

BOOK TWO

PROCEEDINGS OF FIRST INSTANCE

CHAPTER I

The Hearing

Article 96

Proceedings to be Public: Exceptions

Court proceedings shall be open to the public, but the Court may, in the interests of:

- a) public decency;
- b) public health;
- c) public order;

order that the proceedings shall be closed to the public.

Article 97

Rules for the Attendance of the Public

1. Entry into, or stay in, a courtroom shall be prohibited to:
 - a) any person who is known as:
 - i) an idler;
 - ii) a vagabond;
 - iii) a person inclined to commit crimes against the person or against property;
 - b) any person who is of unsound mind;
 - c) drunkards;
 - d) persons under the age of 14 years;
 - e) any person who is dressed in an indecent manner.
2. The President of the Court may also:
 - a) order in the interests of:
 - i) good order,
 - ii) morality; or
 - iii) decencyany person to be expelled from the courtroom whose presence he does not deem necessary;
 - b) restrict entry into the courtroom to a limited number of persons.

3. No special places shall be reserved in the courtroom for any particular members of the public.

Article 98

Duties of Persons attending a Hearing

1. Any person who attends a hearing shall observe respect and silence.
2. All persons attending a hearing shall be forbidden to:
 - a) carry weapons or any other object capable of causing injury or harm or annoyance;
 - b) cause any disturbance;
 - c) behave:
 - i) in any way calculated to intimidate;
 - ii) in any way calculated to provoke;
 - iii) in any way contrary to the dignity of the proceedings;
 - d) cause any breach of the peace, or
 - e) express in any way one's feelings or opinions.

Article 99

Control of the Hearing

The President of the Court shall have the power to maintain order at the hearing. Anything which the President prescribes for the proper maintenance of order in the Court shall be obeyed forthwith.

Article 100

Accused in Custody

An accused who was held in custody before trial shall attend the hearings without restraint, unless restrictive measures are necessary to prevent escape or violence.

Article 101

Adjournment of Trial

1. A Court may order the adjournment of the opening or prosecution of a trial, where it considers it necessary or proper to do so due to the absence of witnesses or to other reasonable cause.
2. If the accused is in custody, the adjournment shall not exceed 7 days.

Article 102

Compliance with the Rules of this Chapter

The provisions of this Chapter shall be complied with, insofar as applicable, at every stage of the proceedings.

CHAPTER II

The Opening of the Trial

Section I

CHARGING THE ACCUSED

Article 103

The Opening of the Trial and the Charge against the Accused

1. The President of a Court:
 - a) having noted the presence of the accused and of the Attorney General, and
 - b) there having been appointed a defence Counsel for the accused when so required in accordance with the provisions of sub-paragraph (b) of paragraph 2 of Article 14 of the Law on the Organization of the Judiciary, when the accused, for whatever cause, has no defence Counsel,

shall read the charge to the accused.

2. When the charge has been read, the President of the Court shall:
 - a) explain to the accused, in a clear and comprehensible manner, the substance of each count of the charge;
 - b) inform the accused of the three answers which he may offer to each count in accordance with Article 104, briefly pointing out the meaning and consequences of each answer;

- c) ask the accused whether, in respect of each count he wishes:
 - i) to raise any objection under the terms of Article 105;
 - ii) to plead guilty;
 - iii) to plead not guilty.

3. If there is more than one accused, the provisions of the preceding paragraph shall be observed separately with regard to each accused.

Article 104

The Plea of the Accused

1. An accused may, in respect of each count:
 - a) raise any of the objections listed in Article 105;
 - b) plead guilty;
 - c) plead not guilty.

A refusal to plead shall be considered as a plea of not guilty.

2. Except when a plea of guilty is entered, defence Counsel may enter a plea on behalf of the accused.

Section II

OBJECTIONS TO THE CHARGE

Article 105

The Nature of the Objections

1. The accused, in accordance with the provisions of sub-paragraph a) of paragraph 1 of Article 104, may object to each count on the grounds that:

- a) no proceedings can be brought against him, since:
 - i) one of the circumstances included in sub-paragraphs c), d (ii), d (iii) d (iv) and e) of paragraph 2 of Article 70, is present in his case;
 - ii) when, in the case of an offence that can be prosecuted only on the complaint of an injured party, the right to make a complaint cannot be exercised under the terms of paragraph 2 of Article 21;

- b) the Court is not competent:
 - i) because it lacks jurisdiction over the subject-matter, in accordance with Articles 4 and 7;
 - ii) because it lacks territorial jurisdiction, in accordance with Articles 5 and 8.
- c) another charge is pending, on the same set of facts, before another Court;
- d) a member of the Bench is disqualified from taking part in the proceedings under the terms of Article 10;
- e) the charge does not comply, in form or content, with the requirements of this Code.

2. Furthermore, the accused may raise any other objection and submit any other request or petition which he deems useful for purposes of his defence.

Article 106

Decision of the Court concerning Objections

- 1. The Court shall decide, with respect to each objection:
 - a) after having made any enquiry which it shall deem necessary or desirable with respect to the nature of each objection, and
 - b) having heard the opinion of the Attorney General.
- 2. If an objection raised in accordance with paragraph 1 of Article 105 is upheld, the Court shall:
 - a) in the cases referred to in sub-paragraph (a) of paragraph 1 of Article 105:
 - i) order that the proceedings against the accused be terminated, giving the reasons for such decision;
 - ii) order the applicable consequential measures, as provided in Article 76, and ordering, in those cases provided for in the Penal Code, the application of security measures.

Such decision to terminate the proceedings shall have the effect of a judgment for the purpose of paragraph 3 of Article 13, and the provisions of paragraph 2 of Article 77 shall apply to such decision.

- b) in the cases provided for in sub-paragraph b) of Article 105, order that the case be transferred to the competent Court;
- c) in the case provided for in sub-paragraph c) of Article 105:
 - i) if the Court is satisfied that the other Court is competent, order that the case be transferred to the competent Court;
 - ii) if the Court is satisfied that it is competent, raise the question of council of jurisdiction in accordance with Article 9;
- d) in the case provided for in sub-paragraph d) of Article 105, refer the matter to a higher Court so that it may proceed in accordance with paragraphs 2 and 3 of Article 11;
- e) in the case provided for in sub-paragraph e) of Article 105, order the Attorney General to amend the charge, so that it complies with the law, and, if necessary, grant the Attorney General a brief period of time for this purpose.

3. In every other case, the Court shall take such action regarding the objection as it deems necessary and proper.

Article 107

Measures taken by the Court on its own Motion

1. In the cases provided for in Article 105, the Court may also on its own motion in accordance with the provisions of Article 106, having heard the Attorney General and the accused.

2. When the death of an accused has been ascertained, the Court shall on its own motion order that proceedings be terminated. As far as applicable, the provisions of Article 77 shall be observed.

3. The provisions of this Article, insofar as applicable, shall be observed at all stages of the proceedings.

Section III

PLEA OF GUILTY

Article 108

Consequences of a Plea of Guilty

1. When an accused pleads guilty to a charge, in accordance with the provisions of sub-paragraph b) of paragraph 1 of Article 104, the Court may:

- a) if the maximum punishment for an offence is imprisonment for less than 10 years or a lesser punishment:
 - i) immediately pronounce judgment of conviction in accordance with Chapter IV of this Book, on the basis of the plea of guilty;
 - ii) order the trial to proceed in accordance with Chapter III of this Book, if it has reason to believe that the plea of guilty does not correspond to the truth;
- b) if the maximum punishment for an offence is imprisonment for 10 years or more or a more serious punishment, order the trial to proceed in accordance with Chapter III of this Book.

2. A plea of guilty may be withdrawn by an accused at any moment of the proceedings in a Court of first instance before judgment is given and a plea of not guilty entered instead.

In such case the provisions of Section IV of this Chapter shall be observed.

Section IV

PLEA OF NOT GUILTY

Article 109

Effects of a Plea of Not Guilty

1. When the accused pleads not guilty, in accordance with the provisions of sub-paragraph c) of paragraph 1 of Article 104, the Court shall proceed in accordance with the provisions of Chapter III of this Book.

2. With the consent of the Court, a plea of not guilty may be withdrawn by an accused at any stage of the proceedings in a Court of first instance before judgment is given and a plea of guilty entered instead.

In such case, the provisions of Section III of this Chapter shall be observed.

Section V

THE BURDEN OF PROOF ALTERATION OR WITHDRAWAL OF THE CHARGE

Article 110

Burden of Proof

In the cases provided for in:

- a) sub-paragraph a) (ii) of paragraph 1 of Article 108;
- b) sub-paragraph b) of paragraph 1 of Article 108;
- c) paragraph 1 of Article 109;

the Attorney General shall have the burden of proof of establishing that:

- i) a crime was committed,
- ii) the accused committed it.

Article 111

Alteration of the Charge

1. With the consent of the Court, the Attorney General may alter the charge, in whole or in part, at any stage in the proceedings before a Court of first instance before his final summation.

2. In case of an alteration in the charge, the provisions of Article 103, insofar as applicable, shall be observed.

3. If an alteration to the charge takes place after the process of taking evidence at the trial has begun, the Attorney General and the accused may:

- a) re-examine, in the light of such alteration, any witness already examined;
- b) produce fresh evidence with regard to the alteration.

In every case of alteration of the charge, the accused shall, whenever he so requests, be given reasonable time in which to prepare his defence.

Article 112

Withdrawal of the Charge

1. With the consent of the Court, the Attorney General may withdraw the charge, in whole or in part, at any moment of the proceedings in the Court of first instance before judgment is given.

2. In the cases provided for in the previous paragraph, the Court shall order, giving the reasons therefor, that the proceedings be terminated for the offence in respect of which the charge has been withdrawn, and shall order any measures that may be required by Article 76.

3. An order that proceedings shall be terminated, given in accordance with this Article, shall be equivalent to a judgment for the purposes of paragraph 3 of Article 13.

CHAPTER III

Evidence and Summation

Article 113

Applicable Provisions

Except as otherwise provided in this Chapter, the presentation and hearing of evidence shall be governed by the provisions of Book III of this Code.

Article 114

Action of the Attorney General

In the cases provided for in Article 110, the Attorney General shall initiate the hearing of evidence, stating briefly:

- a) the nature and details of the offence charged;
- b) the evidence against the accused.

The Court shall then hear the case for the prosecution.

Article 115

Order that Proceedings be Terminated for Lack of Evidence

1. When the case for the prosecution is concluded, the Court, if it considers that the evidence adduced, even if such evidence is uncontested, is insufficient to prove the guilt of the accused, shall, either at the request of the accused or on its own motion and having beforehand asked the Attorney General whether he intends to withdraw the charge in accordance with Article 112:

- a) order, giving the reasons therefor, that the proceedings against the accused be terminated with respect to the offence for which guilt has not been proved, and
- b) order any measures that may be required by Article 76.

2. An order that proceedings be terminated, given in accordance with this Article, shall be equivalent to a judgment for the purposes of paragraph 3 of Article 13.

Article 116

Action of the Defence

1. Except in such cases as provided for in Article 115, the President of the Court shall inform the accused that he may:

- a) produce evidence in his defence;
- b) make a statement:
 - i) on oath;
 - ii) not on oath;

in answer to the charge.

2. After the provisions of the previous paragraph have been complied with, the accused may take up his defence briefly stating:

- a) the general lines of his defence;
- b) the nature of the evidence he proposes to produce in his defence.

The Court shall hear and examine the evidence for the defence.

3. If there is more than one accused, the Court shall establish the order in which each accused shall proceed with his defence.

Article 117

Rebuttal of Evidence

1. If the accused produces evidence that the Attorney General could not have been reasonably expected to foresee, the Court may allow the Attorney General to produce evidence in rebuttal.

2. In such case as provided for in the preceding paragraph, the accused may, after such evidence in rebuttal has been produced by the Attorney General, produce further evidence in his own defence.

Article 118

Evidence ordered by the Court on its own Motion

A Court may order, on its own motion, that evidence be produced which it considers proper and useful in order to ascertain the truth.

Article 119

Summations and Closure of the Hearing

1. After all the evidence has been produced:
 - a) the Attorney General shall sum up his case, making such comments and observations as he considers necessary and expressing his opinion on matters of fact and of law, which in his view the Court should accept;
 - b) after the summation by the Attorney General, the defence shall sum up its case. If the accused is represented by more than one defence Counsel, each such Counsel shall confine his summation to particular arguments, objections or requests which have not been raised by other Counsels for the defence.

2. If there is more than one accused, the Court shall determine the order in which they shall address the Court.

3. Without the Court's consent, no further statement shall be allowed. Should he so request, the accused shall always be allowed to have the last word.

4. If the Attorney General, the accused or defence Counsel should abuse the right to address the Court, by introducing unnecessarily long speeches, irrelevancies or in any other way, and two successive warnings about this remain unheeded, the President of the Court shall withdraw the right to continue such address from any person so abusing such right.

5. The hearing shall be considered closed when the summations to the Court are finished.

CHAPTER IV

The Judgment

Article 120

Deliberation of the Court and Pronouncement of the Judgment

1. The members of the Court who have participated in the hearing shall deliberate, in accordance with the provisions of paragraph 1 of Article 86:

- a) immediately, or
- b) as soon as possible

after the closing of the hearing.

2. In its deliberations, the Court shall decide:

- a) preliminary questions;
- b) questions of fact and of law regarding the charge, and
- c) if necessary, questions regarding the application of the punishment and security measures.

3. The President of the Court, or another member of the Bench, shall, immediately after the deliberation, read the part of the judgment relating to the question of guilt and the sentence, if any:

- a) in open Court,
- b) in the presence:
 - i) of the accused, and
 - ii) of the Attorney General.

If the accused is acquitted or sentenced to fine only, the presence of only his Counsel or a representative may be considered sufficient.

4. The reading of the part of the judgment referred to in paragraph 3 shall be equivalent to the notification of the judgment to all the parties present or represented.

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Article 121

Form of Judgment

1. A judgment shall be prepared by a President of a Court in full and shall contain:
 - a) a preamble in the name of the Somali people and the name of the Court pronouncing the judgment;
 - b) personal details of the accused or anything else which may identify him;
 - c) a statement of the facts and circumstances which form the subject of the charge;
 - d) a concise statement of the factual and legal grounds on which the judgment is based;
 - e) reference to the articles of law on which the judgment is based;
 - f) the acquittal or conviction of the accused in respect of each offence charged;
 - g) the punishment imposed in respect of each offence of which the accused has been found guilty together with any security measures which may be ordered;
 - h) the date and the signature of the President of the Court and other members of the Bench.

2. A judgment shall be null and void:
 - a) if no grounds are given, or if they are contradictory;
 - b) if the part of the judgment relating to the question of guilt and the sentence, if any, is lacking or incomplete in any of its essential elements.

Article 122

Acquittal of the Accused

When a Court finds an accused not guilty of the charge brought against him, it shall:

- a) pronounce judgment of acquittal; and
- b) order any measures that may be required by Article 76.

Article 123

Conviction of the Accused

1. When a Court finds an accused guilty of the charge brought against him, the President of the Court shall:
 - a) state in open Court, in the form laid down in paragraph 3 of Article 120, that the accused has been found guilty, and
 - b) ask the Attorney General whether the accused has any previous convictions recorded against him.
2. If there are previous convictions recorded against the accused, the Attorney General shall prove such convictions and the accused may contest them.
3. The Court shall then:
 - a) pronounce sentence, except in the cases provided for in Article 126;
 - b) order the application of security measures in the cases provided for in the Penal Code;
 - c) decide whether to grant any of the benefits provided for in Articles 125 and 127;
 - d) make any other order that may be required.
4. The President of the Court shall:
 - a) read the sentence in the form laid down in paragraph 3 of Article 120, and
 - b) inform the convicted person of his right to appeal against the judgment.

Article 124

Relationship between the Judgment and the Charge

1. A Court may find an accused, on the same set of facts, guilty of an offence different from that contained in the original charge, and award a corresponding punishment, even though such punishment may be greater than that applicable to the offence originally charged, and apply security measures, provided that it has jurisdiction with respect to the offence of which the accused has been found guilty. Otherwise, the Court shall proceed in accordance with the provisions of sub-paragraph c) (i) of paragraph 2 of Article 106.

2. When it is found, during the course of the trial, that the offence of which the accused may be found guilty is different from the offence charged, if:

- a) the offence of which the accused is charged consists of a number of acts or omissions; and
- b) one or more of such acts or omissions constitute a lesser offence or only an attempt to commit the offence charged, and
- c) only such lesser offence or attempt is proved,

the Court may find the accused guilty of the lesser offence or of the attempt, even if these were not included in the charge.

3. Except for the case provided for in the preceding paragraph, when it is evident that the offence of which the accused is to be found guilty is different from the offence charged, the Court:

- a) if the offence falls within its jurisdiction shall:
 - i) order the Attorney General to amend the charge; or
 - ii) order a fresh hearing to the extent necessary to prevent prejudice to the rights of the accused, allowing such accused, whenever he so requests, reasonable time to prepare his defence;
- b) otherwise, shall proceed as provided for in subparagraph c) (i) of paragraph 2 of Article 106.

Article 125

Fine in Place of Imprisonment

1. When a Court convicts a person for a crime committed *with culpa* and imposes a sentence of imprisonment for not more than one year, whether with or without fine, it may order, in accordance with the provisions of paragraphs 3 and 4 of Article 109 of the Penal Code, and bearing in mind the circumstances provided for in Article 110 of the Penal Code, that the imprisonment be converted into the corresponding fine, in accordance with the rate of conversion laid down in Article 112 of the Penal Code.

2. The benefit provided for in the preceding paragraph shall only be exercised if it is so requested by the convicted person before the Court decides on the punishment in accordance with paragraph 3 of Article 123.

3. The benefit of conversion shall be automatically revoked if the convicted person, within the time-limit set by the Court:

- a) fails to pay the fine;
- b) fails to fulfil the civil liabilities to an injured person arising from the offence.

Article 126

Judicial Pardon

1. If for offences committed by persons:

- a) of less than 18 years of age, or
- b) of over 70 years of age,

the law provides a maximum punishment of not more than 3 years, either with or without fine, or a less serious punishment, the Court may, in accordance with the provisions of Article 147 of the Penal Code:

- i) after finding the convicted person guilty, inflict no punishment, and
- ii) declare that the offence shall be extinguished by the grant of a judicial pardon,

when, having regard to the circumstances laid down in Article 110 of the Penal Code, it considers that such person will not commit any further offences.

2. A judicial pardon cannot be given more than once.

Article 127

Suspended Sentence

1. In passing sentence:

- a) to a term of imprisonment not exceeding 6 months, or
- b) to a fine which, with or without imprisonment, and on the basis of the conversion rate provided for in Article 112 of the Penal Code, would be equivalent to a term of imprisonment not exceeding 6 months,

against an accused who is not a recidivist, a Court may order, in accordance with Article 150 of the Penal Code, that the execution of such sentence be suspended for a period of 5 years, when, having regard to the provisions of Article 110 of the Penal Code, it considers that such person will not commit another offence.

2. A suspended sentence shall be revoked automatically if the convicted person:

- a) within 5 years of the conviction commits:
 - i) a crime, or
 - ii) a contravention of the same kind as that for which he was convicted, or
- b) fails to fulfil within the time-limit fixed by the Court any of the civil liabilities towards the injured person arising from the offence.

3. The punishment shall be extinguished if, within the period referred to in the preceding paragraph, no cause for revocation of the suspended sentence arises.

Article 128

Rules common to Judicial Pardon and Suspended Sentence

When a judicial pardon has been granted in accordance with Article 126, or suspended sentence has been approved in accordance with Article 127, the Court may order that the convicted person:

- a) take up some fixed employment;
- b) undergo any necessary medical or psychiatric treatment;
- c) refrain from frequenting certain places and consort-ing with certain persons;
- d) possess or carry no firearms or other dangerous weapon.

CHAPTER V

Procedure for Crimes committed during Trial

Article 129

Cases in which the Court shall Proceed immediately

1. When, during a hearing, a person commits an offence in respect of which proceedings are initiated by the State and for which the law provides a punishment of imprisonment, or a more serious penalty, the President of the Court shall:

- a) cause a statement of the offence to be recorded,
 - b) order the immediate arrest of the offender.
2. If:
- a) the punishment provided by law for the offence committed during the hearing is not in excess of the jurisdiction of the Court, and
 - b) such Court is the Penal Section of the District Court or a Section of a Regional Court,

the Attorney General shall immediately frame a charge and produce it to the Court. The Court, having suspended the trial in progress, or immediately after pronouncing judgment in that trial, shall begin the hearing of the new offence.

Otherwise, the Attorney General shall immediately proceed in accordance with the provisions of sub-paragraph a) of paragraph 1 of Article 70.

CHAPTER VI

Decision of the Request of an injured Party

Article 130

Admissibility of a Claim by the injured Party

1. When the accused person has been found guilty in accordance with Article 123, the Court, if the injured party has applied to it for civil damages against the accused in accordance with paragraphs 2 and 3 of Article 14, shall decide upon such claim, unless it declares the claim to be inadmissible in accordance with the following paragraph.

2. A claim for civil damages from an injured party shall be declared inadmissible if:

- a) the claim:
 - i) was not made in accordance with the requirement of paragraph 3 of Article 14;
 - ii) was made by a person not legally entitled to do so in accordance with civil law;
 - iii) was made against someone incapable of being sued in a civil proceeding;

- b) the injured party:
 - i) has started proceedings in a Civil Court for the recovery of damages deriving from the offence;
 - ii) has effected a settlement with the accused with respect to the damages;
- c) the amount of damages claimed is in excess of the maximum amount which may be awarded by the civil section of the Court in which the case is being tried;
- d) the application cannot be expeditiously heard due to the necessity of hearing a substantial amount of fresh evidence, or for any other reason.

In such cases the Court shall declare the claim for damages to be inadmissible and shall advise the injured party that the claim may be brought in a Civil Court.

Article 131

Court Decisions regarding Claims for Damages

1. The Court, having considered the evidence of the injured party and the accused concerning the claim for damages, shall then proceed to deliver judgment in the matter.

2. Except as otherwise provided in this Code, the provisions of civil law, including those pertaining to execution, shall be observed in this matter insofar as applicable.

CHAPTER VII

Final Provisions

Article 132

Record of Hearings

1. The President of a Court shall arrange for the preparation of a complete record of every hearing, if possible by means of a stenographer. Such record shall contain:

- a) the place, the year, the month, the day in which the hearing has taken place, and the time of the opening and closing of the hearing; reference to any suspension of the hearing and the time at which it was resumed;

- b) the names of the members of the Court;
- c) personal details of the accused, and any other information that may identify him; personal details of the injured party; the name of the representative of the Attorney General and the names of all other representatives and Counsel;
- d) personal details of witnesses and interpreters, and a reference to their taking the oath;
- e) orders and decisions of the Court and the grounds thereof;
- f) objections, requests and applications made by the parties;
- g) a description of exhibits laid before the Court;
- h) a record of statements made by the accused;
- i) a record of statements made by witnesses;
- j) a record of anything else which may be specially prescribed by law, or anything which the President of the Court, on application by one of the parties or on his own motion, orders to be included.

2. The record of the hearing, unless the President of the Court makes it personally, shall be made by a Court Registrar, or by a Police Officer so ordered by the President of the Court. If the record was taken down in shorthand, it shall be transposed by the stenographer who recorded it not later than the day following the compilation of the stenographic record.

3. Unless the President of the Court orders that testimony be recorded verbatim, it shall be recorded in narrative form and be divided into:

- a) examination;
- b) cross-examination;
- c) re-examination,

showing the beginning and the end of each of these three parts.

4. Except as otherwise provided by law, the recording of the evidence shall take place in the presence of the accused.

5. After a witness's evidence has been so recorded, the record shall be read, in the presence of the accused, to the person who gave the evidence, and, if necessary, it shall be corrected.

6. After a witness's evidence has been recorded, the President of the Court may order the inclusion in the record of any remarks which he deems necessary, concerning the behaviour of the witness while he was giving evidence and concerning the correction made in accordance with the preceding paragraph.

Article 133

Court Case File

In every proceeding, the Registrar shall complete a Court case file containing the original of the following records arranged in chronological order:

- a) every warrant, order, judgment or any other measure issued with respect to the accused, other parties, guarantors and witnesses;
- b) the charge and any amendments made to it;
- c) the record of the hearings;
- d) the record of all adjournments, showing the duration and the reasons thereof;
- e) a note that the accused was informed of his right to appeal;
- f) a record of the Court's decision regarding any claim for damages made by the injured party;
- g) any statement of intention to appeal and the grounds thereof.

Article 134

Copies of the Judgment and of the Court Case File

1. On the application of the accused, a copy of the judgment shall be given to him without delay and free of cost.
2. A complete copy of the Court case file shall be given to the accused upon payment of the costs and fees fixed by decree of the Minister of Grace and Justice, provided that the trial or the higher Court may order that a complete copy of the Court case file be given to the accused without payment if the Court considers that such may be necessary for an appeal.