

Civil Jurisdiction of City Court under Federal Courts Establishment Proclamation No 1234/2021

Description

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Introduction

City Courts are formed as per Addis Ababa City Government Revised Charter Proclamation No 361/95 and Dire Dawa City Government Charter Proclamation No 416/96. Article 2 (10) of Federal Court Proclamation No 1234/2021 (hereafter 'the Proclamation') defines City Courts as courts established pursuant to their respective Charters of City Administration of Addis Ababa City and DireDawa City. The new Federal Court Proclamation No 1234/21 has mentioned what it assumed the jurisdictions of the City Courts and broadened the civil jurisdiction of these City Courts. A brief discussion of these civil jurisdiction powers of the City Courts as mentioned by the Proclamation will be discussed here below.

Jurisdiction of City Courts on Civil Matter

The Proclamation provided on Article 5(1)(p) as the jurisdiction of City Courts the following: the issue of name change, disappearance, **conviction**, marital status, custody and guardian evidence or ownership of a house administered by the city administration, or any other dispute, subject to the jurisdiction of the **city association**, additionally **civil disputes of money contracts, and loans between individuals up to Birr 500,000 (Five Hundred Thousand Birr)**(bold added for emphasis). The reading and equivalent interpretation of 'conviction' in the Amharic text is 'Judicial Interdiction' and that of 'association' is 'Edir'. With these in mind a discussion of these jurisdictional matters shall be dealt separately below.

1. Judicial Interdiction Cases

According to Article 351 of the Civil Code, courts have the power to pronounce the interdiction of an insane person where his health and his interests so require or where through permanent disability that he is unable to govern or administer himself or his estate. Consequently, the court shall appoint a guardian and tutor for such a person to carry out legal acts.

The pronouncement of judicial interdiction has previously been exercised by Federal Courts. But now the judicial interdiction pronouncement power is mentioned as falling under City Courts as per Article 5 (1) (p) of the Federal Courts Proclamation No. 1234/2021.

2. Civil Cases related to the 'Edir' in the City

In the past, legal issues that arise related to Edir in the City were handled by Federal Courts. Now in accordance with Article 5 (1) (p) of the Federal Courts Proclamation No. 1234/2021, City Courts are mentioned as having the power to see legal cases concerning 'Edir'.

3. Money, Contract and Loan Disputes between Individuals up to ETB 500,000

This is one of the most important powers of the Federal Court that is handed out to City Courts. According to the Proclamation, the jurisdiction of the City Courts is based on three main issues. First the dispute should be between individuals and not legal persons or businesses. And second the amount of money in dispute has to be up to ETB 500,000 and third the type of cases has to be money related, contracts and loans. Each of these three points shall be briefly discussed for clarity purposes below.

3.1. Disputes Between Individuals Only

Pursuant to Article 2 (9) of Proclamation No. 1234/2021, "person" is defined as a natural or juridical

person. A natural person is an individual. As a result, disputes between natural persons or individuals will be entertained in City Courts given the amount involved is up to ETB 500,000 and the matter is about money, contract or loans. If a case is instituted by an individual against a juridical person, or the dispute is between two juridical persons or between a juridical person and individual, the case cannot be opened and entertained in City courts. In other words, cases involving juridical persons or business organizations will be outside the jurisdiction of City Courts and such cases will continue to be heard in Federal Courts.

However not all disputes involving individuals will go to City Courts. The Proclamation makes some exceptions. The Proclamation gives the power to Federal Courts when the individuals in dispute are permanently residing in different regions, regions and Addis Ababa, regions and Diredawa, Addis Ababa or DireDawa; when the individual plaintiff or defendant is a foreigner and the individuals involve the liability of officials or employees of the federal government in connection with their official responsibilities or duties.

Therefore, not all individual cases are assigned to City Courts. Except for powers maintained on the Proclamation to Federal Courts, City Courts are empowered to see civil cases involving individuals.

3.2. Money, Contract and Loan Disputes

For the City Courts to assume jurisdiction, the type of dispute between individuals has to be based on money, contracts and loans. The terms 'money' 'contract' and 'loan' are broad terms. For example 'money' is defined in Black's Law Dictionary as a general indefinite term for the measure and representative of value; currency; the circulating medium; cash. Similarly 'contracts' are defined as an agreement, upon sufficient consideration, to do or not to do a particular thing. 'Loan' is defined under Black's Law Dictionary as bailment without reward; consisting of the delivery of an article by the owner to another person to be used by the latter gratuitously, and returned either in specie or in kind or a sum of money confided to another.

Thus, the definition of these legal terms are broad and as a result many forms of money or contract or loan types can be brought to the City Courts. However, Proclamation on Article 5(1) a-o and q identify special cases whereby the Federal Courts assume jurisdiction no matter what the dispute type is and the amount of money involved. For instance matters of private international law, enforcement of foreign judgments, matters involving nationality, bankruptcy, cases involving negotiable instruments, cases arising out of patent, literary and artistic ownership rights, cases involving insurance policy, application of habeas corpus and cases involving the property of the federal government.

Hence with those exceptions mentioned in the Proclamation that require such matters to fall under the jurisdiction of Federal Courts, other cases involving individuals concerning money, contract or loan disputes can be presented to City Courts.

3.3. The Dispute Amount Should be up to ETB 500,000

The final basic departure on the jurisdiction of the City Courts is that the disputes between individuals based on money, contract or loan should be up to ETB 500,000 (Five Hundred Thousand Birr). The maximum material jurisdiction of City Courts is ETB 500,000. The maximum is known but what about the minimum? Given the fact that for example Addis Ababa City Government Revised Charter Proclamation No 361/2003 on Article 50 gives Kebele Social Courts a jurisdiction over cases of property and money claimed where the amount involved does not exceed ETB 5000 (Five Thousand), one can conclude that the City Courts material jurisdiction is between ETB 5000 to ETB 500,000. Therefore City Courts' material civil jurisdiction is with disputes involving individuals concerning money, contract or loan which the amount involved is between ETB 5000 and ETB 500,000.

4. Intervening Party In Regional Matters

Now the jurisdiction of the City Courts is clear. What happens when there is an intervening party as per the Civil Procedure Code, for instance, Articles 40-43, 358 and 418? The Proclamation tries to answer

the question. Article 5(2) of the Proclamation provides that regional matter shall continue to be heard by regional court even where a party mentioned under Sub-Article (1)(h) of the Proclamation i.e. persons permanently residing in different regions, regions and Addis Ababa, regions and Diredawa, Addis Ababa or DireDawa or (n) of the Proclamation i.e. insurance companies intervene under any condition in the proceeding or after judgment.

Therefore, the regional courts will continue to hear the cases under the above two circumstances. Their jurisdictional power will not be affected. On the contrary, if the intervening party is for example, a federal government organ or non-insurance business organization, City Courts have to transfer the case to Federal Courts.

Conclusion

The Federal Courts Establishment Proclamation No 1234/2021 has listed what it calls civil jurisdictional powers of the City Courts of Addis Ababa and Dire Dawa as endowed to the City Courts by their respective Charters. The listing by this Proclamation included 'judicial interdiction and Edir' as part of the jurisdiction of the City Courts. The city of Addis Ababa and Dire Dawa, with their respective Charters have stipulated the jurisdiction of their City Courts. In addition to that the Federal Court Establishment Proclamation 1234/2021 transferred its power to City Courts to accept cases involving money, contract and loan between individuals up to ETB 500,000. While enjoying this additional jurisdictional power of City Courts, if an intervening party comes into picture during the proceeding or after judgment, the Proclamation has cleared the situation of what happens to the jurisdiction of City Courts.

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