shall be executed notwithstanding an appeal has been filed in respect of them.

(5) Where the appellate court believes there are sufficient reasons to hear the merits of the case and that the execution of the judgment, decision or order rendered by the lower court is likely to result in an irreparable damage, it may grant a stay of execution.

**Art. 343.- Request for document, copy or information.**

(1) Without prejudice to what is provided for in other law, any person claiming a right or interest in the case may obtain a document or a copy of a document at his own expense at any time.

(2) The court shall order a copy of the document requested by the prosecutor, the convict, his counsel, the injured party or any other person having a right or interest in the case shall be handed over forthwith.

**Art. 344.- Time of appeal.**

(1) Any party aggrieved by a judgment, a decision, a ruling or an order and wishes to lodge an appeal may submit a notice of appeal, in writing or verbally, to the

court rendering such judgment, decision, ruling or order. The registrar of the court shall give a copy of the judgment, decision or order to the appellant.

(2) The appellant may submit his notice of appeal in person, or through his lawyer or the penitentiary where he is found in a penitentiary.

(3) Where the appellant is incarcerated, the penitentiary shall facilitate for him to obtain a copy of the judgement, notice of appeal, and to obtain a translation of the judgement and preparation of the appeal. Where the appellant does not have the means, the penitentiary shall facilitate so that he can get the translation at state expense as provided under Article 14(3) of this Code.

(4) The memorandum of appeal shall be lodged with the appellate court within 60 consecutive days of rendering of the judgment, decision or order appealed against.

(5) The time shown under sub-article (4) of this Article shall not include the time taken for issuance of copy of the judgment, ruling or order.

**Art. 345.- Contents of memorandum of appeal.**

(1) The memorandum of appeal shall be concise and clear and shall contain the following details: -

(a) date, month, year, name and address of the court of appeal;
(b) the name and address of the appellant;
(c) the name and address of the respondent;
(d) prove that time of appeal has not expired;
(e) the name and address of the court whose decision is appealed against and the file number;
(f) the criminal matter on which appeal is filed;
(g) the legal or factual matter the appellant complains against;
(h) the relief appellant is seeking;
(i) signature of the appellant or his advocate.

(2) Where the appellant wishes to produce new evidence, he shall file a petition to that effect along with the appeal. Such petition must state the reasons such additional evidence is required.

**Art. 346.- Responsibilities of the registrar.**

(1) The registrar of the court shall open a casefile and present to the appropriate division ascertaining the following:

(a) that the memorandum of appeal complies with the requirements set under Article 345 of this Code;

(b) a copy of the lower court record is attached or presented from the database.

(2) Where appeal is brought by the convicted person, the registrar of the court shall cause the public prosecutor be served on summons to appear for the hearing.

(3) Where the court does not have jurisdiction to hear the appeal, the registrar of the court shall notify the appellant in writing that the memorandum of appeal has been rejected.

(4) Where the appellant is aggrieved by the decision of the registrar, he may submit his grievance to the president of the court in writing or orally, as appropriate. The president shall decide forthwith.

(5) If the court has jurisdiction to hear the appeal, the registrar shall present the file before a bench and inform the appellant of the bench before which the file is presented, the date of the hearing and other appropriate matters.

**Art. 347.- Application for leave to appeal out of time.**

(1) Where a memorandum of appeal is filed out of time provided under Article 344 of this Code, the appellant may present a petition for leave to file his appeal out of time describing the reason which occasioned the delay along with the memorandum of appeal.

(2) Where the court, reviewing the application and the evidence in the presence of the appellant or his counsel, is satisfied that the appeal was not filed for adequate reason, it may grant the leave without the need to call the adverse party.

(3) The court shall review the file and render a decision forthwith.

**Art. 348.- Examining the appeal**

The appellate court:

(1) shall ascertain the appeal is complete as provided for in this Code, and it has jurisdiction; where it finds it does not have jurisdiction, it shall strike out the appeal and notify same to the appellant.

(2) Where the court finds it has jurisdiction, it shall ascertain the appellant has appeared; where the appellant fails to appear, the court shall review the decision against which appeal is filed, and the memorandum of appeal and enter a decision; where the case cannot be heard without the appellant, the court shall strike out the appeal.

**Art. 349.- Summons**

(1) Without prejudice to the provisions of Article 222 of this Code with regard to summons, where the appellant or respondent is in detention, the court may order summons be served on him by the postman of the court, the public prosecutor or the investigating police officer through the prison administration.

(2) Where the appellant is a convicted person, the court shall cause the summons to be served to the public prosecutor.

**Art. 350.- The hearing.**

(1) The appellate court shall, after ascertaining that both the appellant and respondent have appeared:

(a) hear the appeal and, as appropriate, decide on the matter forthwith;

(b) where the appellant has appeared but the respondent has failed to appear because he was not served on summons, the court shall order the service of summons; where the respondent fails to appear being duly served on summons, the hearing shall continue ex parte;

(c) where the respondent has appeared but the appellant has failed to appear, the court shall review the file and hear the respondent; where the respondent does not object to the appeal, the court shall render its decision forthwith as appropriate;

(d) where the respondent has appeared but the appellant has failed to appear, the respondent objects to the appeal and the court finds it necessary to hear oral arguments on the appeal, the court shall review the file and render its decision. Where a decision cannot be rendered without hearing the appellant's oral argument, the court shall strike out the appeal.

(e) where both parties fail to appear, the court shall strike out the case.

(2) The court of appeal shall, after ascertaining the appearance of both parties, order the appellant to present his compliant and the respondent to present his motion; it may allow the appellant to make a final remark if it deems necessary.

(3) The appellate court may, after reviewing the appeal, reject the appeal where it decides it does not have jurisdiction. However, such decision shall not prevent the appellant from filing the appeal before a court having jurisdiction. The period of limitation for filing the appeal shall be suspended for such period time when the appeal was pending before the appellate court.

**Art. 351.- Restoring stricken out appeal.**

(1) An appellant whose appeal was stricken out as per sub-article (1)(e) of Article 350 of this Code may request for hearing of the appeal within one month after the file was closed.

(2) Where the court establishes that the appellant has failed to appear for good cause, it shall restore the case and issue summons to the respondent to appear on such date and time as fixed by the court.

**Art. 352.- Additional evidence**

The court of appeal may, in the interest of justice, order the production of additional evidence by stating the reason thereof.

**Art. 353.- Judgement.**

(1) Once the hearing is concluded, the appellate court shall enter judgement reversing, affirming or altering the decision appealed against.

(2) Without prejudice to the provision of sub-article (1) of this Article, the court of appeal may remand the case to the lower court, to another court or to another bench of the lower court, where the lower court judgement is:

(a) based on objection;

(b) acquittal of the accused without entering his defence; or

(c) based on any other reason that requires remanding the case back to the lower court.

(3) Notwithstanding the provisions of sub-article (2) of this article, where the appellate court deems it convenient, it may render a decision on the matter instead of remanding it.

(4) Where the convicted person dies while the appeal is pending, the case shall be terminated; however, the court may review the file and render a decision in respect of confiscation of property, compensation or other matters which survive the death of the convicted person.

(5) Where it benefits them, the decision of the court under this Article shall be applicable to those others who did not appeal against such decision of the lower court.

(6) The provisions of this Code governing regular hearing procedure shall be applicable to appeal hearing mutatis mutandis.

## *Chapter 3 - Cassation*

### Art. 354.- Purpose.

The purpose of cassation is to correct fundamental error of law and ensure consistent or close interpretation of the law in courts.

### Art. 355.- Principle.

(1) Cassation is a jurisdiction of the Federal Supreme Court whereby a final judgment containing fundamental error of law shall be corrected.
(2) Unless otherwise provided in this section, provisions governing appeal shall also be applicable to cassation as appropriate.
(3) For the purpose of this section, "**final decision**" means a judgment, decision, ruling or order that is referred to as final by the law or that is not subject to appeal for any reason.

### Art. 356.- Application for cassation.

(1) A party may petition the Federal Supreme Court Cassation Division to have a final judgment alleged to have contained fundamental error of law be corrected.
(2) Before any petition is made for cassation, any available appeal, review of judgment or other legal procedure shall be exhausted.
(3) A petition for cassation shall be made within 90 days of rendering of the final decision.

### Art. 357.- Cassation procedure initiated by the President of the Supreme Court.

Where the President of the Supreme Court in any way finds out within six months of rendering of a final decision that a fundamental error of law as been committed, it

may initiate a cassation procedure by pointing out the error of law he deems has been committed.

**Art. 358.- Fundamental error of law.**

Fundamental error of law is said to exist where a judgment, decision, ruling or order would disrupt the legal system and is given:

(1) contrary to the provisions of the Constitution and other legislation;
(2) based on repealed or inapplicable law;
(3) based on wrong interpretation of the law;
(4) beyond allocated jurisdiction or power under the law; or
(5) based on other similar matters.

**Art. 359.- Matters not subject to cassation.**

An application for cassation cannot be made in respect of:

(1) Non-fundamental errors of law;
(2) A decision containing an error of fact; or
(3) Without prejudice to other remedies under the applicable law, the accused claiming rights violations where he has been acquitted.

**Art. 360.- Stay of execution of judgment, decision, ruling or order.**

(1) Without prejudice to the provisions of Article 341 of this Code regarding stay of execution, where the decision which is the subject of the petition for cassation is rendered by the Supreme Court, a stay of execution may be granted by:
    (a) the president of the court;
    (b) where the matter has been brought before the Cassation Division, by such Cassation Division.
(2) A stay of execution granted by the president of the court in accordance with sub-article (1) of this article shall not exceed seven days.

(3) A petition may be made to cancel a stay of execution granted in accordance with this article to the body granting such stay; a decision shall be granted on such decision forthwith.

**Art. 361.- Contents of a cassation application.**

The cassation application shall contain the nature of the charge and a copy of the decisions rendered by courts at different levels, the fundamental error of law claimed to have been committed and the judgment requested clearly and concisely. The judgments rendered at different levels shall be submitted by the applicant or attached from the database.

**Art. 362.- Review of the cassation application.**

Based on the application, the Cassation Division:

(1) unless it deems the appearance of the applicant necessary, review the matter and, where it believes that no fundamental error of law has been committed, state the same and reject the application; such decision shall be final.
(2) where it believes that fundamental error of law has been committed, shall point out the same and cause summons and the cassation application to be served on the respondent to appear and present his response on such date fixed.
(3) The Cassation Division shall, on such date fixed, review the matter and render a decision regardless of the failure of the parties to appear.

**Art. 363.- Decision of the Cassation Division.**

The Cassation Division may, after hearing the applicant and the respondent, render a decision reversing, affirming or altering the decision against which the application is made. Where the Cassation Division deems it necessary, it may reverse the decision against which the application is made and remand the case to the lower court or another court.

**Art. 364.- Effect of the decision of the Cassation Division.**

(1) The legal interpretation given by the Federal Supreme Court Cassation Division where it decided fundamental error of law has been committed shall have binding effect on any court at any level unless it is amended by the decision of the Cassation Division or another law.

(2) The Cassation Division shall clearly state in its decision the binding legal interpretation it has given.

*Chapter 4 - Review of Final Judgment*

**Art. 365.- Objective.**

The objective of review of a final judgment is correcting the judgment so that the wrong punishment may not be inflicted on the innocent under a wrong judgement.

**Art. 366.- Application for review of judgement.**

(1) Where, after a judgment of guilty is rendered, sufficient evidence is found showing the convict is actually innocent, the convict, his representative, family or the public prosecutor may petition the court for a review of the judgment.

(2) For the purpose of sub-article (1) of this Article, sufficient evidence supports the conclusion that the court would not convict the person had the court had such evidence at trial and:

(a) critical evidence showing the innocence of the convict discovered after judgment was given;

(b) facts established scientifically after judgment;

(c) where in relation to the proceeding the judge is found responsible for breach of his professional responsibilities in a criminal proceeding;

(d) where another person, outside of court, admits committing the crime and such admittance is credible;

(e) where the evidence used for conviction is found to be falsified or misrepresented evidence.

(3) The petition shall be made to the court that has rendered the judgment of guilty.

**Art. 367.- Content of memorandum and time.**

(1) A petition for review of a final judgment may filed any time.

(2) The petition for review of judgment filed under this Article shall be drawn up in the same manner as a memorandum appeal.

**Art. 368.- Hearing and judgement.**

(1) The court shall, after examining the application and evidence, dismiss the application if it finds no adequate reason for review of the judgement.

(2) Where the court finds adequate reason to review the judgement, it shall adjourn to summon the other party for a response.

(3) The court shall give judgement after examining the pleadings and the evidence.

**Art. 369.- Compensation.**

(1) Where the court amends or repeals the reviewed judgement, it shall also determine the amount of compensation the state shall pay the applicant for the moral and material damages sustained due to the judgement.

(2) Where the penalty was death and the convicted person is executed, the court shall order the state to pay compensation for moral and material damages sustained by the spouse or successors.

(3) Without prejudice to the provision of sub-articles (1) and (2) of this Article, the Government shall owe an official apology to the victim, the spouse or the successors of the victim for the damages they sustained.

(4) The detailed application of this Article shall be determined by regulation. Other relevant law shall be applicable until the issuance of such regulation.

# BOOK EIGHT

# SPECIAL PROCEDURE

## *Chapter 1 – General*

**Art. 370.- Applicability.**

Special procedure is applicable to:

(a) matters relating to juveniles; and

(b) petty offices.

### *Section 1 - Proceeding for Juveniles*

**Art. 371.- Principle.**

(1) The criminal investigation, hearing and judgement in juvenile cases shall be led in an expedited and informal procedure.

(2) The procedure carried out under sub-articles (1) of this Article shall:

(a) make the benefit and wellbeing of the juvenile of utmost importance;
(b) be participatory, suitable and not intimidating for the juvenile; and
(c) be considerate of the juvenile's social and psychological circumstances and be supported by social, psychiatric and other experts.

**Art. 372.- Scope of application.**

(1) The provisions of this section shall be applicable to juveniles who are nine, nine to fifteen and fifteen years old.
(2) Notwithstanding the provisions of sub-article (1) of this Article:
(a) where the juvenile is fifteen to eighteen years old at the time of commencement of investigation;
(b) where the juvenile becomes fifteen to eighteen years old in the course of the investigation or proceedings,

he shall, as appropriate, be considered as having become of age and the investigation, hearing and trial shall be carried out in accordance with the regular provisions of this Code.
(3) Where the juvenile becomes over the age of eighteen, the investigation, hearing and trial shall be continued in accordance with the regular provisions of this Code.
(4) Unless such provisions are contrary to the provisions of this section and as long as they are consistent with the interests and safety of the juvenile, other provisions of this Code shall also be applicable to juveniles as appropriate.

**Art. 373.- Commencement of investigation and filing of charge.**

(1) Where there is adequate suspicion a juvenile is involved in crime, the investigating police officer, a prosecutor, his parent, tutor or guardian shall bring such juvenile to a nearby court forthwith.

(2) The court shall ask the person producing the juvenile to state the particulars of the crime and the evidence; it shall record the compliant and the statement.

(3) Where the court, after examining the complaint and the statement, decides investigation should commence, it shall order the manner of investigation. The investigating police officer shall never take statements from the juvenile.

(4) Without prejudice to the provision of sub-article (1) of this Article, where the public prosecutor produces the juvenile before the court, he shall take the necessary steps to ensure the attendance of the juvenile's parent, tutor or guardian and the victim.

(5) Where the case requires to be adjourned or transferred to another court having jurisdiction, the juvenile shall be handed over to the care of his parents, guardian, relatives, governmental institution or other organization or any such responsible person who shall ensure his attendance before the court. The witnesses shall enter a bond to appear at the trail.

(6) Where the court gives order as per sub-article 5 of this Article, it shall consider the following:

(a) the juvenile shall not get back to other offenders;

(b) the juvenile shall not be exposed to moral, physical and psychological harm; and

(c) the gravity of the offence the juvenile is alleged to have committed and the measure does not prevent rendering justice.

**Art. 374.- Matters to be investigated into.**

(1) The investigation on the young person involved in crime shall be of help in assessing the following matters:

(a) His behaviour;

(b) His private life, the situation where he was brought up and lived;

(c) His behaviour before and after he was alleged for the commission of the offense;

(d) Other conditions helping for taking educational and corrective measures.

(2) In order to make assure the conditions stated in sub article (1) of this article, the investigator, prosecution or the court may, as appropriate, call the young person's parents, guardians, relatives or other persons able to provide adequate information and obtain and examine relevant documents.

**Art. 375.- Summoning of young person's parent or guardian.**

Where the young person is brought before the court and his parent, guardian, other person in loco parentis or representative of institution is not present, the court shall inquire whether such person exists and order such person to appear.

**Art. 376.- Representation by counsel.**

Where the young person has financial problem to hire an advocate, the court shall assign an advocate pursuant to Article 10 of this Code.

**Art. 377.- Detention.**

(1) The court shall not order the remand of a young person in jail.

(2) The court may remand the young person in detention where it is impossible to keep the young person as per sub-article (5) of Article 373 of this Code and where:

(a) the young person is under difficult situation and hence, keeping him in custody shall be in favour of his safety; or

(b) there is sufficient reason to believe that the young person will escape from his parents, guardian or other members of the family; or

(c) There is sufficient reason to believe that the young person will leave the country while the case is pending and will not appear.

(3) Notwithstanding the provisions of sub-article (2) of this article, the young person shall only be kept at a place prepared for juveniles involved in a criminal act.

**Art. 378.- Institutional follow up.**

Where the court finds it appropriate, it shall send the complaint or charge and other proper documents of the juvenile to an institution responsible for the safety of the juveniles and order such institution to follow up the case.

**Art. 379.- Provisional order.**

(1) An interested party may petition the court for provisional order on the relationship of the young person with his parent, guardian, custodian or any other person, during the hearing.

(2) The court may order:

(a) the young person shall stay under the protection of a designated person or institution;

(b) to impose restriction on the persons that have right to visit the young person;

(c) the allocation of necessary expenditure for the health, food and better handling of the young person;

(d) the eviction persons residing in the house or place where the young person lives;

(e) the parent, guardian or any party related to the young person to get necessary guidance;

(f) any act which is contrary to the interest of the young person to be stopped.

(3) Where the court believes that it is necessary for the interest of the young person, it shall give provisional order immediately upon receiving his opinion and without waiting for the plaintiff or the victim to appear..

(4) The court may alter or change the provisional order on its own motion or on the application of third party.

**Art. 380.- The charge**

(1) Where the accusation against a young person involved in crime relates to an offence punishable with rigorous imprisonment exceeding ten years or life imprisonment or death, the court shall direct the public prosecutor to frame written charge suitable to the young person.

(2) The charge against the young person cannot be heard with an adult person's charge. Where a young person's charge is presented with an adult person's charge, the court shall order for the separation of the charge and the hearing.

**Art. 381.- Summons**

(1) The summon of the young person shall be served to his parents, guardian or tutor or to a person or institution which has received guardianship of him.

(2) The summon of the young person under custody shall be served to the custodian administration.

**Art. 382.- The hearing**

(1) Where a young person is brought before court, all the proceedings shall be held in chambers. Nobody shall be present at the hearing except the advocate, witnesses, expert, parent, guardian or representative of the appropriate organization. The public prosecutor shall be present at the hearing where a charge has been filed.

(2) Proceedings concerning juveniles shall be conducted in an informal manner.

(3) The accusation or charge filed under Article 380 of this Code shall be read out to the young person and he shall be asked what he has to say in answer to such accusation or charge.

(4) If it is clear to the court from what the accused says that he fully understands and admits the accusation or charge, the court shall record what the young person has said and may convict him immediately.

(5) If it is clear to the court from what the accused says that he fully understands and does not admit the accusation or charge, the court shall inquire as to what witnesses should be called to support such accusation or charge. The young person, his representative or advocate may cause any witnesses to be summoned.

(6) All witnesses shall be examined by the court and may thereupon be cross-examined by the defence.

(7) When the evidence is concluded, the defence may sum up and there-after the court shall give judgement.

**Art. 383.- Judgement.**

(1) Where the young person is found not guilty beyond reasonable doubt for the charge under Article 382 of this Code, the court shall give order of acquittal.

(2) Where the young person is found guilty beyond reasonable doubt for the charge under Article 382 of this Code, the court shall give order of conviction and impose the appropriate corrective measures under Article 157 et. seq. of the Criminal Code or diversions or penalties under this Code.

(3) The court may call before it any person or representative of any institution with a view to obtaining information concerning the character and antecedents of the young person so as to arrive at a decision which is in the best interest of the young person.

(4) Judgement shall be given as in ordinary cases. The court shall explain its decision to the young person and warn him against further misconduct.

(5) The judgement shall specify the provision of the law on which it is based. The judgement shall contain the details listed by this Code, it shall be detailed in a

manner not affecting the young person's personality, his future and circumstances.

**Art. 384.- Order against third parties.**

(1) Without prejudice to the provisions of other laws, where it thinks fit, the court may warn, admonish or blame the parents, guardian, tutor or other person legally responsible for the young person where it appears that they have failed to carry out their duties.

(2) The parents, guardian, tutor or other person legally responsible for the care of a young person may be ordered to bear all or part of the cost of his upkeep and training where owing to their failure to exercise proper care and guardianship the court has ordered the young person to be sent to the care of another person or to a corrective or curative institution.

(3) The scope and duration of obligation under sub Article (2) of this article shall be specified in the judgement.

(4) An appeal may lie against order or decision given under sub Articles (1) to (3) of this Article.

**Art. 385.- Variation or modification of order or judgement.**

(1) Without prejudice to the provisions on appeal, cassation and review of judgement of this Code, any court which has sentenced a young person to a measure may at any time of its own motion or on the application of the young person, his legal representative, parent, guardian, tutor, the public prosecutor or the person or institution to which he was entrusted, vary or modify such order if the interest of the young person so requires.

(2) Where the court gives an order under sub Article (1) of this Article, it shall assure the best interest of the young person and shall hear expert, appropriate person's or organization's opinion.

## *Chapter 2 - Procedure in Cases of Petty Offences*

**Art. 386.- Applicability.**

(1) Criminal cases concerning petty offences shall be tried in accordance with the provisions of this section.

(2) Cases of petty offences not covered by sub-article (1) of this article shall be governed by the provisions of the applicable special law.

(3) Other provisions of this Code shall be applicable to matters not covered by this section.

**Art. 387.- Application for summoning of accused.**

(1) Where a petty offence has been committed, the prosecutor shall apply to the court to summon the accused to appear.

(2) The application shall contain the name of the accused, circumstances of the petty offence committed, the law and article of the law as well as other matters relevant to the accusation and evidence.

**Art. 388.- Issuance of summons.**

(1) Where the court examines and find the application to fall under this section, it shall serve summon upon the accused.

(2) The summon shall annex the application and include:

(a) The accused should appear in person or send his representative at the place, date and time fixed by the court;

(b) That the accused may, where he pleads guilty, inform the court of such plea in writing before the date of the hearing in person or through his representative and the maximum penalty the petty offense may entail;

(c) The accused should sign to confirm the proper communication of the summon, and where the accused is required to appear, an indication of such requirement to appear.

**Art. 389.- Pleading guilty in default.**

(1) Where the accused pleads guilty, he may notify the court in writing thereof.

(2) The document carrying plea of guilty shall include the name and signature of the accused. The accused may send the penalty indicated in the summons via post, messenger or other appropriate means.

**Art. 390.- Procedure when pleaded guilty.**

(1) Where the accused pleads guilty and the court opts for fine only, it shall give judgement forthwith. A copy of such judgment shall be sent to the accused.

(2) Where the accused is sentenced to pay a fine under sub Article (1) of this Article, he has paid the penalty prior to the hearing, and the amount of fine decided by the court is higher or lower than that which was stated in the summons, the court shall order either for the refund or compliment of the difference.

(3) Where the court wishes to sentence the accused to detention, compulsory labour, or to warn or admonish him, it shall order the accused to appear and ask for his opinion.

**Art. 391.- Procedure in pleading not guilty.**

(1) Where the accused does not endorse on the summons that he pleads guilty, he shall appear on the date and at the time fixed for the hearing.

(2) The prosecutor and the accused shall take such steps as are necessary to secure the attendance of their witnesses, if any.

(3) The hearing shall be held orally. The court shall only record the salient part of the evidence of each witness.

(4) The hearing shall be concluded within a maximum of two weeks from the date of application.

(5) The court shall give judgement orally recording briefly the reasons for the judgement and mentioning the provision of the law under which the judgement is given.

**Art. 392.- Procedure in default of the accused.**

(1) Where the accused fails to appear on the date of hearing and the court finds it necessary, it shall give judgement forthwith.

(2) The court shall give order to the appropriate organ to execute the judgement.

**Art. 393.- Special conditions.**

(1) Notwithstanding the provisions of this section regarding petty offense, where the penalty imposed on the person who has committed a petty offense is:

(a) fine only;
(b) penalty imposed for traffic violations;
(c) penalty imposed on the basis of lawsuit regarding waiver of property right for the purpose of public interest;
(d) warning penalty only;
(e) penalty not to use a designated item;
(f) penalty to return business license;
(g) simple imprisonment of up to one month which may be suspended,

and the prosecutor indicates the penalty to be imposed upon reviewing the investigation results, the court may decide on the penalty and send the same together with the summon to the offender.

(2) Where the accused admits in writing and executes the decision or agrees to execute the decision, the court shall give an order for the execution of the same.

(3) Where the accused fails to respond within two weeks upon receipt of the summons, he shall be deemed to have accepted the decision and an order shall be given for the execution such decision.

(4) Where the accused disagrees, the hearing shall be seen as per the regular procedure for petty offence.

(5) No appeal shall lie against a decision or order passed as per this article.

# BOOK NINE

# INTERNATIONAL COOPERATION ON CRIMINAL MATTER

## *Chapter 1 – Cooperation on Criminal Investigation and Trial*

### *Section 1 – General Provisions*

**Art. 394.- Objective.**

(1) The objective of international cooperation on criminal matters is to establish a system whereby the country can exercise its international interests and rights and discharge its obligations in relation to cooperation on criminal matters.

(2) In this section "international Cooperation" means a cooperation made on criminal matters in accordance with bilateral or multilateral conventions signed by Ethiopia, principle of reciprocity and this Code.

(3) For the purpose of this chapter, "court" and "Attorney General" mean the Federal High Court and the Federal Attorney General respectively.

**Art. 395.- Principle.**

(1) International cooperation on criminal matters shall be carried out by the government in accordance with conventions which are signed or ratified by Ethiopia.

(2) Where there is no clear international convention or where such convention is not complete, such cooperation shall be carried out in accordance with the provisions of this section.

(3) A request for cooperation shall respect Ethiopia's constitution, national sovereignty and public interest and shall be based on mutual benefits and equality.

(4) Any request for cooperation shall be effected in a manner that would not compromise compensation or other right claimed by the victim or heir.

**Art. 396.- Matters not subject to cooperation.**

(1) Cooperation on criminal matters is not allowed in the following cases:

(a) where there is reason to believe that there will be infringement of basic freedoms and rights of the person, especially the person will not face flogging, torture or inhuman treatment; or

(b) where it appears that the person may be accused or punished on grounds of his race, nation, religion, sex, colour, nationality or political stand;

(c) where the basis of the request is military law and the court having jurisdiction is a special court or administrative tribunal;

(d) where the person was acquitted, convicted or pardoned for the same offence or he has served his sentence for the offence in respect of which the request for cooperation is made;

(e) where the request is against sovereignty, national and public security rule of law or national interest.

(5) Where the person who is the subject of cooperation is an Ethiopian national, his rights and freedoms under the Constitution shall be guaranteed.

(6) The period of limitation for filing a charge or executing a decision on the offence in respect of which a request for cooperation has been made shall be in accordance with the Criminal Code.

**Art. 397.- Types of cooperation.**

Cooperation on criminal matters may be made on criminal investigation, hearing and trial and shall include:

(1) criminal investigation and matters related thereto;
(2) exchange of information and evidence;
(3) protection of victims, witnesses and complainants;
(4) extradition;
(5) execution of request for extradition;
(6) attachment and confiscation of property which has been used for the commission of crime or is the fruit of crime;
(7) exchange of detainees or transfer of convicted persons or proceedings;
(8) recognition and execution of judgments;
(9) other similar cooperation authorized by the Attorney General.

**Art. 398.- Channels of cooperation and authority to execute.**

(1) A request for cooperation on criminal matters shall be made and executed through channels of diplomatic relation.
(2) Notwithstanding the provisions of sub-article (1) of this article, where the matter is urgent, the Attorney General may consult with the Ministry of Foreign Affairs and make or execute a request for cooperation outside channels of diplomatic relation.
(3) The Attorney General shall be responsible for executing, leading and supervising international cooperation on criminal matters. It shall carry out such responsibility in consultation with national security and intelligence bodies and other relevant institutions.
(4) The Attorney General shall supervise any cooperation under this Code and ensure that it is carried out in accordance with the objectives of the appropriate law.

(5) Without prejudice to the provisions of sub-articles (1) and (2) of this Article, the concerned body shall notify the Attorney General of any international cooperation on criminal matters having regard to the nature of the matter and the convention or law which is the basis of such cooperation.

**Art. 399.- Expenses of cooperation.**

(1) Unless otherwise provided by convention, expenses incurred for cooperation shall be covered by the country requesting cooperation.
(2) Expenses of requests for cooperation made by Ethiopia shall be covered by the Federal Government.
(3) The payment of expenses of cooperation covered by Ethiopia shall be carried out in accordance with Federal Government finance procedures and laws.

**Art. 400.- Organs authorized to make a request for extradition.**

(1) Any federal or state organ with criminal jurisdiction shall submit its request for cooperation under this Code to the Attorney General.
(2) Without prejudice to the provisions of Article 398(1) of this Code, the Attorney General may authorize a federal government organ to make a request for cooperation directly.

***Section 2 –Request for Cooperation***

**Art. 401.- Procedure of making request.**

(1) Any request for cooperation shall be made in writing.
(2) Notwithstanding the provisions of sub-article (1) of this Article, where the matter is urgent, the request for cooperation may be made orally, by email or fax outside of diplomatic channels. Such request shall be deemed not to have been made unless it is made in writing through the proper diplomatic channel within thirty days.

(3) Unless there is a doubt necessitating authentication, documents attached to such request or responses given in writing shall not be required to be authenticated by the authority entrusted with authentication of documents.

**Art. 402.- Content of a request for cooperation.**

Any request for cooperation shall, as appropriate, include:

(1) the objective and nature of cooperation;
(2) the name and address of the institution which will follow up the request, its legal basis for making the request, its responsibility in the matter and other necessary details;
(3) where the request relates to an individual, the name such person is called or known by, his current address, nationality and, as appropriate, his fingerprint, photograph and other identifications and details;
(4) where the request relates to property, a short description of the type of property attached or confiscated and the place where such property is found, authenticated court judgment proving conviction;
(5) where the request relates to an offense, the law constituting such offence and a description thereof, the act committed, the time and place of commission of the offense, the punishment such offense entails or the sentence rendered, period of limitation of the offense, the body rendering such decision, as appropriate, the material facts of the crime and, where the case is under investigation, the result of such investigation proving the commission of the crime;
(6) the type and details of evidence sought;
(7) time for completion of the cooperation;
(8) confidentiality measures which need to be taken in relation to the cooperation;

(9) special procedures or conditions required by the requesting country in relation to the cooperation;

(10) other necessary information requested by the appropriate body.

**Art. 403.- reviewing the request for acceptability and appropriateness and rendering of decision.**

(1) The Attorney General shall ascertain that the request complies with the requirements under this Code and decide on it within a reasonably short period of time.

(2) Where the request is not acceptable or is incomplete, the Attorney General shall inform the requesting body of the same immediately; the Attorney General shall indicate the shortcomings of the request and order that the request be revised or completed and submitted again.

(3) Where the request is acceptable and it is submitted by a federal or state government organ, the Attorney General shall send such request on behalf of the requesting organ through the Ministry of Foreign Affairs. However, if the request is made to the Government of Ethiopia, it shall cause such request to be executed as per the provisions of this Code as appropriate.

(4) Where the request for cooperation would interfere with an ongoing investigation or trial, the Federal Attorney General may decide to postpone such request for another time.

(5) Where the request is for the transfer of a document and such document is necessary for an ongoing civil proceeding, the Federal Attorney General may decide to postpone such request for another time.

**Art. 404.- Provision of guaranty.**

(1) Without prejudice to the principles provided for in this Code, a person cannot be extradited unless the requesting country guarantees:

(a) the person temporarily extradited will not arrested, charged, convicted or his civil liberties restricted or held liable under any civil liability for acts he has committed before entering such jurisdiction;

(b) unless the person temporarily extradited or the extraditing country consents, the person extradited will not be compelled to cooperate on matters other than those for which cooperation is requested;

(c) that the person extradited will be returned to the extraditing country within the time agreed upon;

(d) However, where a request is made to have such person's cooperation for a longer period of time, the Federal Attorney General shall review such request and decide.

(e) where the person extradited is a suspect or under detention, that he will be kept in a place of detention which respect his fundamental rights.

(2) Without prejudice to the provisions of sub-article (1) of this Article, the country to whom the request for cooperation is made may request additional guaranties.

### *Section 3 – Procedure of Request for Cooperation*

**Art. 405.- General.**

(1) Where a request for cooperation is found acceptable under this Code, it shall be executed in accordance with this Code and other relevant laws.

(2) Where the request for cooperation is not recognized under Ethiopian law, it may be executed in accordance with Ethiopian laws which are similar or closely similar.

**Art. 406.- Cooperation on criminal investigation and matters related thereto.**

(1) Where the country making a request for cooperation requests the investigation of a crime, the Attorney General shall cause such investigation to be carried out by the body authorized to carry out such investigation in accordance with articles 63

to 122 of this Code. The Attorney General shall send the result of such investigation to the requesting country through the Ministry of Foreign Affairs.

(2) Where a request is made to carry out investigation by a joint investigation team, the Attorney General shall decide the manner in which the investigation shall be carried out jointly by the body authorized under this Code and the investigative body of the requesting country.

(3) Where a request is made for the investigation body of the requesting country to carry out criminal investigation or carry out such investigation in accordance with the provisions of Ethiopian law, the Attorney General shall review such request and decide as appropriate. The Attorney General shall request the opinion of federal police and the appropriate security and intelligence office and supervise the process and execution of such investigation.

**Art. 407.- Cooperation on temporary transfer of a person living in Ethiopia.**

(1) Where the transfer of a person under detention is requested to give his testimony or otherwise assist in an investigation, the Attorney General may cause such cooperation to be executed where the requesting country provides the guaranties referred to in article 404 of this Code.

(2) Where the person sought is not under detention and is willing to be temporarily transferred for the purpose needed, the Attorney General shall execute such request. Where the person sought is not willing, the court shall give an order on the matter.

(3) Where the person transferred under sub-articles (1) and (2) of this article is of Ethiopian Nationality, he may only be temporarily transferred where he is willing.

(4) Federal Police shall, after obtaining a court order, receive the person sought for cooperation from the place of detention and hand him over to the requesting

country, and hand him over to the place of detention where he was upon his return after completion of the cooperation.

(5) The Ethiopian embassy or consular office at the country requesting the cooperation shall follow up on the cooperation.

**Art. 408.- Request for cooperation of a person in a foreign country.**

(1) Where the cooperation of a person who is under detention in a foreign country is needed and the country or institution requested for such cooperation agrees, the Attorney General shall order the Federal Police to receive the person sought and hand him over to the body requesting the cooperation and, upon completion of the cooperation, receive such person from the body requesting the cooperation and hand him over to the country extending the cooperation.

(2) The person transferred over to Ethiopia under sub-article (1) of this Article shall be given permission to enter Ethiopia.

(3) The person transferred to Ethiopia shall be placed under protection; where such person stays under detention, the law applicable to persons under detention in Ethiopia shall be applicable to him. As much as possible, the necessary measures shall be taken to ensure that he carries out the purpose for which he has been transferred and returns.

**Art. 409.- Effect of staying under detention at the requesting country.**

Where the person transferred under this Code was being tried or serving his sentence, the time he spends in transfer shall be counted as time served.

**Art. 410.- Exchange of information and evidence.**

(1) The requesting country shall guarantee that any evidence, information, document or records and other things valuable as evidence will be maintained properly are returned within a reasonably short period of time.

(2) No information or evidence obtained under a request for cooperation shall be used for any purpose other than that for which cooperation was requested.

**Art. 411.- Cooperation on serving summons and other documents.**

(1) Where the cooperation requested from Ethiopia is for the service of summons or other documents, such cooperation shall be executed forthwith.

(2) Where the request is for the service of summons, such summons and request for service of summons shall be presented at least twenty days before the date the person sought is required to appear; the Federal Police shall serve such summons on the person sought in not more than fifteen days.

(3) Notwithstanding the provisions of sub-article (2) of this Article, where there the matter is urgent and such is believed by the Attorney General, a request made within a shorter period of time may be acceptable.

**Art. 412.- Transfer of proceedings.**

(1) Where a request for cooperation is made for the transfer of criminal proceedings in respect of crimes on which the Criminal Code of Ethiopia is applicable alternatively, such request shall be reviewed in accordance with this Code and other applicable laws.

(2) Unless it is appropriate to carry out an investigation required to enhance the effectiveness of the proceeding transferred, all reconciliation, plea bargaining, diversions or other proceedings provided under this Code shall be terminated starting from the date on which the request for transfer of proceeding is accepted by the requested country.

(3) Where judgment is rendered on a proceeding transferred in accordance with this Article, such judgment shall be disclosed to the requesting country.

**Art. 413.- Transfer of a convicted person.**

(1) A request for cooperation may be made to execute in Ethiopia the sentence of a person in respect of whom a final judgment of guilt has been rendered; such request shall be executed in accordance Code and other relevant laws.

(2) A request for cooperation may be made under sub-article (1) of this article:

(a) to execute in Ethiopia all or part of the sentence of a convicted person;

(b) in respect of a convicted person with a suspended sentence, to follow up that he has complied with the conditions; or

(c) in respect of a person who has been released on probation or whose sentence has been postponed, to follow up that he has complied with the conditions for his release on probation or the postponement of his sentence.

(3) Notwithstanding the provisions of sub-articles (1) and (2) of this Article, the request for cooperation on the transfer of the convicted person shall not be acceptable where the convicted person does not permanently reside in the country or the period of limitation for the execution of his penalty has expired under this Code or another law.

(4) Where, in the course executing the sentence of a convicted person who has been transferred, a petition for amendment or review of final judgment is made, the country requesting cooperation shall have jurisdiction to hear the matter.

(5) Unless otherwise provided by convention, the Attorney General shall decide on the manner of reporting on the disposition of the convicted person, execution of penalty, manner and implementation of follow up in the process of cooperation on the transfer of convicted person.

**Art. 414.- Recognition and execution of court order, judgment, ruling or decision.**

(1) A request for cooperation on recognition and execution of an order, judgment or decision rendered by a foreign court shall be handled in accordance with this Code and other relevant laws.

(2) An order, judgment, ruling or decision rendered by the requesting government for the attachment or confiscation of property shall be deemed as rendered by the Ethiopian government.

(3) Unless otherwise decided by the Attorney General, any property confiscated in accordance with a foreign court decision shall be forfeited to the government.

**Art. 415.- Transfer of prisoners through Ethiopia.**

(1) Where a country requests cooperation on the transfer of a prisoner to a third country through Ethiopian territory, the Attorney General shall give permission after reviewing the identity of the person transferred and the reasons for his transfer from the evidence presented. Where the Attorney General does not authorize the transfer of the prisoner, the requesting state shall be notified of the reasons thereof through the Ministry of Foreign Affairs.

(2) Where the Attorney General gives authorization under sub-article (1) of this Article, it may send the identity of the transferor and the person transferred and other relevant information to the appropriate authority and cause such authority to execute such transfer. Such authority shall report to the Attorney General immediately upon executing such cooperation.

(3) Where there is an emergency transfer of prisoner, the attorney general may give permission to transfer such prisoner through Ethiopian territory immediately upon receiving such request or on the application of the requesting country's authority. Where the transfer is not permitted, such person shall be returned to the country he came from in the same manner in which he came.

(4) For the purpose of sub-article (3) of this Article, the Attorney General may cause the person transferred to be put under custody of Federal Police for not more than forty-eight hours.

## *Chapter 2 – Extradition*

### *Section 1 – Procedure of Execution of Extradition*

**Art. 416.- Definition.**

"Extradition" means a cooperation request by foreign government for suspected, accused or convicted person of another state's national for criminal hearing, sentencing or execution of sentence.

**Art. 417.- Extraditable offence or punishment.**

(1) Unless otherwise provided by convention, a person may be extradited where:

(a) For criminal hearing or sentencing for a crime punishable with two years rigorous imprisonment and above or death; or

(b) To execute a sentence of six-months imprisonment and above.

(2) Without prejudice to the provisions of sub-article (1) of this Article, a person may be extradited where the he is accused or convicted of another concurrent crime which is punishable by less than two years of imprisonment or there is a sentence of less than six months imprisonment which the convicted person has not executed.

**Art. 418.- Crime under both jurisdictions.**

(1) A person shall not be extradited unless the conduct or the sentence not executed for which his extradition is sought is a crime which is punishable under the law of the foreign country and that of Ethiopia.

(2) The fact that the offense or punishment which is the subject of request for cooperation is not referred to by the same name, is not provided for under the same criminal provision or is not stated in the same terms shall not make it a non-extraditable offense.

**Art. 419.- Non-extradition.**

Extradition is not allowed in following cases: -

(1) where the person is Ethiopian national;

(2) where the person was convicted for the same offence by the final decision of Ethiopian or other state's court and he has executed such sentence; or

(3) where, without prejudice to the provisions of articles 28(1) of the FDRE Constitution, at the time of request the crime is barred by amnesty or pardon or where there is any reason which immune the person from accusation or sentence;

***Section 2 – Documents necessary to decide on a request for extradition***

**Art. 420.- Content of extradition request and the documents.**

(1) Extradition request shall be made by the organ of government with authority of the requesting state in writing.

(2) The request for extradition shall, as appropriate, include:

(a) conditions stated under Article 417 of this Code;

(b) the charge which may lodge against the wanted person, the law which criminalizes the act, the penalty the crime entails;

(c) where the wanted person is charged, the time, place and condition of the commission of the crime, his participation, the penalty the offence entails, evidence and facts proved by such evidence, arrest warrant given by a court which jurisdiction, as appropriate;

(d) where the wanted person is convicted, short explanation of the crime, court decision proofing his conviction, the unexecuted type or amount of penalty;

(e) where the hearing is in default, in addition to facts stated under sub-article (2)(d) of this Article, disclaimer whether the wanted person was duly served

summon, the existence of legal grounds for to present his defence and procedure of review of judgment;

(f) where the wanted person is convicted and waiting for a sentence, short description of the crime, court decision proofing his conviction and sentence;

(g) other information or annex documents requested by the Attorney General.

**Art. 421.- More than one requests.**

(1) Where there are various requests from different states for the same or different extraditable offenses, the Attorney General shall prioritize extradition by looking at the following facts:

(a) better compliance with principles of Article 395 of this Code;

(b) the existence of extradition agreement with the requesting state and the obligations therein;

(c) the sequence and content of the request, the crime and punishment;

(d) the type of the crime or the penalty not served;

(e) better protection of the rights of the accused person;

(f) the nationality of the victim and wanted person, the residence of the victim;

(g) and other similar factors.

(2) Where the person wanted is not extradited to the state having priority, the application of other requesting states shall be reviewed and decided in accordance with this Code.

**Art. 422.- Provisional arrest.**

(1) Where, owing to the urgent nature of the matter, it is necessary to detain the wanted person, the court may give an order for the provisional arrest of the person wanted until such time when the request for extradition is made or receives a decision in accordance with this Code.

(2) Where the Attorney General finds the provisional arrest of the wanted person necessary until such time when it decides on and submits a request for extradition to court, the provisions of this Code regarding arrest and bail shall be applicable as appropriate.

(3) Provisional arrest may be requested and executed where:

(a) the wanted person resides in or frequently travels to Ethiopia;

(b) the request is connected to the offense alleged to have been committed;'

(c) an arrest or similar order has been given or a charge has been filed on the person in a foreign country;

(d) to prevent the wanted person from absconding or committing another crime.

(4) The requests for cooperation referred to in sub-articles (1) and (2) of this Article is not made within 28 days, the wanted person shall be released. Such release of the wanted person from prison shall not bar his subsequent arrest or making another request for his extradition.

**(5)** A request or an application for provisional arrest under this Article shall, as appropriate, contain the details indicated in sub-article 421 of this Code.

**Art. 423.- Court application for extradition.**

(1) Where the Attorney General has reviewed and accepted the extradition request pursuant to Article 421 of this Code, it shall apply for extradition to the court having jurisdiction within five days.

(2) An application lodged to the as per this Article shall include the state requesting the extradition, the charge or decision given on the wanted person and the appropriate evidence.

(3) The court before the date of hearing shall serve the copy of the application on the wanted person.

(4) The wanted person shall present his motion and opinion to the court in writing before the date of the hearing.

**Art. 424.- Producing the wanted person to court.**

(1) Where the person wanted is not under detention at the time of application of the Attorney General to the court for extradition, it may petition the court to get an arrest warrant.

(2) Where the court deems the arrest of the wanted person necessary, it shall grant an arrest warrant in accordance with this Code.

(3) Where the court gives a warrant for the arrest of the wanted person, the Federal Police shall produce the wanted person before the court.

(4) Without prejudice to the provisions of sub-article (1) of this article, the provisions of this Code regarding arrest without warrant may be applicable as appropriate.

**Art. 425.- Producing the wanted person before the court.**

(1) The Federal Police or the State Police by virtue of its delegated authority shall bring the wanted person arrested before the court having jurisdiction within 48 hours in accordance with article 118 of this Code.

(2) The court shall:

(a) where the wanted person has not consented to being extradited or objects to the same, give a decision on the matter within 15 days;

(b) unless it deems releasing the wanted person on bail necessary, order the wanted person to remain in custody until it hears and decides on the matter.

**Art. 426.- Hearing and decision.**

(1) The court shall:

(a) by any appropriate means ascertain the identity of the wanted person at the date of hearing;

(b) request the wanted person to give his response or opinion on on the request for his extradition.

(2) The court, after examining the extradition application and the defence or opinion of the wanted person, shall decide: -

(a) For extradition after ascertaining his identity where the wanted person gives his consent for extradition;

(b) For extradition after ascertaining his identity, where the wanted person is unwilling but where the legal conditions for extradition fulfilled,

(c) to release without bail the person who has appeared and discharge any property attached, as appropriate, where he is not the person wanted or adequate evidence has not been produced to create sufficient suspicion he has committed the crime for which extradition is requested.

**Art. 427.- Effect of failure to appear on the date of hearing.**

(1) Where the wanted person fails to appear on the date of the hearing, the court shall order for his arrest.

(2) Where the person does not appear on the adjourned date, the court shall close the file.

**Art. 428.- Appeal or review of judgement.**

(1) No appeal shall lie against an extradition decision rendered pursuant to this Code unless such appeal is made to the Federal Supreme Court within five work days of rendering of such decision. The Federal Supreme Court shall decide on such appeal within five work days.

(2) Any application to the Cassation Division of the Federal Supreme Court against a decision made by the Federal Supreme Court under sub-article (1) of this Article shall be made within five work days of such decision.

(3) Where the case is being tried or a decision has been rendered in accordance with this Code, no application for review of a final judgment on extradition shall be accepted unless it is for another offense or upon the application of another state requesting extradition.

(4) The appeal provisions of this Code shall be applicable to appeals made under this Article as appropriate.

**Art. 429.- Communicating decision.**

The Attorney General shall:

(1) notify the requesting government the final decision of the court on extradition rendered in accordance with this Code forthwith.

(2) where the court has given a final decision rejecting the request for extradition, the Attorney General shall notify the requesting government of the reasons for such decision.

**Art. 430.- Handing over wanted person.**

(1) The Attorney General:

(a) shall hand over wanted person to the requesting government through Federal Police within a reasonably short period of time; the handing over may include related documents as necessary;

(b) Shall notify the requesting government the detention of the wanted person, where the person was under detention until extradition.

(2) Where the requesting government is required to return the wanted person or document it has received under sub-article (1) of this article, it shall provide guaranty that it will return the same as soon as the purpose for which extradition was requested is fulfilled.

**Art. 431.- Suspension or extension of execution of decision.**

(1) The Attorney General:

(a) If convinced that the extradition may endanger the health or life wanted person, where there is an ongoing criminal investigation, charge or hearing on the wanted person, or where the person is serving criminal sentence, may extend the extradition time upon notifying the court.

(b) Where there exists a reason which obliges the change or extension of the final decision of extradition, may apply to the court for the stay or reversal of the decision.

(2) Unless the court decides otherwise, the court shall decide to release the wanted person with bail if extending the extradition decision is decided and if the person is under detention.

**Art. 432.- The procedure when extradition request is rejected.**

Without prejudice to the provisions of Articles 17-20 of the Criminal Code, where the request for extradition is:

(1) Rejected by the Attorney General pursuant to Article 429 of this Code; or

(2) Rejected by final decision of the court pursuant to Article 429(2) of this Code or the decision is repealed;

An order shall be given to file a charge, render or execute a sentence in accordance with this Code or other relevant law.

**Art. 433.- Provisional transfer of a convicted person.**

(1) Where a convicted person serving his prison sentence in a foreign country is transferred to Ethiopia, the court having jurisdiction shall order that such person be kept in prison.

(2) The order that the transferred person be kept in prison shall be given until such time the purpose for which he is transferred is fulfilled.

(3) The person transferred in accordance with sub-article (2) of this article shall be returned to the transferring state upon completion of the purpose for which he is transferred.

(4) Where a charge is filed on the person transferred, the time spent in transfer shall not be deducted from his sentence until the transfer process is fully completed.

**Art. 434.- Receiving handover of a wanted person.**

(1) The Federal Police shall receive handover of the person who is to be extradited to the government of Ethiopia.

(2) The Attorney General shall ensure:

(a) the person extradited to the government of Ethiopia leaves the country upon completion of his hearing or sentence; and

(b) anything provided as evidence is maintained properly or is returned in accordance with the law upon completion of the purpose for which it was provided.

*Section 3 – Procedure of Transit through Ethiopian Territory*

**Art. 435.- Permission of transit.**

(1) Where a person extradited by a third country is to transit through Ethiopian territory, the requesting state may make a request for cooperation.

(2) The attorney General may grant a request for cooperation on transit made under sub-article (1) of this Article after ascertaining that such transit would not harm the country's interest.

**Art. 436.- Arrest of the person in transit.**

(1) Where transit is permitted under sub-article (2) of Article 429, the person in transit may be detained until the transit is completed or for not more than 48 hours during the transit. The Federal Police shall receive handover of such person and execute the order.

(2) Where it is necessary to detain the person in transit for more than 48 hours until the Attorney General executes the transit of such person or owing to the transit not being completed, the matter shall be notified to court.

**Art. 437.- Exceptions.**

(1) Where the person in transit is transported by air transport or is not intended to land in Ethiopia, the preconditions regarding permit referred to in Article 435 of this Code shall not be applicable.

(2) Where the person in transit makes an emergency landing in Ethiopia and his escort requests that the person transit be kept in prison, he may be detained for not more than 48 hours.

(3) Where the receiving country does not make a formal request for cooperation on transit within 48 hours, the wanted person shall be returned to the country where he came from.

(4) Notwithstanding the provisions of sub-article (3) of this Article, where the receiving country makes a formal request for transit and it is necessary to detain the person for more than 48 hours until the Attorney General gives a decision on the request for transit, the court shall be notified of the matter and the person shall be kept in detention.

(5) The court shall, upon being notified in accordance with Article 436 sub-articles (2) and (4), give the appropriate decision on the matter.

# BOOK TEN

# MISCELLANEOUS MATTERS

## *Chapter 1 – Costs and Expenses*

### *Section 1 - Criminal Proceeding Costs in General*

**Art. 438.- Costs of public prosecution.**

All the costs of public prosecutions, including charge, appeal and cassation, shall be borne by the government.

**Art. 439.- Costs of private prosecution.**

(1) The costs of private prosecutions, including charge, appeal and cassation, shall be borne by the private prosecutor. Where the private prosecutors are more than one, they shall cover the cost jointly and severally.

(2) Where the accused is convicted with private persecution, the court may order the accused to pay the whole or part of the costs incurred by the private prosecutor.

(3) Where in a private prosecution the accused is acquitted and the court is of opinion that the charge was not made in good faith, it may order the private prosecutor to pay the whole or part of the costs incurred by the accused.

**Art. 440.- Costs in civil cases.**

(1) Where civil suit institutes as per this Code costs, including court fee shall be regulate by the Civil Procedure Code.

(2) Public prosecutor is free from court fee for civil suit. However, where the court decides the accused to bear costs, it may include court fee.

**Art. 441.- Cost of witnesses.**

(1) The cost for witness and document presenter shall be determined by regulation.

(2) Private prosecutor or accused shall cover the cost of the witness or document presenter they call.

(3) The procedure by which the government may bear the cost of an accused who does not have sufficient means to pay the cost of witness or document presenter shall be determined by relation.

*Chapter 2 - Power to issue Regulations and Directives*

**Art. 442.- Power to issue regulations.**

Without prejudice to the provisions of this Code regarding the issuance of regulation, the Council of Ministers or a State Administration Council shall issue regulations on:

(1) the procedure for administration and the recognition of organs executing diversion procedure;
(2) the provision of free legal services;
(3) manner of production and payment of per diem and reimbursement of witnesses' expenses; and
(4) the manner of payment of proportionate compensation to persons whose sentence has been reviewed upon review of judgment.

**Art. 443.- Power to issue directives.**

Without prejudice to the provisions of this Code regarding the issuance of regulation:

(1) The Federal Supreme Court shall issue directives on:
  (a) Supervision of court proceedings and management of cases;
  (b) Grievance handling and decision;
  (c) The procedure of appointment, ethics, manner of administration, amount and manner of refund of expenses of trustees;
  (d) Procedure of closed chambers;
  (e) Determination of the court's ruling, order, judgment or decision where there is no majority;
  (f) Criminal investigation, charges and judgment on juveniles involved in crime.
(2) The Attorney General shall issue directives on:
  (a) Investigation, drawing of charges and conducting of proceedings;

(b) Handling and giving decision on grievances related to investigation and charges;

(c) Management of private prosecution;

(d) Supervision of execution of penalty;

(e) Provision of information in the course of investigations or hearings;

(f) Manner and implementation of plea bargaining on the number of counts, material elements and sentence;

(g) Procedure of reconciliation during investigation and hearing;

(h) Execution of death penalty;

(i) Matters which are prosecuted and not prosecuted on grounds of public interest;

(j) Management, administration and determination of exhibits;

(k) Care, handling, support and protection of witnesses and victims;

(l) Special investigation techniques;

(m) Execution of the time set for instituting charges on simple, medium and grave offenses;

(n) Procedure of application of customary mechanisms of disposing of criminal matters;

(3) The Federal Police Commission shall issue directives on:

(a) Use of force;

(b) Collection of evidence at the crime scene and investigation;

(c) Time within which a criminal investigation shall be completed;

(4) Directives issued in accordance with this Code shall be published and distributed to the concerned bodies.

## *Chapter 3 - Amendment to this Code*

**Art. 444.- Amendment.**

Any proposal for the amendment this Code shall be deliberated on by justice organs and presented to the House of the Peoples Representatives by the Federal Attorney General upon approval of the Council of Ministers.

## Schedule A

## Criminal Jurisdiction of Courts and Levels of Offense

| Article | Offence | Jurisdiction | | Level of Offense |
|---|---|---|---|---|
| | | Federal Court | State Court | |
| 238 | Outrages against the Constitution or the Constitutional Order | High Court | Supreme Court by virtue of its delegated power | Grave |
| 239 | Obstruction of the Exercise of Constitutional Order | High Court | Supreme Court by virtue of its delegated power | Grave |
| 240 | Armed Rising or Civil War | High Court | Supreme Court by virtue of its delegated power | Grave |
| 241 | Attack on the Political or Territorial Integrity of the State | High Court | Supreme Court by virtue of its delegated power | Grave |
| 242 | Violation of Territorial or Political Sovereignty | First Instance Court | High Court by virtue of its delegated power | Simple |
| 243 | Unlawful Departure, Entry or Residence | First Instance Court | High Court by virtue of its delegated power | Medium |
| 244 | Attacks against the State and National and other Emblems | First Instance Court | High Court by virtue of its delegated power | Simple |
| 245 | Unlawful use of Official Emblems | First Instance Court | High Court by virtue of its delegated power | Simple |
| 246 | Attacks on the Independence of the State | High Court | Supreme Court by virtue of its delegated power | Grave |
| 247 | Impairment of the Defensive Power of the State | High Court | Supreme Court by virtue of its delegated power | Grave |
| 248 | High Treason | High Court | Supreme Court by | Grave |

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| | | | virtue of its delegated power | |
| 249 | Treason | High Court | Supreme Court by virtue of its delegated power | Grave |
| 250 | Economic Treason | First Instance Court | High Court by virtue of its delegated power | Grave |
| 251 | Collaboration with the Enemy | High Court | Supreme Court by virtue of its delegated power | Grave |
| 252 | Espionage | High Court | Supreme Court by virtue of its delegated power | Grave |
| 254 | Indirect Aid and Encouragement | High Court | Supreme Court by virtue of its delegated power | Medium |
| 255 | Attempted Incitement and Assistance | High Court | Supreme Court by virtue of its delegated power | Medium |
| 256 | Material Preparation and Subversive Acts | High Court | Supreme Court by virtue of its delegated power | Medium |
| 257 | Provocation and Preparation | High Court | Supreme Court by virtue of its delegated power | Grave |
| 261 | Hostile Acts Against a Foreign State | First Instance Court | High Court by virtue of its delegated power | Medium |
| 262 | Outrages against Foreign Heads of State, Representatives and other Persons Enjoying Protections under International Law | First Instance Court | High Court by virtue of its delegated power | Medium |
| 263 | Violation of Foreign Sovereignty | First Instance Court | High Court by virtue of its delegated power | Simple |

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| 264 | Insults to Foreign States | First Instance Court | High Court by virtue of its delegated power | Simple |
| 265 | Insults to the Official Emblems of Foreign States | First Instance Court | High Court by virtue of its delegated power | Simple |
| 266 | Insults to Inter-State Institutions | First Instance Court | High Court by virtue of its delegated power | Simple |
| 269 | Genocide | High Court | Supreme Court by virtue of its delegated power | Grave |
| 270 | War Crimes against the Civilian Population | High Court | Supreme Court by virtue of its delegated power | Grave |
| 271 | War Crimes against the Wounded, Sick or Shipwrecked Persons or Medical Services | High Court | Supreme Court by virtue of its delegated power | Grave |
| 272 | War Crimes against prisoners and Interned Persons | High Court | Supreme Court by virtue of its delegated power | Grave |
| 273 | Pillage, Piracy and Looting | High Court | Supreme Court by virtue of its delegated power | Grave |
| 274 | Provocation and Preparation | High Court | Supreme Court by virtue of its delegated power | Simple |
| 275 | Dereliction of Duty Towards the Enemy | High Court | Supreme Court by virtue of its delegated power | Grave |
| 276 | Use of Illegal Means of Combat | High Court | Supreme Court by virtue of its delegated power | Grave |
| 277 | Breach of Armistice or Peace Treaty | First Instance Court | High Court by virtue of its delegated power | Medium |
| 278 | Franc Tireurs | High Court | Supreme Court by | Grave |

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| | | | virtue of its delegated power | |
| 279 | Maltreatment of, or Dereliction of Duty towards Wounded, Sick or Prisoners | First Instance Court | High Court by virtue of its delegated power | Simple |
| 280 | Denial of Justice | First Instance Court | High Court by virtue of its delegated power | Simple |
| 281 | Hostile Acts against International Humanitarian Organizations | First Instance Court | High Court by virtue of its delegated power | Simple |
| 282 | Abuse of Emblems and Insignia or International Humanitarian Organizations | First Instance Court | High Court by virtue of its delegated power | Simple |
| 283 | Hostile Acts against the Bearer of a Flag of Truce | First Instance Court | High Court by virtue of its delegated power | Simple |
| 284 | Refusal to Perform Military Service | Military Court* | | Medium |
| 285 | Failure to Comply with a Calling-up Order | Military Court | | Simple |
| 286 | Intentionally Contracted Unfitness | Military Court | | Medium |
| 287 | Fraudulent Evasion of Service | Military Court | | Medium |
| 288 | Desertion | Military Court | | Grave |
| 289 | Absence without Leave | Military Court | | Medium |
| 290 | Voluntary Failure to Re-join the Defence Forces | Military Court | | Medium |
| 291 | Unlawful Exemption from Service | Military Court | | Medium |
| 292 | Threats or Violence against an Inferior | Military Court | | Simple |
| 293 | Infringement of General Service Regulations | Military Court | | Simple |
| 294 | Incomplete or Inaccurate Official Statement | Military Court | | Simple |
| 295 | Drunkenness on Active Duty | Military Court | | Simple |

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| 296 | Want of Discipline | Military Court | | Simple |
| 297 | Insults or Threats to, or Assaults upon, a Person of Superior or Equal Rank | Military Court | | Medium |
| 298 | Insubordination | Military Court | | Grave |
| 299 | Mutiny | Military Court | | Grave |
| 300 | Conspiracy or Concert to Raise a Mutiny | Military Court | | Grave |
| 301 | Incitement and Assistance | Military Court | | Grave |
| 302 | Crimes against Guards, Sentries or Patrols | Military Court | | Grave |
| 303 | Breaches of Guard Duty | Military Court | | Grave |
| 304 | Infringement of Military Instructions | Military Court | | Medium |
| 305 | Disclosure or Alteration of Instructions | Military Court | | Grave |
| 306 | Misuse or Waste of Material | Military Court | | Grave |
| 307 | Malversation or Receipt of Ill-gotten gains | Military Court | | Grave |
| 308 | Failure to Report Danger | Military Court | | Medium |
| 309 | Failure to take Essential Security Measures | Military Court | | Medium |
| 310 | Raising a False Alarm | Military Court | | Medium |
| 311 | Demoralization of the Defence Forces | Military Court | | Grave |
| 312 | Cowardice | Military Court | | Grave |
| 313 | Capitulation | Military Court | | Grave |
| 314 | Abandonment of Means of War Intact | Military Court | | Grave |
| 315 | Improper use of Enemy Uniform or Arms | Military Court | | Medium |
| 316 | Abandonment of a Wounded or Killed Member | Military Court | | Grave |
| 317 | Crime Committed against the Possessions of a Wounded or Killed Member | Military Court | | Medium |
| 323 | Compelling Breaches of Duty | First Instance Court | High Court by | Simple |

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| | | | virtue of its delegated power | |
| 324 | Attack on a Member of the Defence Forces while on Active Duty | First Instance Court | High Court by virtue of its delegated power | Simple |
| 325 | Aggravated Cases | First Instance Court | High Court by virtue of its delegated power | Simple |
| 326 | Breach of Legal or Contractual Obligations | First Instance Court | High Court by virtue of its delegated power | Medium |
| 327 | Sabotage | First Instance Court | High Court by virtue of its delegated power | Medium |
| 328 | Traffic in Military Material | First Instance Court | High Court by virtue of its delegated power | Simple |
| 329 | Unauthorized Manufacture of, and Traffic in, Military Uniforms, Insignia or Decorations | First Instance Court | High Court by virtue of its delegated power | Simple |
| 330 | Unauthorized Wearing of Military Uniforms, Decorations or Insignia | First Instance Court | High Court by virtue of its delegated power | Simple |
| 331 | Disregard of Military Measures | First Instance Court | High Court by virtue of its delegated power | Simple |
| 332 | Incitement to Disregard Military Orders | First Instance Court | High Court by virtue of its delegated power | Medium |
| 333 | Disregard of Prohibitions Protecting Specified Military Zones and Objects | First Instance Court | High Court by virtue of its delegated power | Medium |
| 334 | Falsification or Suppression of General Orders or Instructions | First Instance Court | High Court by virtue of its delegated power | Medium |
| 335 | Failure to Report Crimes against | First Instance Court | High Court by | Simple |

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| | the Defence Forces and Breaches of Military Obligations | | virtue of its delegated power | |
| 336 | Disclosure of Military Secrets | First Instance Court | High Court by virtue of its delegated power | Medium |
| 337 | False or Tendentious Information | High Court | Supreme Court by virtue of its delegated power | Grave |
| 338 | Aggravation of Punishment in Cases of State of Emergency or War | First Instance Court | High Court by virtue of its delegated power | Medium |
| 346 | Illicit Traffic in Gold, Currencies or Foreign Exchange | First Instance Court | High Court by virtue of its delegated power | Medium |
| 347 | Illicit Traffic in Precious Minerals | First Instance Court | High Court by virtue of its delegated power | Medium |
| 348 | Dealings Endangering the Credit of the State's Finance | High Court | Supreme Court by virtue of its delegated power | Grave |
| 349 | Unlawful Refusal to Pay Public Taxes or Dues | First Instance Court | High Court by virtue of its delegated power | Simple |
| 350 | Indictment to Refusal to Pay Taxes | First Instance Court | High Court by virtue of its delegated power | Medium |
| 351 | Endangering Sources of Revenue | First Instance Court | High Court by virtue of its delegated power | Medium |
| 352 | Contraband | First Instance Court | High Court by virtue of its delegated power | Medium |
| 353 | Crimes against the National Economy and State Monopolies | First Instance Court | High Court by virtue of its delegated power | Medium |
| 354 | Aggravation to the Crime | First Instance Court | High Court by virtue of its | Medium |

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| | | | delegated power | |
| 356 | Making | First Instance Court | High Court by virtue of its delegated power | Simple |
| 357 | Forgery | First Instance Court | High Court by virtue of its delegated power | Medium |
| 358 | Debasing | First Instance Court | High Court by virtue of its delegated power | Medium |
| 359 | Importation, Exportation, Acquisition, Acceptance in Trust or Offer | First Instance Court | High Court by virtue of its delegated power | Medium |
| 361 | Uttering | First Instance Court | High Court by virtue of its delegated power | Medium |
| 362 | Petty Cases | First Instance Court | High Court by virtue of its delegated power | Medium |
| 363 | Falsification or Improper Use of the Seals of the State | High Court (where it is committed on federal government property) | High Court (where it is committed on state government property) | Grave |
| 364 | Falsification and Improper Use of other Public or Private Seals | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court | Medium |
| 365 | Falsification of Official Marks | First Instance Court (Addis Ababa and Dire Dawa) (Federal Courts shall have jurisdiction where it is related to customs and State Courts shall have jurisdiction otherwise) | First Instance Court | Simple |
| 366 | Falsification of Official Stamps | First Instance Court | First Instance Court | Simple |

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| | of Value | (Addis Ababa and Dire Dawa) | | |
| 367 | Falsification of Weights and Measures | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court | Simple |
| 368 | Importation, Exportation, Purchase, Acceptance in Trust and Offer | First Instance Court | High Court by virtue of its delegated power | Simple |
| 369 | Counterfeiting without Intent to Defraud | First Instance Court | High Court by virtue of its delegated power | Simple |
| 370 | Endangering of the Currency, Bonds or Security Documents, or Official Marks, Stamps or Seals | First Instance Court (only where it is related to Federal Government documents) | First Instance Court (where it is related to documents other than those of the Federal Government) | Simple |
| 371 | Machinery and Means of Falsification | First Instance Court (only where it is related to Federal Government documents) | First Instance Court (where it is related to documents other than those of the Federal Government) | Medium |
| 375 | Material Forgery | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court | Medium |
| 376 | Intangible Forgery | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court | Medium |
| 377 | Specified Cases | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court | Medium |
| 378 | Use of Forged Instruments | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court | Medium |
| 379 | Forgery or Falsification of Public or Military Documents | High Court (only where it is related to | First Instance Court (where it is related | Grave |

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| | | Federal Government documents) | to documents other than those of the Federal Government) | |
| 380 | Suppression of Instruments | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (where it is related to documents other than those of the Federal Government) | Simple |
| 381 | Suppression of Public or Military Documents | High Court (only where it is related to Federal Government documents) | First Instance Court (where it is related to documents other than those of the Federal Government) | Grave |
| 382 | Falsification or Suppression of Commercial Instruments or Negotiable Securities | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (where it is related to documents other than those of the Federal Government) | Medium |
| 384 | Falsification and Use of False Public Transport Tickets | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (where it is related to documents other than those of the Federal Government) | Simple |
| 385 | Forged Certificates | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (where it is related to documents other than those of the Federal Government) | Simple |
| 386 | Fraudulent Procurement of False Official Certification | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (where it is related to documents other | Simple |

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| | | | than those of the Federal Government) | |
| 387 | Issuing False Medical Certificate | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (where it is related to documents other than those of the Federal Government) | Medium |
| 389 | False Declaration and Entries | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (where it is related to documents other than those of the Federal Government) | Simple |
| 390 | Instruments and Means of Falsification | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (where it is related to documents other than those of the Federal Government) | Simple |
| 391 | Falsification and Adulteration | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 392 | Uttering | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 393 | Importation, Exportation, Acquisition and Storing of Goods | First Instance Court | High Court by virtue of its delegated power | Medium |
| 396 | Breaches of Military Secrecy | First Instance Court | High Court by virtue of its delegated power | Medium |
| 397 | Breaches of Official Secrecy | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 399 | Breaches of Professional Secrecy | First Instance Court | First Instance Court | Simple |

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| | | (Addis Ababa and Dire Dawa) | (outside the Federal Government) | |
| 401 | Disclosure of Scientific, Industrial or Trade Secrets | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 407 | Abuse of Power | High Court | Supreme Court by virtue of its delegated power | Grave |
| 408 | Corrupt Practices | High Court | Supreme Court by virtue of its delegated power | Grave |
| 409 | Acceptance of Undue Advantages | First Instance Court | High Court by virtue of its delegated power | Medium |
| 410 | Corruption Committed by Arbitrators and Other Persons | High Court | Supreme Court by virtue of its delegated power | Grave |
| 411 | Maladministration | High Court | Supreme Court by virtue of its delegated power | Grave |
| 412 | Unlawful Disposal of Object in Charge | First Instance Court | High Court by virtue of its delegated power | Simple |
| 413 | Appropriation and Misappropriation in the Discharge of Duties | High Court | Supreme Court by virtue of its delegated power | Grave |
| 414 | Traffic in Official Influence | High Court | Supreme Court by virtue of its delegated power | Grave |
| 415 | Illegal Collection or Disbursement | High Court | Supreme Court by virtue of its delegated power | Grave |
| 416 | Undue Delay of Matters | First Instance Court | High Court by virtue of its delegated power | Simple |
| 417 | Taking Things of Value without or with Inadequate | First Instance Court | High Court by virtue of its | Simple |

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| | Consideration | | delegated power | |
| 418 | Granting and Approving License Improperly | First Instance Court | High Court by virtue of its delegated power | Medium |
| 419 | Possession of Unexplained Property | First Instance Court | High Court by virtue of its delegated power | Simple |
| 420 | Crimes Committed in Dereliction of Duty | First Instance Court | High Court by virtue of its delegated power | Simple |
| 421 | Unlawful Striking | First Instance Court | High Court by virtue of its delegated power | Simple |
| 422 | Abuse of the Right of Search or Seizure | First Instance Court | High Court by virtue of its delegated power | Medium |
| 423 | Unlawful Arrest or Detention | First Instance Court | High Court by virtue of its delegated power | Medium |
| 424 | Use of Improper Methods | First Instance Court | High Court by virtue of its delegated power | Medium |
| 425 | Unlawful Release and Aiding to Escape | First Instance Court | High Court by virtue of its delegated power | Simple |
| 426 | Release of Prisoners of War, or Military Internees and Aiding to Escape | First Instance Court | High Court by virtue of its delegated power | Medium |
| 427 | Soliciting of Corrupt Practices | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 428 | Giving Things of Value without or with Inadequate Consideration | First Instance Court | High Court by virtue of its delegated power | Medium |
| 429 | Acting as a go-between | First Instance Court | High Court by virtue of its delegated power | Medium |

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| 430 | Use of Pretended Authority | First Instance Court | High Court by virtue of its delegated power | Medium |
| 431 | Traffic in Private Influence | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 432 | Contempt of Official Notices and Proclamations | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 433 | Engaging in an Activity without or beyond the Scope of a License | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 434 | Infraction of the Rules Concerning Compulsory Registration | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 435 | Breach of Prohibition to Publish Official Debates or Documents | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 436 | Arbitrary Action | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 437 | Usurpation of Power | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 438 | Obstruction of Government Function and Breaches of the Duty to Co-operate | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 439 | Breaking of Seals and Misappropriation of Objects | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 440 | Resisting Authority | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 441 | Violence and Coercion | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 443 | Failure to Report Crimes | First Instance Court | First Instance Court | Simple |

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| | | (Addis Ababa and Dire Dawa) | (outside the Federal Government) | |
| 444 | Crimes against Whistle blowers or Witnesses. | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 445 | Harbouring and Aiding | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 446 | Misleading Justice | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 447 | False Denunciation or Accusation | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 448 | Refusal to Aid Justice | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 449 | Contempt of Court | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 450 | Breach of Secrecy of Proceedings | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 451 | Publication of Inaccurate or Forbidden Reports of Proceedings | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 452 | False Statements by a Party | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 453 | False Testimony, Opinion or Translation | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 455 | Provocation and Suborning | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 456 | Misrepresentation in Proceedings | First Instance Court (Addis Ababa and | First Instance Court (outside the Federal | Medium |

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| | | Dire Dawa) | Government) | |
| 457 | Tendentious Publications intended to pervert the Course of Justice | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 458 | Betrayal of Interests | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 459 | Non-observance of Secondary Penalties and Preventive Measures | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 460 | Obstruction of Execution of Sentence | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 461 | Escape of Prisoner | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 462 | Procuring of, and aiding to, Escape | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 464 | Mutiny of Prisoners | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 465 | Breaking of Bounds | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 466 | Disturbance and Prevention of Electoral Meetings and Proceedings | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 467 | Interference with the Exercise of the Right of Voting or Election | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 468 | Corrupt Electoral Practices | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 469 | Unfair Practices | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |

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| 470 | Fraudulent Registration | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 471 | Fraudulent Elections | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 473 | Breach of Secrecy of the Ballot | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 474 | Removal or Destruction of Ballot Papers or Boxes | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 477 | Dangerous Vagrancy | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 478 | Conspiracy | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 479 | Harbouring and Assisting of Evil-doers | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 480 | Public Provocation to or Defence of a Crime | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 481 | Prohibited Traffic in Arms | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 482 | Forbidden Societies and Meetings | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 483 | Secret Societies and Armed Bands | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 484 | Forbidden Assemblies | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 485 | Alarming the Public | First Instance Court | First Instance Court | Simple |

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| | | (Addis Ababa and Dire Dawa) | (outside the Federal Government) | |
| 486 | Inciting the Public through False Rumours | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 487 | Seditious Demonstrations | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 488 | Rioting | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 490 | Disturbances of Meetings or Assemblies | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 491 | Disturbances Resulting from Acts Committed in a State of Culpable Irresponsibility | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 492 | Outrage on Religious Peace and Feeling | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 493 | Outrage on the Repose and Dignity of the Dead | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 494 | Arson | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 495 | Provocation of Natural Disaster | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 496 | Damage to Installations or Protective Works | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 497 | Explosions | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 498 | Crimes Resulting from Negligence | First Instance Court (Addis Ababa and | First Instance Court (outside the Federal | Medium |

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| | | Dire Dawa) | Government) | |
| 499 | Danger Caused by the Use of Explosive, Inflammable or Poisonous Substances | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 500 | Illicit Making, Acquisition, Concealment or Transport of Explosive, Inflammable or Poisonous Substances | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 501 | Culpable Infringement of Building Rules | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 502 | Removal or Culpable Omission of Protective Apparatus or Devices | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 503 | Failure to Give Warning of Grave Public Danger | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 505 | Damage to Services and Installations of Public Interest | High Court | Supreme Court by virtue of its delegated powers (please note 512) | Grave |
| 506 | Grave Endangering or Sabotage of Communications or Transport | High Court | Supreme Court by virtue of its delegated powers (please note 512) | Grave |
| 507 | Unlawful Seizure or Control of an Aircraft | High Court | Supreme Court by virtue of its delegated powers (please note 512) | Grave |
| 508 | Endangering Fixed Platform on a Continental Shelf or an Aircraft or a Ship | High Court | Supreme Court by virtue of its delegated powers (please note 512) | Grave |
| 509 | Damage to Fixed Platform, an Aircraft or a Ship | High Court | Supreme Court by virtue of its delegated powers (please note 512) | Grave |

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| 510 | Misuse of Signals and Alarms | High Court | Supreme Court by virtue of its delegated powers (please note 512) | Grave |
| 511 | Unlawful Consignment of Dangerous Goods | High Court | Supreme Court by virtue of its delegated powers (please note 512) | Medium |
| 512 | Grave Cases | High Court | Supreme Court by virtue of its delegated powers (please note 512) | Grave |
| 514 | Spreading of Human Diseases | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 515 | Spreading Animal Diseases | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 516 | Propagation of an Agricultural or Forest Parasite | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 517 | Contamination of Water | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 518 | Contamination of Pastureland | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 519 | Environmental Pollution | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 520 | Mismanagement of Hazardous Wastes and other Materials | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 521 | Acts Contrary to Environmental Impact Assessment | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 522 | Infringement of Preventive and | First Instance Court | First Instance Court | Simple |

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| | Protective Public Health Measures | (Addis Ababa and Dire Dawa) | (outside the Federal Government) | |
| 523 | Creation of Distress or Famine | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 525 | Producing, Making, Trafficking in or Using Poisonous or Narcotic and Psychotropic Substances | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 526 | Doping | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 527 | Manufacture, Adulteration and Sale of Injurious or Damaged Products or Foodstuffs. | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 528 | Manufacture, Adulteration and Sale of Fodder and Products Injurious to Live-Stock | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 531 | Endangering the Health of Another by Alcoholic Beverages or Spirituous Liquors | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 532 | Endangering by Mental Means or Practices | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 533 | Endangering by Philtres, Spells or Similar Means | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 534 | Aggravated Cases | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 535 | Unlawful Exercise of the Medical or Public-Health Professions | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 536 | Unlawful Delivery of Poisonous or Dangerous Substances | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |

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| 537 | Refusal to Provide Medical Assistance | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 539 | Aggravated Homicide | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 540 | Ordinary Homicide | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 541 | Extenuated Homicide | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 542 | Instigating or Aiding another to Commit Suicide | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 543 | Homicide by Negligence | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 544 | Infanticide | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 546 | Abortion Procured by the Pregnant Woman | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 547 | Abortion Procured by Another | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 552 | Procedure of Terminating Pregnancy and the Penalty of Violating the Procedure | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 555 | Grave Wilful Injury | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 556 | Common Wilful Injury | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 559 | Injuries Caused by Negligence | First Instance Court | First Instance Court | Simple |

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| | | (Addis Ababa and Dire Dawa) | (outside the Federal Government) | |
| 560 | Assaults | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 561 | Endangering the Lives of Pregnant Women and Children through Harmful Traditional Practices | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 562 | Causing Bodily Injury to Pregnant Women and Children through Harmful Traditional Practices | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 565 | Female Circumcision | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 566 | Infibulation of the Female Genitalia | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 570 | Incitement against the Enforcement of Provisions Prohibiting Harmful Traditional Practices | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 571 | Exposure of the Life of another | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 572 | Exposing to Danger through the Violation of Traffic Regulations | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 573 | Endangering the Human Body | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 574 | Exposure or abandonment of another | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 575 | Failure to Lend aid to another | First Instance Court (Addis Ababa and | First Instance Court (outside the Federal | Simple |

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| | | Dire Dawa) | Government) | |
| 576 | Maltreatment of Minors | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 577 | Brawls | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 578 | Duels | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 579 | Dueling: Challenge, Incitement and Aiding | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 580 | Intimidation | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 581 | Threat of Accusation or Disgrace | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 582 | Coercion | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 583 | Deprivation of Powers of Decision | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 585 | Illegal Restraint | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 586 | Abduction of Another | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 587 | Abduction of a Woman | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 588 | Abduction of an Unconscious or Defenceless Woman | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |

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| 589 | Abduction of a Minor | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 590 | Aggravation to the Crime | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 591 | Substitution of an Infant for another and Taking Away of an Infant belonging to another | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 592 | Failure to Produce a Minor | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 593 | Ascendants: Special Case | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 594 | Aggravated Cases | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 595 | Political Abduction | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 596 | Enslavement | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 597 | Trafficking in Women and Children | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 598 | Unlawful Sending of Ethiopian for Work Abroad | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 601 | Restraint of the Free Exercise of Civil Rights | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 602 | Violation of the Right of Freedom of Movement | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 603 | Violation of the Right of | First Instance Court | First Instance Court | Simple |

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| | Freedom to Work | (Addis Ababa and Dire Dawa) | (outside the Federal Government) | |
| 604 | Violation of Privacy of Domicile or Restricted Areas | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 606 | Violation of the Privacy of Correspondence or Consignments | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 613 | Defamation and Calumny | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 615 | Insulting Behavior and Outrage | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 618 | Special Cases Aggravating the Crime | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 620 | Rape | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 621 | Compelling a Man to Sexual Intercourse | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 622 | Sexual Outrages Accompanied by Violence | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 623 | Sexual Outrages on Unconscious or Deluded Persons,<br>or on Persons Incapable of Resisting | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 624 | Sexual Outrages on Unconscious or Deluded Persons, or on Persons Incapable of Resisting | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 625 | Taking Advantage of the Distress or Dependence of a | First Instance Court (Addis Ababa and | First Instance Court (outside the Federal | Simple |

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| | Woman | Dire Dawa) | Government) | |
| 626 | Sexual Outrages on Minors between the Ages of Thirteen and Eighteen Years | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 627 | Sexual Outrages Committed on Infants | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 628 | Other Grounds Aggravating the Crime | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 629 | Homosexual and other Indecent Acts | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 630 | General Aggravation to the Crime | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 631 | Homosexual and other Indecent Acts Performed on Minors | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 633 | Sexual Intercourse with an Animal | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 634 | Habitual Exploitation for Pecuniary Gain | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 635 | Traffic in Women and Minors | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 636 | Aggravation to the Crime | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 637 | Organization of Traffic in Women and Minors | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 639 | Public Indecency and Outrages against Morals | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |

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| 640 | Obscene or Indecent Publications | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 641 | Obscene or Indecent Performances | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 643 | Indecent Publicity and Advertisements | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 644 | Protection of Minors | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 646 | Fraud and Deceit in Marriage | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 647 | Solemnizing or Contracting an Unlawful Marriage | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 648 | Early Marriage | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 650 | Bigamy | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 652 | Adultery | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 654 | Incest | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 655 | Indecent Behaviour between Relatives | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 656 | Omission to Register the Birth of an Infant or to Report its Abandonment | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 657 | False Registration, Supposition | First Instance Court | First Instance Court | Simple |

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| | and Substitution of Infants | (Addis Ababa and Dire Dawa) | (outside the Federal Government) | |
| 658 | Failure to Maintain | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 659 | Failure to bring up | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 665 | Theft | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 666 | Abstracting Power | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 667 | Abstraction of Things Jointly Owned | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 668 | Abstraction to the Detriment of a Deceased Person | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 669 | Aggravated Theft | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 670 | Robbery | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 671 | Aggravated Robbery | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 672 | Looting | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 673 | Piracy | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 675 | Breach of Trust | First Instance Court (Addis Ababa and | First Instance Court (outside the Federal | Simple |

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| | | Dire Dawa) | Government) | |
| 676 | Aggravated Breach of Trust | High Court (Addis Ababa and Dire Dawa) | High Court (outside the Federal Government) | Grave |
| 677 | Misuse or Waste of State or Public Property | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 678 | Unlawful Use of the Property of Another | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 679 | Misappropriation | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 680 | Misappropriation of Lost Property | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 682 | Receiving | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 683 | Aggravated Receiving | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 684 | Money Laundering and Aiding | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 685 | Damage to Property of Another Caused by Herds or Flocks | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 686 | Disturbance of Possession | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 687 | Disturbance of Another's Holdings | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 688 | Displacement and Removal of Boundary Marks | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |

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| 689 | General Provisions | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 690 | Aggravated Cases | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 692 | Fraudulent Misrepresentation | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 693 | Drawing of Cheque without Cover | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 694 | Fraudulent Manipulation of Stock Exchange Transactions | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 695 | Gaming in Stocks or Merchandise | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 696 | Aggravated Fraudulent Misrepresentation | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 697 | Other Crimes | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 698 | Fraudulent Acts Relating to Insurance | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 700 | Misrepresentation by Fraudulent Exploitation of Public Credulity | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 701 | Other Fraudulent Acts | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 702 | Mismanagement of Private Interests | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |

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| 703 | Aggravated Case | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 704 | Incitement to Speculation | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 705 | Incitement of Incapable Persons to carry out Prejudicial Assignments | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 706 | Access, Taking or Using Computer Services without Authorization | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 707 | Causing Damage to Data | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 708 | Disrupting the Use of Computer Services by an Authorized User | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 709 | Acts Committed to Facilitate the Commission of Computer Crimes | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 712 | Usury | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 713 | Extortion | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 714 | Blackmail | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 715 | Aggravated Cases | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 717 | Attack on Another's Credit | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 718 | Harmful False Information | First Instance Court | First Instance Court | Simple |

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| | | (Addis Ababa and Dire Dawa) | (outside the Federal Government) | |
| 719 | Unfair Competition | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 720 | Infringement of Marks, Declarations of Origin, Design or Models | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 721 | Infringement of Rights Relating to Literary, Artistic or Creative Works | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 725 | Fraudulent Insolvency | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 726 | Irregular Bankruptcy | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 727 | Fraudulent Bankruptcy | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Medium |
| 728 | Fraud in Execution | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 729 | Misappropriation or Destruction of Property Subject to Pledge or Lien | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 730 | Misappropriation or Destruction of Property Subject to a Court Order | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 731 | Unjustifiable Preference | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 732 | Purchase of Votes | First Instance Court (Addis Ababa and Dire Dawa) | First Instance Court (outside the Federal Government) | Simple |
| 733 | Fraudulent Composition | First Instance Court (Addis Ababa and | First Instance Court (outside the Federal | Simple |

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| | | Dire Dawa) | Government) | |

* Criminal matters allocated to Military Court under this Schedule shall be tried by the Primary Military Court.

* Where charges are filed on the basis of Article 338, Aggravation of Punishment in Cases of State of Emergency or War, following Article 337, False or Tendentious Information, the case shall be tried by the High Court.