



Federal Democratic Republic of Ethiopia Federal First Instance Court Commercial Bench Proceedings Code

Adopted by Supreme Court of the Federal Democratic Republic of
Ethiopia Pursuant to Powers Vested Under Article 16(1) of
Proclamation No.25/1995



April 2019
Addis Ababa, Ethiopia

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Her Excellency Meaza Ashenafi, President of the Federal Supreme Court



Ethiopia has identified a well-considered strategic approach and currently endeavors in unremitting national exercise focusing on the strengthening of governance institutions, the building of functional competencies and establishing procedural frameworks that regulate organizational actions.

In this tune, federal courts have been implementing multilayered reforms under the direction of the Federal Supreme Court to introduce fundamental changes and remodel working procedures across all tiers of the judiciary. Such transformational measures are absolutely indispensable to ensure the efficient delivery of justice, safeguard the supremacy of rule of law, insulate the judiciary from internal and external intrusions, to uphold its institutional independence, and most importantly, to reestablish the public's confidence and contentment in the workings of judiciary - which has been wanting in the past.

It is in this broader context that the Supreme Court has begun to carry out specific programs, which, among others, strive to fully implement the country's substantive and procedural laws and facilitate the provision of judicial functions in a more meaningful, predictable and transparent setting. Further studies are also underway to prepare elaborate administrative and operational manuals and systems which propose to simplify the routine workings of judges and assist courts to efficiently discharge their calling.

The central objective of the reforms presently implemented by the Federal Supreme Court is to introduce systemic changes pertaining to judicial functions which rectify the inadequacies of the past and operationalize new procedural guides that ensure the effective disposition of court cases through shorter adjournments and in fast-tracked timeframes.

One fundamental sub-component of this system-wide institutional change enterprise relates to the expansion of commercial benches and formal launch of the 'Federal First Instance Bench Commercial Proceedings Code'. The Commercial Proceedings Code is intended to be applied by all commercial benches of the Federal First Instance Court homogeneously and through a strict work discipline.

For now, this comprehensive Code is adopted only in relation to the Federal First Instance Court and is designed to regulate the management and flow of all commercial cases detailed in the contents below and falling under the jurisdiction of commercial benches. The Code introduces a binding procedural mechanism for efficient and predictable handling of cases and provision of rulings and decisions involving all cases submitted to the jurisdiction of commercial benches of the Federal First Instance Court.

Substantively and in its approach, the Commercial Bench Proceedings Code represents a fundamental shift from related instruments adopted in the past.

Today, as we venture into the implementations phase, I seize the opportunity to instruct all concerned personnel and leadership of the Federal First Instance Court and judges of commercial benches to faithfully apply the Code.

I also wish to express my most sincere gratitude to all judicial staffs and partners who worked hard and executed professionally all studies leading to the adoption of this Code.

Thank you.





The Federal First Instance Court - Commercial Proceedings

Code Key Features

1. Context of adopting the Commercial Proceedings Code

In augmenting efficiency in service delivery, one of the key reform initiatives currently adopted by the Supreme Court of the Federal Democratic Republic of Ethiopia ((FSC) is related to reorganizing the case management system of federal courts at all levels - Supreme, High and First Instance level based on the principle of specialization of cases handled. This intervention, mainly focusing on restructuring of courts and the flow of proceedings, is intended to enhance the quality, predictability and speed of judicial services rendered by the courts in relation to commercial cases submitted to its jurisdiction.

In this vein, commercial divisions are formally established at the Federal High Court (FHC) and Federal First Instance Court (FIIC) levels dedicated solely to hearing and handling commercial litigations. Also the number of commercial benches have almost doubled in less than a year.

Beyond establishing dedicated commercial divisions within judicial structures, the Supreme Court is also convinced that the ultimate objective of such reorganization could be realized only when a comprehensive proceedings

code is adopted regulating the procedure which courts and judges adhere in each particular case.

This Commercial Proceedings Code is adopted by the Supreme Court of the Federal Democratic Republic of Ethiopia pursuant to powers vested in the Court under Article 16(1) of Proclamation 25/1995.

2. Main objectives of the Commercial Proceedings Code

The primary objectives of the Commercial Proceedings Code are threefold

- to establish a special legal, procedural and institutional mechanism for cost-effective, high quality and speedy disposition of commercial cases and hence ensure positive contribution of the judiciary in economic development;
- to ensure a transparent, predictable and consistent interpretation and application of laws in commercial proceedings; and
- to establish clear time standards for all court events/proceedings and an adjournment policy that apply to commercial litigations.

3. Substantive Structure of the Commercial Bench Proceedings Code

The Commercial Proceedings Code is structured under four main parts. Based on the pertinent codes, widely accepted principles and best practices adopted in identifying commercial transactions and specialization, Part 1 establishes the type of cases that fall under the jurisdiction of commercial benches of the FFIC and indicates the specific legal bases of commercial rights and obligations. This part also offers direction on the jurisdictional threshold of all commercial cases presented to the jurisdiction of the FFIC in pursuance of its powers under Proclamation 25/1995.

The specific legal procedures which all commercial benches of the FFIC are required to adhere are provided under Part 2 of the Commercial Proceedings Code. This procedural guide is developed by reviewing a similar instrument adopted in 2005, but introduces substantial enhancements which took into consideration the unique attributes of commercial cases and the specific time standards required to complete all proceedings relating to each court event - including filing suits, service processes, court assisted mediations/pre-trial conferences, first hearings, trials, judgements, execution and enforcement.

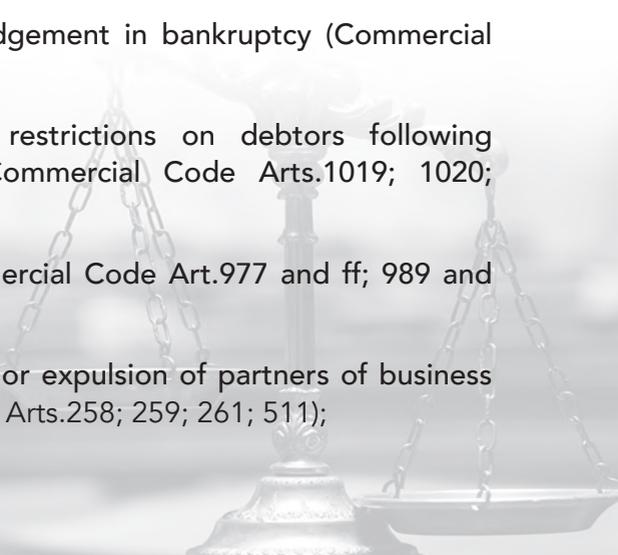
Part 3 of the Commercial Proceedings Code establishes the adjournment policy of the FFFIC, the overall number of adjournments granted, the specific circumstances under which adjournments would be granted or denied, the modality for implementation of the policy, and the identity of the key stakeholders.

Part 4 of the Commercial Proceedings Code presents a comprehensive detail of the sources of legislations, including Federal Cassation Court Decisions that are relevant in the context of commercial proceedings and disputes.

4. Contents of the Commercial Bench Proceedings Code

Part 1: Cases Falling under the Jurisdiction of Commercial Bench of the Federal First Instance Court

A. Applications relating to partnerships in business organizations

- Dissolution of business organizations (e.g. Commercial Code Arts. 218/1/2/; 258/1/; 278/1/; 303; 495/1/; 542/1/; 543/2/;
 - Disputes during dissolution processes;
 - Disputes relating to dissolution of businesses and appointment of liquidators (e.g. Commercial Code Arts. 345; 381; 389; 538)
 - Disputes during liquidation;
 - Disputes relating to distribution of profits following dissolution (Federal Cassation Court File No.82503);
 - Disputes relating to dismissal of managers and accountability of directors (Commercial Code Arts. 527/2/ /5/; 525/5/; 364; 365; 366; 367);
 - Disputes relating to the appointment of interim managers (Commercial Code Arts. 347; 528; Civil Procedure Code Art.308);
 - Disputes relating to setting aside and execution of minutes on shareholders' resolutions (Commercial Code Art.416 /2/ /3/);
 - Cases submitted to request judgement in bankruptcy (Commercial Code Arts 968 and ff.);
 - Cases submitted to request restrictions on debtors following adjudication of bankruptcy (Commercial Code Arts.1019; 1020; 1021/3/; 973);
 - Bankruptcy proceedings (Commercial Code Art.977 and ff; 989 and ff.);
 - Disputes relating to withdrawal or expulsion of partners of business organizations (Commercial Code Arts.258; 259; 261; 511);
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- Disputes relating to general meeting of shareholders (Commercial Code Arts. 406; 447; 537);
 - Disputes relating to receiving dividends, inspecting documents, granting of shareholder certificate and other shareholders' rights;
 - Cases submitted to request cessation of nuisance or illegal acts against shareholder right of business organizations;
- B. Applications relating to negotiable instruments**
- Promissory notes (e.g. Commercial Code Arts.732/2/; 780 825/1/; 826)
 - Cheques (e.g. Commercial Code Arts.854; 840; 868; 881/1/)
- C. Applications relating to establishment of arbitration panel**
- Applications submitted to request the establishment of arbitration panel
 - Stamp/seal services requested in relation to provisional arbitration panels
 - Applications requesting additional orders granted to provisional arbitration panels
- D. Cases submitted on the basis of other provisions of the Commercial Code or other laws governing commercial activities/matters**
- Commercial Registration and Licensing Proclamation No.980/2016;
 - Select cases submitted on the basis of the Trade Marks Registration and Protection Proclamation No.501/2006;
 - Select cases Cooperative Societies Proclamation No.985/2016;
- E. Cases involving contractual claims not exceeding Birr 500,000.**



Part 2: Federal First Instance Court Commercial Benches Case Flow and Time Standards of Court Events

A. Pre-trial stage

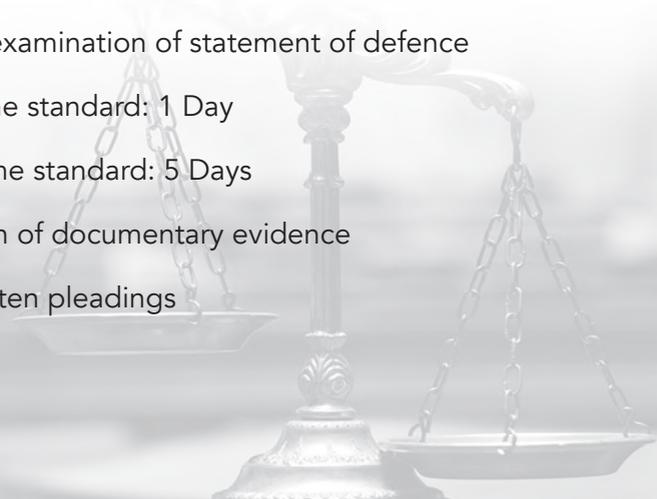
- Examining pleadings
- Time standard required to examine pleading
 - o Minimum threshold of time standard: 1 Day
 - o Maximum threshold of time standard: 5 days
- Issue and service of summonses
 - o Minimum threshold of time standard for service of summonses: 10 Days
 - o Maximum threshold of time standard for service of summonses: 30 Days

B. Pretrial conference and resolving disputes through court-assisted mediation

- Procedures for resolving disputes through court-assisted mediation
- Time standard to resolve disputes through court-assisted mediation
 - o Minimum threshold of time standard: 10 Days
 - o Maximum threshold of time standard: 1 Month

C. Examination statement of defence

- Procedures for examination of statement of defence
- Time standards required for examination of statement of defence
 - o Minimum threshold of time standard: 1 Day
 - o Maximum threshold of time standard: 5 Days
- Procedures for the production of documentary evidence
- Completing exchange of written pleadings



- Time standard required to complete exchange of documentary evidence and written pleadings
 - o Minimum threshold of time standard: 15 Days
 - o Maximum threshold of time standard: 40 Days

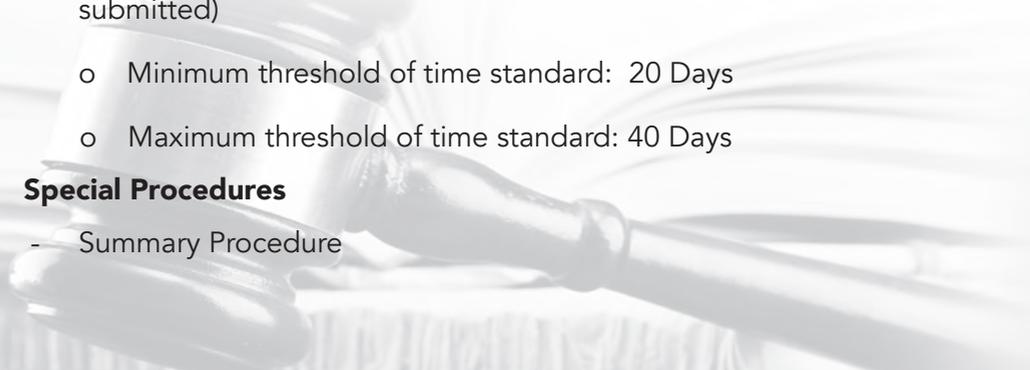
D. Trial

- Nonappearance of parties
- Appearance of parties
- Examining the parties
- Preliminary objections
- Framing the issues
- Hearing the suit and examining witnesses
 - o Rights related to opening of hearing of suit
 - o Procedures for the production of evidence
 - o The court's powers
 - o Failure of witness to give testimony and perjury
- Time standard required to complete hearing of suits and examination of witnesses
 - o Minimum threshold of time standard: 15 Days
 - o Maximum threshold of time standard: 1 Month

E. Judgement

- Time standard required to deliver judgement and give copy of judgement (after pleadings/replies are received and evidences submitted)
 - o Minimum threshold of time standard: 20 Days
 - o Maximum threshold of time standard: 40 Days

F. Special Procedures

- Summary Procedure
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- Accelerated Procedure
- Time standard required to complete disputes through summary and accelerated procedures
 - o Minimum threshold of time standard: 1 Month
 - o Maximum threshold of time standard: 2 Months and 15 Days
- Provisional Remedies
 - o Attachment before judgement (Civil Procedure Code Arts.151-153)
 - o Temporary Injunctions (Civil Procedure Code Arts.154-159)

G. Execution of Judgements

- Application and process for execution
- Circumstance under which execution is enforced
- Examining the judgement debtor
- Mode of execution of judgement
 - o Attachment of property
 - o Investigation of claims and objections
- Order of sale of property attached
- Time standard required to complete execution of judgements
 - o Minimum threshold of time standard: 1 Month
 - o Maximum threshold of time standard: 3 Months

H. Averaged Percentage Aggregate of Time Standards Required to Complete Commercial Proceedings

- Cases pertaining to business organizations
 - o 90% of cases submitted will receive final resolution by commercial bench of the FFIC within 150 Days;
 - o 100% of the cases submitted will receive final resolution by commercial bench of the FFIC within 180 Days;

- Cases pertaining to negotiable instruments
 - o 90% of the cases submitted will receive final resolution by commercial bench of the FFIC within 90 Days;
 - o 100% of the cases submitted will receive final resolution by commercial bench of the FFIC within 120 Days;
- Cases pertaining to contractual claim
 - o 90% of cases submitted will receive final resolution by commercial bench of the FFIC within 150 Days;
 - o 100% of the cases submitted will receive final resolution by commercial bench of the FFIC within 180 Days;
- Cases submitted under summary procedure
 - o 95% of the cases submitted will receive final resolution by commercial bench of the FFIC within 60 Days;
 - o 100% of the cases submitted will receive final resolution by commercial bench of the FFIC within 90 Days;

Part 3: Federal First Instance Court Commercial Bench Adjournment Policy

A. Establishing adjournment policy in relation to cases handled by the FFIC Commercial Benches

- Commercial cases that require priority consideration for resolution
- Principles that regulate the grant of adjournments or continuances in commercial proceedings
- Limited circumstances under which adjournment may be granted
- Mechanisms for regulation of flow of cases by commercial bench judges

B. Functions and responsibilities of stakeholders

- Duties and responsibilities of judicial administration
 - Duties and responsibilities of bench judges
 - Duties and responsibilities of court clerks
 - Duties and responsibilities of parties to pleadings
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Part 4: Sources of Laws Applied by Commercial Benches of the Federal First Instance Court

A. Domestic Laws

- Constitution of the Federal Democratic Republic of Ethiopia Procl. No.1/1995;
- Federal Courts Establishment Proclamation No.25/1995;
- Commercial Code of Ethiopia Proclamation No. 166/1960;
- Civil Code of Ethiopia Proclamation No.165/1960;
- Civil Procedure Code of Ethiopia Proclamation No.52/1965;
- Commercial Registration and License Proclamation No.980/2016;
- Commercial Registration and Licensing Regulation No.392/2017;
- Trade Marks Registration and Protection Proclamation No.501/1998;
- Trade Marks Registration and Protection Regulation No.273/2005;
- Trade Competition and Consumers Protection Proclamation No.813/2013;

B. Commercial case decisions of Federal Cassation Court having status of law:-

- Volume 1, File No.14605; Volume 4, File No.22162; Volume 5, File No.23389
- Volume 6, File No.23628; Volume 7, File No.19258; 23389; 33760; 20232;
- Volume 8, File No.32854; 32571; 39256; Volume 9, File No.33954; 33470; 34945; 31264; 34586; 43315;
- Volume 10, File No.46358; 39608; Volume 12, File No.40173; 48242; 52269; 55077; 52667; 57288; 56480; 57932; 58931; 24435; 505374; 9295;
- Volume 13, File No.54117; 60385; 69603; 63454; 36935; 47004; 71134; 40186; 63200; Volume 14, File No.76394; 80599; Volume 15, File No.79561; 82503; 85009; 83489;
- Volume 16, File No.90434; Volume 17, File No.94278; 95069; Volume

18, File No.94481; 96990; 10062; 102725; 103717;

- Volume 19, File No.99900; 97760; 105628; Volume 21, File No.110149; 123984; 118246; 139932;



