

ETHIOPIA: PROCLAMATION ESTABLISHING THE OFFICE OF THE SPECIAL PROSECUTOR

Proclamation No. 22/1992 (August 8, 1992)

WHEREAS, the people of Ethiopia have been deprived of their human and political rights and subjected to gross oppression under the yoke of the fascistic rules of the Dergue-WPE regime for the last seventeen years;

WHEREAS, heinous and horrendous criminal acts which occupy a special chapter in the history of the peoples of Ethiopia have been perpetrated against the people of Ethiopia by officials, members and auxiliaries of the security and armed forces of the Dergue-WPE regime;

WHEREAS, officials and auxiliaries of the Dergue-WPE dictatorial regime have impoverished the economy of the Country by plundering illegally confiscating and destroying the property of the people as well as by misappropriating public and state property;

WHEREAS, in view of the fact that the historical mission of the Ethiopian People's Revolutionary Democratic Front (EPRDF) has been accomplished, it is essential that higher officials of the WPE and members of the security and armed forces who have been detained at the time of the EPRDF assumed control of the Country and thereafter and who are suspected of having committed offenses, as well as representatives of urban dwellers associations and peasant associations, and other persons who have associated with the commission of said offenses, must be brought to trial;

WHEREAS, it is in the interest of a just historical obligation to record for posterity the brutal offences the embezzlement of property perpetrated against the people of Ethiopia and to educate the people and make them aware of these offenses in order to prevent the recurrence of such a system of government;

WHEREAS, it is necessary to provide for the establishment of a Special Public Prosecutor's Office that shall conduct prompt investigation and bring to trial detainees as well as those persons who are responsible for having committed offences and are at large both within and without the Country;

NOW THEREFORE, in accordance with Article 9(d) of the Transitional Period Charter of Ethiopia, it is hereby proclaimed as follows:

1. Short Title

This Proclamation may be cited as the "Special Public Prosecutor's Office Establishment Proclamation No. 22/1992."

2. Establishment

1. The Special Prosecutor's Office (hereinafter the "Office") is hereby established.

2. The Office shall be accountable to the Prime Minister of the Transitional Government.

3. The Office shall have a Chief of the Special Public Prosecutors, Deputy and Assistant Chiefs of the Special Public Prosecutors, other Special Public Prosecutors and the necessary staff.

3. Appointment

1. The appointment of the Chief and the Deputy Chief of the Special Public Prosecutors shall be approved by the Council of Representatives upon recommendation by the Prime Minister and presentation by the President.

2. Assistant Chiefs of the Special Prosecutors and other Special Public Prosecutors shall be appointed by the Prime Minister upon presentation by the Chief of the Special Public Prosecutors.

4. Term of Office

The term of the Office shall terminate upon the accomplishment of its task.

5. Qualifications for the Appointment of Special Public Prosecutors

Any Ethiopian citizen who:

1. is faithful to the Transitional Period Charter of Ethiopia;
2. is either trained in law or has acquired broad legal skill through experience and capable of rendering proper decision based on law;
3. has distinguished himself by his diligence, integrity and good conduct and has not, in any way, participated in the offences to be prosecuted by the Special Public Prosecutors; and
4. was not a member of the WPE or of the security force;

may be appointed as a Special Public Prosecutor.

6. Powers of the Office

The Office shall, in accordance with the law, have the power to conduct investigation and institute proceedings in respect of any person having committed or responsible for the commission of an offence by abusing his position in the party, the government or mass organization under the Dergue-WPE regime.

7. Applicability of Existing Laws

1. Laws concerning criminal investigation and instituting criminal proceedings as well as laws applicable to the ordinary prosecutors shall also apply to the activities undertaken by the Office.

2. Notwithstanding the provisions of sub-article (1) of this Article, the provisions concerning limitations of criminal action and the time limit concerning the submission of charges, evidence and pleading to charges shall not be applicable to proceedings instituted by the Office.

3. The provisions of habeas corpus under Article 117 of the Civil Procedure Code shall not apply to persons detained prior to the coming into force of this Proclamation for a period of six months starting from the effective date of this Proclamation in matters under the jurisdiction of the Special Prosecutor as indicated in Article 6 hereof.

8. Decisions of the Special Public Prosecutors

A superior Special Public Prosecutor may amend, suspend, alter, revoke, or confirm decisions made or measures taken by a Special Public Prosecutor subordinate to him.

9. Transfer of Cases

Where, in the process of investigation, the Office discovers cases which are outside its jurisdiction, it shall transfer such cases to the regular public prosecutor's office.

10. Delegation

1. The Office, may, whenever necessary, delegate its powers under Article 6 of this Proclamation to the regular public prosecutor in respect of offences not punishable by rigorous imprisonment.

2. A delegation given [under] sub-article (1) of this Article shall be decided jointly by the Chief of the Special Public Prosecutors and his Deputies.

11. Miscellaneous Provisions

1. The Chief of the Special Public Prosecutors may, with respect to a person suspected or one whose case is under investigation, apply to a court for an order prohibiting such persons from leaving the Country or requiring the attachment of the property of such person for a period not exceeding three months where it has reason to believe that such property is the fruit of the crime. The court shall give an appropriate ruling; provided, however, that the Chief of the Special Public Prosecutors shall, without prejudice to the foregoing provision, have the power to detain any person or seize any property in the event of urgency. Such cases shall be brought to the court as soon as possible.

2. Unless the Chief of the Special Public Prosecutors decides otherwise, offences that fall under Article 6 hereof and with respect to which criminal proceedings have been instituted in the ordinary courts before the coming into force of this Proclamation shall continue to be tried in the same courts.

12. Inconsistency with other Laws

Any law inconsistent with this Proclamation shall not be applicable to matters covered by this Proclamation....