REPUBLIC OF SERBIA
Ministry of Justice

CIVIL PROCEDURE LAW

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CIVIL PROCEDURE LAW

Part One

GENERAL PROVISIONS

Chapter 1

BASIC PROVISIONS

Article 1

This Law shall govern the rules of proceedings for providing legal protection of the court applied in acting and adjudicating upon civil law disputes arising from personal, family, labour, business, property and other civil legal relations, with and exception of the disputes in respect of which other type of proceedings is provided pursuant to the specific law.

Article 2

Parties are entitled to lawful, equal and fair protection of their rights.

The court shall not decline to rule on a claim within its jurisdiction.

Article 3

In civil actions the court shall rule on the extent of claims filed in the proceedings.

Parties may freely dispose with claims filed in the course of the proceedings. Parties may waive their claims, admit the claim of their opposing party, or reach a settlement.

The Court shall not allow disposals of parties which are in contravention to compulsory regulations, public order and rules of ethics.

Article 4

The Court shall, as a rule, adjudicate a claim upon the conduct of oral, direct and public hearing, unless otherwise stipulated by this Law.

The court shall close the proceedings to the public only if stipulated by the law.

Article 5

The court shall afford each party an opportunity to make declarations pertaining to claims, proposals and allegations of the other party.

The court may rule on a civil claim where one of the litigants was not afforded opportunity to declare only when it is so stipulated by this Law.

Article 6

Civil proceedings are officially conducted in Serbian language, using Cyrillic script. Other languages and scripts are officially used pursuant to the law.
The courts in regions where the citizens of particular national minority live shall officially use languages and scripts of such minority, pursuant to the Constitution and this Law.

The parties and other participants to the proceedings are entitled to use their own language and script, pursuant to provisions of this Law.

Article 7

The parties are required to present all the facts on which they base their claims and to propose evidence in support of such facts.

The court shall ascertain all the facts upon which its decision on legitimacy of the claim is relied exclusively on the basis of presented and derived evidence.

The court is exceptionally entitled to ascertain facts and derive evidence not presented by the parties if the hearing and presentation of evidence indicate that parties are disposing claims they are not allowed to (Article 3, paragraph 3), or if stipulated so by other legal provisions.

The court shall not base its ruling on facts in respect of which the parties were not afforded the opportunity to declare, unless otherwise provided by the law.

Article 8

The court shall decide on the facts established as proven, on the basis of conscientious and meticulous assessment of each particular piece and all the evidence together, as well as to the outcome of the whole proceedings.

Article 9

The parties shall conscientiously exercise the rights enacted by this Law.

The parties, interveners and their legal representatives shall speak the truth before the court.

The court shall prevent any abuse of the rights of the parties to the proceedings.

Article 10

The parties are entitled to have their claims and proposals ruled by the court within reasonable time.

It is incumbent upon the court to conduct the proceedings without delay and with minimum expenses.

Article 11

Prior to and pending the proceedings, the parties and the court shall endeavour to settle civil disputes through mediation or in other amicable manner.

Article 12

When the court's adjudication rests on prior deliberation of the issue whether a particular right or legal relationship exists, on which no court or other competent authority has rendered a decision (interlocutory issue), the court itself may rule on such issue unless otherwise stipulated by specific legal provisions.

The court's ruling on interlocutory issue shall have legal effect only in the litigation where such issue has been resolved.

Article 13

The court shall be bound in civil proceedings, with respect to the existence of a criminal offence and liability of the perpetrator, by an effective judgement of the criminal court pronouncing the accused guilty.

Article 14

If the law does not provide a particular form for certain actions, the parties may undertake procedural motions in writing outside of the hearing or orally during the hearing.

Chapter 2

JURISDICTION AND COMPOSITION OF THE COURT

1. General Provisions

Article 15

The court shall *ex officio* decide, immediately upon receiving the complaint, on its jurisdiction and its due composition, on the basis of the claimed allegations and the facts known to the court.

If circumstances upon which the jurisdiction of the court is based change in the course of the proceedings, or if the plaintiff reduces the claim, the court competent at the time of filing the complaint shall resume its jurisdiction albeit another court of equal competence should assume jurisdiction due to these changes.

Article 16

In the course of the proceedings the court shall *ex officio* ascertain whether the deliberation in the particular litigation falls under judicial competence.

When, in the course of the proceedings, the court determines that competence for adjudication in the action lies not with the court's jurisdiction but another national authority, it shall declare itself incompetent, revoke all actions undertaken in the proceedings and reject the complaint.

When the court determines in the course of the proceedings that a court of the Republic of Serbia (hereinafter referred to as national court) does not have jurisdiction in the action, it shall *ex officio* declare itself lacking jurisdiction, revoke all actions undertaken in the proceedings and reject the complaint, except when jurisdiction of a national court lays upon a consent of the respondent, and such consent has been awarded.

Article 17

In the course of the proceedings, the court shall *ex officio* take due care upon its subject - matter jurisdiction.

If preliminary hearing has already been held, or if it has not been held due to respondents attempt to argue the merits of the case at the trial hearing, a higher court of first instance shall not, either *ex officio* or upon objection, declare its lack of subject matter jurisdiction for all cases which fall within the jurisdiction of the equal type of lower court of first instance.

No appeal is permitted against a ruling of a higher court of first instance by which it declares to have subject matter jurisdiction, or against and a ruling of such court by which it declares lack of subject matter jurisdiction and orders referral of the case to a lower court of the same type.

Article 18

When a chamber of judges or the president of a chamber at a preliminary hearing, either *ex officio* or upon the motions of the parties in the course the proceedings, determine that the case should be referred to a single judge of the same court, the proceedings shall resume before a single judge upon the effectiveness of the former ruling, and, if possible, before the president of a particular chamber, who shall act as a single judge. A single judge shall be bound with the effective decision by which a case is referred to his or her jurisdiction.

In cases specified in paragraph 1 of this Article the chamber of judges may rule, pursuant to the status of the proceedings, not to refer the case to a single judge and to conduct the

proceedings itself. No appeal shall be permitted against this ruling of the chamber of judges.

Provisions of paragraphs 1 and 2 of this Article shall apply accordingly also when circumstances of the case change in the course of the proceedings before a chamber judges, or if the plaintiff reduces the claim, so that the dispute should be adjudicated by a single judge.

If a chamber has ruled in the dispute that should have been adjudicated by a single judge, this decision can not be contested on grounds that the decision has not been passed by a single judge.

When a single judge in the course of the proceedings finds, either *ex officio* or upon an objection of the parties, that the adjudication falls under the jurisdiction of a chamber of judges of the same court, the proceedings shall resume before the chamber. No appeal is permitted against this ruling of a single judge.

Article 19

The court shall render a ruling to discontinue the proceedings if it determines, prior to passing of the decision on the merits of the case, that the proceedings should be conducted pursuant to the rules governing non contentious proceedings.

Upon the effectiveness of a ruling, the proceedings shall be resumed pursuant to the rules of non contentious proceedings before a court having jurisdiction.

Article 20

The court may, with regard to an objection of the respondent, declare itself lacking territorial jurisdiction if the objection was filed not later than at the preliminary hearing or, if such hearing had not been held, until the respondent commences to argue the merits of the case at the first trial hearing.

The court may *ex officio* declare itself lacking territorial jurisdiction only if an exclusive territorial jurisdiction of another court exists, not later than at the preliminary hearing or, if such hearing had not been held, until the respondent commences to argue the merits of the case at the first trial hearing.

Article 21

After the ruling on lack of jurisdiction becomes effective (Articles 17 and 20) the court shall refer the case to a court having jurisdiction. Prior to referring the case to a competent court, the court shall, if necessary, request information from the plaintiff.

The court having jurisdiction to which the case has been referred shall resume with the proceedings as if the proceedings had been instituted with that court.

If the decision on lack of jurisdiction has been passed at the trial hearing, the court to which the case has been referred shall duly schedule the trial hearing and shall proceed as

if the hearing is held before an altered chamber (Article 317). If the decision on lack of jurisdiction has been passed at the preliminary hearing, a new preliminary hearing shall not be scheduled if the president of the chamber deems this unnecessary with regard to actions undertaken at the earlier preliminary hearing.

Article 22

If the court to which the case was referred to as the competent court, considers that jurisdiction lies with the court which had referred the case to it, or with another court, it shall refer the case to the court which is to resolve this conflict of jurisdiction, unless it finds that the case was referred to it due to an manifest oversight, instead of being referred to another court, in which case it shall refer the case to the appropriate court and inform the court which had referred the case to it accordingly.

When, upon an appeal against the decision of the court of first instance by which this court had declared its lack of territorial jurisdiction, a decision is rendered by the court of second instance, this decision shall, in respect to jurisdiction, also be binding upon the court to which the case was referred, if the court of second instance, which had rendered this decision has jurisdiction to resolve conflict of jurisdiction between these courts.

The ruling of the court of second instance on lack of subject matter jurisdiction of the first instance court shall be binding upon each court to which the case shall be subsequently referred, if the court of second instance has jurisdiction to resolve the conflict of jurisdiction between these courts.

Article 23

Conflict of jurisdiction between courts of the same type shall be resolved by a higher court, immediately superior to both these courts.

Conflict of jurisdiction between courts of different types on the territory of the Republic of Serbia shall be resolved by the Supreme Court of Cassation.

Article 24

Conflict of jurisdiction may be resolved even if the parties have not previously declared as to the jurisdiction.

Prior to the resolution of the conflict of jurisdiction, the court to which the case is referred shall undertake actions in the proceedings in respect of which a risk of delay exists.

No appeal shall be permitted against the ruling on conflict of jurisdiction.

Article 25

The court shall undertake actions within its territorial jurisdiction. However, if a risk of delay exists, the court shall also undertake particular actions on the territory of the adjacent court, which shall be informed with regard to these actions accordingly.

Article 26

In respect of jurisdiction of national courts in adjudicating matters pertaining to foreign citizens enjoying immunity in the Republic of Serbia, and to foreign countries and international organisations, the rules of international law shall apply.

In case of any doubt regarding the existence and scope of immunity, due interpretation shall be provided by the Ministry of justice.

2. Jurisdiction of courts in civil actions with international element

Article 27

A national court shall have jurisdiction to adjudicate a dispute when such jurisdiction for civil actions with an international element is expressly enacted in the law or an international agreement. If the law or international agreement does not contain any express provision on the jurisdiction of a national court over specific type of litigation, a national court shall have jurisdiction to adjudicate such types of dispute, when its jurisdiction is entailed from the provisions of the law pertaining to territorial jurisdiction of the national court.

3. Subject-matter Jurisdiction

Article 28

The courts shall adjudicate litigations within the limits of their subject matter jurisdiction pursuant to the law.

Determination of the value of the subject of litigation

Article 29

When the value of the subject of litigation is relevant for determining subject matter jurisdiction, composition of the court, the right to request a review on points of law, and in other cases provided for by this Law, only the value of the principal claim shall be assumed as the value of the subject of litigation.

Interests, contractual penalties and other secondary claims, as well as litigation costs shall not be considered unless comprising the principal claim.

Article 30

If the claim relates to future recurrent payments, the value of the subject of litigation shall be calculated to reflect their sum, nevertheless, it shall not exceed the amount equal to their sum for a period of five years.

Article 31

If a complaint against the same respondent includes several claims arising from the same factual and legal grounds, the value of the subject of litigation is determined in respect to the sum of amounts of all claims.

If claims in the complaint arise from a variety of grounds, or if claimed against several respondents, the jurisdiction shall be determined pursuant to the value of each individual claim.

Article 32

If the claim demands establishment of property rights, or other real rights on property, determination of nullity, annulment or termination of the contract which has a real property as a subject, the value of the subject of litigation shall be determined in respect to the market value of the real property or its integral part.

If litigation pertains to existence of lease, the value shall be calculated in relation to one-year lease, unless the lease contract is concluded for a shorter period of time.

Article 33

If the complaint claims only the provision of security for a claim, or putting a lien, the amount in the dispute shall be determined in respect to the amount of the claim to be secured. However, if the value of the collateral is lower than the claim to be secured, the value of the subject of litigation shall be the value of the collateral.

Article 34

If the claim does not relate to a pecuniary amount, and the plaintiff declares in the complaint that he or she, instead of satisfaction of this claim, consents to receiving a particular pecuniary amount, the latter shall be deemed as the value of the subject of litigation.

In other cases, when the claim does not refer to a pecuniary amount, the value of the subject of litigation which the plaintiff stated in the complaint shall be relevant.

If in cases referred to in paragraph 2 of this Article, the plaintiff has manifestly set the value of the subject of the litigation too high or too low, the court shall, not later than at the preliminary hearing, or if one was not held then at the trial hearing prior to commencing hearing on the merits of the claim, expeditiously and in the appropriate manner, verify the accuracy of the declared value.

4. Composition of the Court

Article 35

In civil proceedings the courts shall adjudicate matters in chambers of judges or in a general session.

Cases adjudicated by a single judge are determined pursuant to this Law.

The president of the chamber may undertake only those procedural actions and render only those decisions in respect of which is authorised by this Law.

Unless otherwise stipulated by this Law, a single judge adjudicating matters under his or her jurisdiction shall have all rights and duties held by the president of the chamber and the chamber.

Article 36

Civil actions in the first instance shall be adjudicated by a chamber of judges or a single judge.

When proceeding upon a case as the court of first instance, the chamber shall be comprised of the president and two lay judges.

Article 37

A single judge shall adjudicate civil disputes with regard to property claims if the value of the subject of litigation does not exceed the amount in Dinars equivalent to 50.000 EUR, calculated by mean exchange rate of the National bank of Serbia on the day of filing the complaint.

In the course of the proceedings, the parties may reach an agreement that a single judge shall adjudicate a property claim, regardless of the value of the subject of litigation, unless otherwise provided by the specific law.

An agreement of the parties that a single judge shall adjudicate the property claim shall be deemed to exist, regardless of the value of the subject of the litigation, if one of the parties puts forward motion in that respect prior to preliminary hearing and the other party fails to declare on such motion.

If one of the co-litigants puts forward a motion for a single judge to adjudicate the property claim, or if a majority of co-litigants so undertake, it shall be deemed that other co-litigants have afforded their consent to such motion.

If other party also comprises of co-litigants, it shall be deemed that a motion for a claim to be adjudicated by a single judge is accepted and that an agreement exists, provided all or the majority of co-litigants fail to declare on such motion, or if one of two co-litigants accepts a motion.

A single judge adjudicates in trespass disputes.

A single judge conducts the proceedings and rules in cases pertaining to legal aid.

Article 38

When adjudicating as the court of second instance, at a chamber session or at a hearing, the court shall adjudicate in a chamber of three judges.

The Supreme Court of Cassation adjudicates in a chamber of three judges.

5. Territorial Jurisdiction

a) General territorial jurisdiction

Article 39

The court which has general territorial jurisdiction for the respondent shall be competent for adjudication, unless the law provides for the exclusive territorial jurisdiction of another court.

In the cases provided for by this Law, in addition to the court of general territorial jurisdiction, another designated court shall also have jurisdiction to adjudicate.

Article 40

General territorial jurisdiction shall lie with the court on whose territory the respondent has permanent residence.

If the respondent does not have permanent residence in the Republic of Serbia, or in any other state, general territorial jurisdiction shall lie with the court on whose territory the respondent has temporary residence.

If, in addition to permanent residence, the respondent also has temporary residence in another place, and, it may be assumed with regard to circumstances, that he or she will reside there for a longer period, general territorial jurisdiction shall also lie with the court in the respondent's temporary residence.

Article 41

In civil disputes against the Republic of Serbia, local authorities and other forms of territorial organisation, general territorial jurisdiction shall lie with the court on whose territory the assembly of the relevant territorial organisation is located.

For adjudication in disputes against legal entities, the general territorial jurisdiction shall lie with the court on whose territory the registered seat of a legal entity is located. In the event of doubt, a location of the executive bodies of a legal entity shall be deemed to be its seat.

Article 42

In disputes against a citizen of the Republic of Serbia permanently residing in a foreign country, where he or she was posted or assigned to work by a government authority or legal entity, general territorial jurisdiction shall lie with the court of his or her last permanent residence.

b) Specific Territorial Jurisdiction

Jurisdiction for Co-litigants

Article 43

If a single complaint is brought against several persons (Article 199, paragraph 1, subparagraph 1), who do not conform with the territorial jurisdiction of the same court, jurisdiction shall lie with the court having territorial jurisdiction for one of the respondents, and if principal and subsidiary obligors exist among them, the court which has territorial jurisdiction for any of the principal obligors.

Jurisdiction in disputes over statutory maintenance

Article 44

In case of disputes over statutory maintenance, in which the plaintiff is a person seeking such maintenance, jurisdiction shall, in addition to the court of general territorial jurisdiction, also lie with the court on whose territory the plaintiff has permanent or temporary residence.

If in disputes over statutory maintenance with an international element, a court in the Republic of Serbia has jurisdiction in respect of the fact that the plaintiff has permanent residence in the Republic of Serbia, territorial jurisdiction shall lie with the court on whose territory the plaintiff has permanent residence.

If a national court has jurisdiction in disputes on statutory maintenance on grounds of respondent possessing property in the Republic of Serbia from which maintenance may be collected, territorial jurisdiction shall lie with the court on whose territory this property is located.

Jurisdiction in disputes for compensation of damages

Article 45

In the case of tort disputes, jurisdiction shall, in addition to the court of general territorial jurisdiction, also lie with the court on whose territory the harmful action was committed, or with the court on whose territory the harmful consequence occurred.

If the damage occurred as a result of death or bodily injury, jurisdiction shall, in addition to the court referred to in Paragraph 1 of this Article, also lie with the court on whose territory the plaintiff has permanent or temporary residence.

The provisions of Paragraphs 1 and 2 of this Article shall also apply to disputes against insurance companies for compensation of damage to third parties pursuant to the regulations on direct liability of insurance companies, whereas the provision of Paragraph 1 of this Article shall also apply in disputes pertaining to recourse actions against recourse debtors.

Jurisdiction in disputes over rights pertaining to manufacturers' warranties

Article 46

In case of disputes regarding the protection of rights on the basis of written manufacturer's warranty, the jurisdiction shall lie both with the court of general territorial jurisdiction for the respondent and the court with general territorial jurisdiction for the seller who delivered the manufacturer's written warranty to the purchaser, on the occasion of sale.

Jurisdiction in marital disputes

Article 47

In case of disputes over determining the existence or non-existence of marriage, annulment of marriage or divorce (marital disputes), jurisdiction shall, in addition to the court of general territorial jurisdiction, also lie with the court on whose territory the spouses had their last common residence.

If a jurisdiction in marital disputes lies within a national court on grounds that the spouses had their last common residence in the Republic of Serbia, or because the plaintiff has permanent residence in the Republic of Serbia, territorial jurisdiction shall lie with the court on whose territory the spouses had their last common residence, or with the court on whose territory the plaintiff has permanent residence.

Article 48

If, in disputes regarding property relations of the spouses, jurisdiction lies with a national court because the property of the spouses is located in the Republic of Serbia or because the plaintiff has permanent or temporary residence in the Republic of Serbia at the time of filing the complaint, territorial jurisdiction shall lie with the court on whose territory the plaintiff has permanent or temporary residence at the time of filing the complaint.

Jurisdiction in disputes over establishing or denying paternity or maternity

Article 49

In disputes over establishing or denying paternity or maternity, the child may file a complaint either with the court of general territorial jurisdiction or with the court on whose territory he or she has permanent or temporary residence.

If, in disputes over determining or denying paternity or maternity, jurisdiction lies with a national court because the plaintiff has permanent residence in the Republic of Serbia, territorial jurisdiction shall lie with the court on whose territory the plaintiff has permanent residence.

Jurisdiction in disputes over real property and in trespass disputes

Article 50

For adjudication in disputes over ownership and other property rights on real property, in disputes over trespassing on real estate and disputes arising from lease relations on real property, jurisdiction shall lie exclusively with the court on whose territory the real property is located.

If real property extends over the territory of several courts, jurisdiction shall lie with each of these courts.

In case of disputes over trespass on moveable property, jurisdiction shall, in addition to the court of general territorial jurisdiction, also lie with the court on whose territory the trespass occurred.

Jurisdiction in disputes over aircraft and vessels

Article 51

When a national court has jurisdiction for adjudication in disputes over ownership and other property rights to aircraft, ship and inland waterway vessel, as well as in disputes arising from lease relations over aircraft and ship, territorial jurisdiction shall exclusively lie with the court on whose territory the registry, in which the aircraft or the ship are registered, is duly kept.

When disputes over trespass on vessels or aircraft referred to in Paragraph 1 of this Article lie with the jurisdiction of a national court, territorial jurisdiction shall lie with the court on whose territory the trespass occurred, in addition to the court on whose territory the registry in which the vessel or aircraft are registered is duly kept.

Jurisdiction over persons in respect of which there is no general territorial jurisdiction in the Republic of Serbia

Article 52

A complaint pertaining to property claims against a person in respect of whom there is no general territorial jurisdiction in the Republic of Serbia may be filed with any national court on whose territory are located either the property of that person or the object claimed by the complaint.

If the jurisdiction lies with a national court on grounds that the obligation came into existence in the course of the respondent's residence in the Republic of Serbia, territorial jurisdiction shall lie with the court on whose territory the obligation occurred.

In disputes against a person in respect of whom there is no general territorial jurisdiction in the Republic of Serbia, pertaining to obligations to be performed in the Republic of Serbia, a complaint may be filed with the court on whose territory these obligations are to be performed.

Jurisdiction in respect to the location of the branch of a legal entity

Article 53

In disputes brought against a legal entity which has a branch office outside its seat, if the dispute entails from legal relationship of the particular branch office, jurisdiction shall also lie, in addition to the court of general territorial jurisdiction, with the court on whose territory this office is located.

Jurisdiction in respect to the location of the representative office of a foreign legal entity in the Republic of Serbia

Article 54

In disputes against natural or legal persons which has a seat in a foreign country, with respect to obligations that were established or shall be performed in the Republic of Serbia, a complaint may be filed with the court on whose territory this entity or person have permanent representative office, or where the seat of the body duly authorised to act on their behalf is located**.**

Jurisdiction over disputes arising from relations with military units or institutions

Article 55

In disputes against the Republic of Serbia arising from relations with military units and institutions, jurisdiction shall exclusively lie with the court on whose territory the headquarters of the military unit or the institution are located.

Jurisdiction in disputes arising from legal relationship pertaining to inheritance

Article 56

Until a legally effective decision is rendered in probate proceedings, for adjudication of disputes arising from legal relationship pertaining to inheritance, as well as in disputes regarding claims of a creditor against the testator, territorial jurisdiction shall also, in addition to the court of general territorial jurisdiction, lie with the court on whose territory the court conducting the probate proceedings is located.

Jurisdiction for disputes in enforcement and insolvency proceedings

Article 57

In the adjudication of disputes arising in the course or in relation to judicial or administrative enforcement proceedings, or in the course or in relation to insolvency proceedings, territorial jurisdiction shall exclusively lie with the court on whose territory is the location of either the court conducting the enforcement or insolvency proceedings or the court on whose territory the administrative enforcement is being carried out**.**

Jurisdiction in respect to the place of payment

Article 58

In the adjudication of disputes initiated by a holder of a promissory note or a cheque against its signatory, jurisdiction shall also lie, in addition to the court of general territorial jurisdiction, with the court in the place of payment.

Jurisdiction in labour-related disputes

Article 59

If the plaintiff in a labour-related dispute is an employee, the jurisdiction shall also, in addition to the court of general territorial jurisdiction for the respondent, lie with the court on whose territory the work is being performed or was performed.

Reciprocal jurisdiction for complaints against foreign citizens

Article 60

If in a foreign country civil action may be brought against a citizen of The Republic of Serbia before a court which, pursuant to provisions of this Law, would not have territorial jurisdiction to adjudicate the civil matter concerned, equal jurisdiction shall apply in disputes against citizens of that foreign country before a national court.

c) ***Determination of the territorial jurisdiction by immediately superior court***

Article 61

If the court of competent jurisdiction, due to exclusion or disqualification of a judge or other reasons, cannot adjudicate in a particular case, it shall duly inform the immediately superior court which shall designate another court from its territory having subject matter jurisdiction to adjudicate in that case.

Article 62

The highest court of particular type in the Republic of Serbia may rule, upon the motion of a party or the court of competent jurisdiction that another court of subject matter jurisdiction from its territory shall adjudicate in a particular case, if this would manifestly facilitate the conduct of proceedings, or if other relevant reasons exist.

The court shall reject the motion to designate another court of subject matter jurisdiction, should a party repeatedly submit identical motion, or if it fails to provide reasoning, the motion does not contain reasons referred in the provisions of paragraph 1 of this Article, or if a party requests designation of another court of subject matter jurisdiction on grounds pertaining to exclusion or disqualification.

A single judge, the president of the chamber of the court of first instance, or the chamber of the court of second instance shall render the ruling referred to under paragraph 2 of this Article. No appeal is permitted against this ruling.

Article 63

If a dispute is within the jurisdiction of a court in the Republic of Serbia, but determination of the court which has territorial jurisdiction remains impossible pursuant to the provisions of this Law, the Supreme Court of Cassation shall, upon a motion of a party, determine which of the courts having subject matter jurisdiction shall assume territorial jurisdiction.

d) Agreement on Territorial Jurisdiction

Article 64

Unless the law provides for the exclusive territorial jurisdiction of a particular court, the parties may agree to have the case adjudicated in the first instance by a court lacking territorial jurisdiction, provided that this court has subject-matter jurisdiction.

If the law provides that a specific dispute lies with the territorial jurisdiction of two or more courts, the parties may agree to have the case adjudicated in the first instance by one of these courts, or another court having subject-matter jurisdiction.

This agreement shall only be valid if concluded in writing and if it pertains to one or more disputes, which all arise from a particular legal relationship.

The plaintiff shall enclose the document on the agreement with the complaint, whereas the respondent shall attach it to the objection with regard to lack of jurisdiction, or to its reply to the complaint.

Chapter 3

EXCLUSION AND DISQUALIFICATION

Article 65

A judge shall refrain from adjudicating if there are reasons for doubt about his or her impartiality.

Article 66

A judge shall not exercise judicial function (exclusion):

1) if a judge is a party to the proceedings, legal representative or attorney of a party, if he or she is in a relation as co-attorney, co-debtor or recourse debtor to the party, or if heard as witness or expert witness in the same case;

2) if a judge is a shareholder, member of a company or cooperative business, and if one of the parties is either his or her creditor or debtor;

3) if a party, its legal representative or an attorney of a party is his or her lineal relative to any degree, and in collateral line relative up to the fourth degree, or is a spouse or common

law spouse (current or former) or relative- in- law up to the second degree, regardless of whether the marriage has ceased or not;

4) if a judge is a guardian, adoptive parent or adopted child of the party to the proceedings, its legal representative or an attorney; or if a judge and a party to the proceedings, its legal representative or an attorney share a common household;

5) if between a judge and a person specified under this paragraph another litigation is pending, or a conflict of interests exists between them;

6) if in the same case an acting judge participated in mediation, in passing of a contested ruling, or in a court settlement which is contested in a dispute;

7) if in insolvency proceedings, which is the subject of a dispute, a judge participated either as an acting judge or a member of insolvency council.

A judge may be disqualified if there are other circumstances which cast doubt upon his or her impartiality (disqualification).

Article 67

A judge shall, immediately upon becoming aware of the existence of any of the reasons for exclusion specified in Article 66, paragraph 1, subparagraphs 1 through 7 of this Law, discontinue proceeding upon the case and duly inform the president of the court, who shall appoint a replacement.

If a judge deems that circumstances which cast any doubt on his or her impartiality (Article 65 and 66 paragraph 2) exist, he or she shall suspend the proceedings and duly inform the president of the court who shall decide on disqualification. Until the president of the court renders a ruling, the judge may undertake only those actions in respect of which a risk of delay exists.

Article 68

Parties to the proceedings are entitled to request exclusion or disqualification of a judge.

A party may only request exclusion or disqualification of an acting judge proceeding upon a particular case. A party shall submit a motion immediately upon becoming aware that reasons for exclusion or disqualification exist, and not later than at the conclusion of a hearing before the court of first instance, and if no hearing was held, such motion shall be submitted prior to adjudication of the case.

A party may submit a motion for exclusion or disqualification of a judge of a court of second instance in a legal remedy, or in a reply to such submission, and if the proceedings are conducted before a court of second instance, prior to the conclusion of the hearing.

A party shall provide reasoning and circumstances upon which the request is founded.

Article 69

A motion for exclusion or disqualification is inadmissible if:

1) the general disqualification of all judges of a specific court is requested, or of all judges who could adjudicate in a case;

2) such motion has already been adjudicated ;

3) there is no reasoning provided in such motion;

4) a party demands exclusion or disqualification of a judge not acting in the particular case;

5) a party demands exclusion or disqualification of a president of a court, except when he or she is acting judge in the particular case.

Inadmissible motion shall be rejected by a judge adjudicating the case, even if a party submitted a motion for exclusion or disqualification of that particular judge.

If a motion referred to in paragraph 1 of this Article is submitted at the hearing, a judge shall immediately reject such motion and resume the hearing, and if filed within a submission, it shall be rejected within time limit of three days from the date of the filing.

No specific appeal is permitted against the ruling referred to in Paragraph 2 of this Article

Article 70

The president of the court shall rule on the motion for exclusion or disqualification.

The president of an immediately superior court shall rule on the motion for exclusion or disqualification of the president of the court.

A motion for disqualification of the president of the Supreme Court of Cassation shall be adjudicated by the General session of this Court.

Prior to passing the ruling on disqualification, a judge whose disqualification is requested shall afford a statement, and if deemed necessary, other investigation shall be undertaken.

An appeal against a ruling on exclusion or a ruling granting the motion for disqualification is not permitted, and no specific appeal is permitted against a dismissal of a motion for disqualification.

Article 71

When a judge becomes aware of the motion for his or her exclusion or disqualification, he or she shall immediately discontinue all activities in respect of the case concerned, and in the issue of disqualification referred to in Article 65 and paragraph 2 of Article 66 of this

Law, a judge may only undertake actions which entail a risk of delay, before a ruling on this motion is passed.

Article 72

Provisions on exclusion and disqualification of judges shall apply accordingly to president of the court, a lay judge and a court recorder.

A lay judge shall not exercise judicial function (exclusion) if he or she is permanently or temporarily employed with an entrepreneur or with a legal entity which appears as a party to the proceedings.

A president of the chamber or a single judge shall adjudicate on the disqualification of a court recorder.

Chapter 4

PARTIES AND THEIR LEGAL REPRESENTATIVES

Article 73

Any natural person or legal entity may be a party to the proceedings.

Specific regulations shall enact who may be a party to the proceedings, in addition to natural persons and legal entities.

A civil court may exceptionally, and with legal effect in the particular case, recognise attributes of a party to the proceedings to such forms of associations that do not hold capacity to be a party within the meaning of the paragraphs 1 and 2 of this Article if it determines that, with regard to the matter of dispute, they comply with the essential requirements for acquiring the capacity to be a party, and, in particular, if they dispose with property on which enforcement may be carried out.

No specific appeal shall be permitted against a ruling, referred to in paragraph 3 of this Article, recognising the status of a party.

Article 74

A person holding full disposing capacity shall be allowed to undertake actions in the proceedings (litigation capacity).

A person of legal age whose disposing capacity is subject to limitations shall be competent

for litigation within limits of his or her legal disposing capacity.

A minor shall be competent for litigation within the limits of his or her recognised disposing capacity.

Article 75

A party without litigation capacity shall be represented by its legal representative.

Article 76

A legal representative may undertake all procedural actions on behalf of the party. However, if specific regulations provide that a legal representative shall hold a specific authorisation to file or withdraw a complaint, admit or waive a claim, reach a settlement or submit, withdraw or waive a legal remedy, he or she may undertake these actions only if awarded such authorisation.

Article 77

In the course of the entire proceedings the court shall, *ex officio*, pay due attention as to whether the person appearing as a party may be a party to the proceedings, whether a party has litigation capacity, whether the party lacking litigation capacity is represented by its legal representative, and whether he or she has been awarded a specific authorisation, when such is required.

A person appearing as a legal representative shall prove its capacity of representative when undertaking the first motion in the proceedings.

A legal representative shall submit specific authorisation to undertake particular actions in the proceedings, if required.

If the court establishes that the legal representative of a person under guardianship fails to provide a due care in representing the party, it shall inform the competent guardianship body accordingly. If the neglect on the part of the legal representative can impair the interests of the person under guardianship, the court shall suspend the proceedings and propose appointment of another representative.

Article 78

When the court determines that a person appearing as a party cannot be a party to the proceedings, and such deficiency may be corrected, the court shall order a plaintiff to perform necessary corrections in the complaint.

If the court establishes that a party has no legal representative, or that the legal representative holds no specific authorisation when such is required, it shall request the competent guardianship body to appoint a guardian for the person lacking litigation capacity, or shall undertake other measures required for proper representation of a party lacking litigation capacity.

The court shall determine a time limit of up to 15 days for the party to correct the deficiencies referred to in paragraphs 1 and 2 of this Article.

Until these deficiencies are corrected, only procedural actions whose delay might result in harmful consequences for the party may be undertaken.

If the aforementioned deficiencies cannot be alleviated or if the specified time limit expires, the court shall pass the ruling to revoke all procedural actions affected by the deficiencies, and shall reject the complaint if the deficiencies are of such nature that prevent further conduct of the proceedings.

No appeal shall be permitted against the ruling ordering measures aimed to alleviate the deficiencies.

Article 79

If, in the course of the proceedings before the court of first instance, it emerges that regular proceedings for appointing a legal representative for the respondent would last extensively, so that harmful consequences could result for one or both of the parties, the court shall appoint a temporary representative for the respondent selected from the list of lawyers submitted by the Bar Association.

Subject to the requirements referred to in paragraph 1 of this Article, the court shall appoint a temporary representative for the respondent in the following cases particularly:

1) if the respondent lacks litigation capacity and does not have a legal representative;

2) if conflicting interests exist between the respondent and his or her legal representative;

3) if both parties have the same legal representative;

4) if permanent or temporary residence of the respondent are unknown, and the respondent has no attorney;

5) if the respondent or his or her legal representative, who have no attorney, are in a foreign country and service of could not be effected.

The court may also appoint a temporary legal representative for a legal entity or entrepreneur subject to requirements and in the manner referred to in paragraph 2 of this Article.

The court shall pass a rule on appointment of temporary representative, and shall serve such ruling without delay to both the guardianship body and the parties, when possible.

No appeal is permitted against the ruling referred to in paragraph 4 of this Article.

Article 80

A temporary representative shall exercise all rights and duties of a legal representative in the course of the proceedings.

A temporary representative shall undertake all motions in the course of the proceedings until a party, its legal representative or attorney appear before the court, or until the guardianship body notifies the court that it has appointed a guardian.

Article 81

If a temporary representative has been appointed for the respondent for the reasons referred to in Article 79, paragraph 2, subparagraphs 4 and 5 of this Law, the court shall issue a notice to be published in the “Official Gazette of the Republic of Serbia” and shall post it on the court's bulletin board, or by other appropriate means, if necessary.

The notice shall specify: the designation of the court which appointed the temporary representative, the legal basis, the name of the respondent for whom a representative is appointed, the matter of dispute, the name of the representative and his or her occupation and residence, as well as the notification that the representative will duly represent the respondent in the proceedings until respondent, or his or her attorney, appear before the court, or until the guardianship body notifies the court on appointing a guardian.

Article 82

(*Deleted*)

Article 83

A foreign citizen lacking litigation capacity pursuant to the law of the country of his or her citizenship, but possesses litigation capacity pursuant to the national law, is entitled to undertake actions in the proceedings by himself or herself. The legal representative may only undertake procedural actions until the foreign citizen declares that he or she shall take over the conduct of the litigation.

Chapter 5

ATTORNEYS

Article 84

Parties may undertake actions in the proceedings personally or through an attorney.

A party shall be represented by a legal counsel in the review proceedings and in the proceedings initiated for *writ of certiorari*.

Representation of the Republic of Serbia, and its bodies, autonomous provinces and local authorities is regulated by specific law.

The court may request a party represented by an attorney to declare in person before the court with regard to the facts to be determined in the litigation.

A party represented by an attorney may always appear before the court in person and produce declarations, in addition to its attorney, and undertake actions in the litigation.

Article 85

Any natural person exercising full disposing capacity is entitled to act as an attorney, except person engaged in pettifoggery.

If a person engaged in pettifoggery appears as attorney, the court shall deny such person further representation and shall duly inform the party without delay.

An appeal against the ruling on denial of such representation shall not withhold its execution.

Article 86

Procedural actions undertaken by an attorney within the limits of its authorisation shall have the same legal effect as if undertaken by the party itself.

Article 87

A party may change or revoke an action of its attorney.

If an attorney acknowledges a fact at a hearing on which the party is not present, or acknowledges a fact in a submission, and the party subsequently changes or revokes such acknowledgement, the court shall deliberate on both declarations, within the meaning of Article 222, paragraph 2, of this Law.

Article 88

The extent of authorisation shall be determined by a party.

A party may authorise the attorney to undertake either certain individual or all actions in the proceedings.

An attorney to a party who is a lawyer may be substituted by an assistant employed at lawyer's office, if a party states so in the power of attorney.

Article 89

If a party has granted power of attorney to a lawyer, authorising him or her to conduct litigation, but has failed to specify the scope of the authority, the lawyer, on the basis of such power of attorney, shall be authorised to:

1) conduct all actions in the proceedings, and in particular to file or withdraw a complaint, to admit or to waive the claim, reach a settlement, to file a legal remedy and to withdraw or waive it, and to move for issuance of injunctions.;

2) file a motion for enforcement or securing and undertake necessary actions in the proceedings pertaining to such motion;

3) to transfer the power of attorney to another lawyer or to authorise another lawyer to undertake only particular actions in the proceedings.

To file a motion for retrial, the lawyer shall always require a specific power of attorney.

Article 90

If the party has failed to specify in the power of attorney the authorisation of the attorney, the lay agent of the party may, on the basis of such power of attorney, undertake all actions in the proceedings, albeit he or she will always require an express authorisation to withdraw the complaint, admit or waive the claim, reach a settlement, withdraw or waive an ordinary legal remedy or transfer the power of attorney to another person.

Article 91

A party shall extend a power of attorney in writing

If the court has doubts about the veracity of a written power of attorney, it shall order, by a ruling, that a certified power of attorney should be submitted.

No appeal shall be permitted against this ruling.

Article 92

An attorney is required to submit a power of attorney when undertaking the first action in the proceedings.

In the course of the entire proceedings, the court shall pay due attention whether the person appearing as an attorney is duly authorised. If the court establishes that the person appearing as an attorney of a party is not duly authorised to undertake certain action in the proceedings, it shall revoke actions undertaken by this person, unless these actions were subsequently approved by the party.

Article 93

A party may revoke the power of attorney at any time, whereas the attorney may relinquish it at any time.

The court before which the proceedings are conducted must be notified of revocation or relinquishing the power of attorney, in writing or orally on record.

Revoking or relinquishing the power of attorney shall be effective to the opposing party from the moment that party was accordingly notified.

Following the relinquishment of the power of attorney the attorney is required to act in the proceedings on behalf of the person who granted the power of attorney for one month, if it is necessary to prevent any damage from occurring within this period.

Article 94

A power of attorney ceases to be valid with the death of a natural person.

If the attorney to the party holds a power of attorney to undertake all actions in the proceedings and the party, or its legal representative dies or loses disposing capacity, or if the legal representative is relieved of its duties, the attorney remains authorised to undertake actions in the proceedings which are required to be performed without delay.

In cases referred to in paragraph 2 of this Article, all powers of authority which are required to be expressly noted in the power of attorney (Article 90) shall always cease for a lay attorney.

Article 95

With the dissolution of a legal entity, the power of attorney issued by it shall cease.

As an exception to provisions of paragraph 1 of this Article, the attorney is obliged to undertake actions in the proceedings which are required to be performed without delay, for a period of another month.

Chapter 6

LANGUAGE OF THE PROCEEDINGS

Article 96

Parties and other participants to the proceedings are entitled to use their own language at the hearings and when orally undertaking other actions before the court.

If such proceedings are not held in the language of the parties or other participants to the proceedings, they shall, upon request, be provided with an interpretation of the proceedings in their own language, including oral translations of all documents used as evidence in the course of the proceedings.

Parties and other participants to the proceedings who are blind, deaf or mute are entitled to the free of charge interpreter in the proceedings before the court.

Article 97

Summonses, decisions and other communications of the court pertaining to the case shall be served on the parties and other participants to the proceedings in Serbian language.

If the language of a national minority is also in official use at the court, the court shall serve its communications in this language to the parties and participants to the proceedings who are members of the particular minority, and use their own language in the course of the proceedings.

Article 98

Parties and other participants to the proceedings shall submit their complaints, appeals and other submissions in a language officially used in the court.

Parties and other participants to the proceedings may also convey their submissions in the language of a national minority not officially used at the court, provided it is in accordance with the law.

Article 99

The court shall bear the costs of interpretation into the language of a national minority incurred in application of the provisions of the Constitution and this Law governing the rights of members of national minorities to use their own language.

Chapter 7

SUBMISSIONS

Article 100

A complaint, counter complaint, reply, and the legal remedies shall be submitted in writing (submissions).

Submissions shall be comprehensible and shall contain all necessary items to be proceeded upon. In particular, submissions shall specify: the designation of the court, a full name of a person, name of the company, permanent or temporary residence of the parties, or of the registered seat of the entity, their legal representatives or attorneys, if any, the subject of dispute, the contents of the declaration and the signature of the submitting party.

If the statement contains a claim, a party should state the facts on which the claim is founded and present evidence, when necessary.

Article 101

Submissions to be served on the opposing party shall be furnished to the court in a sufficient number of copies for the court and the opposing party. The same shall apply when the submission is enclosed with attachments.

If several persons have a common legal representative or attorney and comprise an opposing party to the proceedings, submissions and attachments for all these persons may be filed with the court in a single copy.

Article 102

Documents attached to the submission shall be filed as an original or a copy.

The court shall retain the original document and shall allow the opposing party to the proceedings to examine the document. When the need for the court to retain the document ceases, it shall be returned to its owner upon request. The court may order the party who submitted the document to submit its transcript to the court.

If a transcript of a document is attached as the submission, the court may, upon a motion of the opposing party to the proceedings, order the party submitting a document to produce the original to the court, and allow the opposing party to examine it. When necessary, the court shall determine a time limit for a document to be furnished, as either the original or a certified transcript, and examined.

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No appeal shall be permitted against these rulings.

Article 103

If a submission is incomprehensible or does not contain necessary requirements so that it may be proceeded upon, the court shall return the document to a party who has not appointed a lawyer to act as its attorney for corrections, unless otherwise provided by law.

When the court returns the submission to a party for amendment or supplementation it shall determine a time limit for the submission to be re-filed.

If a time-bound submission is amended or supplemented and furnished to the court within a time limit determined for amendment or supplementation, it shall be deemed to have been filed on the date when it was filed for the first time.

If the submission is not resubmitted within the determined time limit, it shall be deemed to have been withdrawn, and if it is resubmitted without having been amended or supplemented, it shall be rejected.

If the submissions or enclosures are not submitted in a sufficient number of copies, the court shall order for them to be copied at the expense of the party that neglected the obligation.

The provisions of this Article do not apply when a party is represented by a lawyer. If a lawyer representing a party submits an incomprehensive or, a submission that does not contain necessary requirements so that it may be proceeded upon, the court shall reject it.

Article 104

A civil court shall impose a fine of 30,000 Dinars on a person whose submission offends the court, the other party or participant to the proceedings.

The fine referred to in paragraph 1 of this Article bears no effect upon a penalty for a criminal offence.

If the fine could not be collected even under coercion, the fine, or its remaining unpaid portion shall be replaced with a term of imprisonment proportional to the fine, but not exceeding ten days.

The provision of paragraph 3 of this Article shall apply whenever a fine is imposed by the court (Articles 247, 254 and 319).

Chapter 8

TIME LIMITS AND HEARINGS

Article 105

If time limits are not enacted by the law they shall be determined by the court having regard to all the circumstances of the case.

Article 106

Time limits shall be calculated in days, months and years.

The first day of a time limit calculated in number of days is the date subsequent to the date of service or notification of a decision, or the date subsequent to the date of occurrence of the event which is the outset of a time limit calculated pursuant to the law.

A time limit expressed in a number of months or years shall terminate upon the expiration of the day of the last month or year corresponding the date when the time limit was determined by the court, or the date of occurrence of the event which is the outset of a time limit calculated pursuant to the law.

If the last day of a time limit is a public holiday or Sunday, or any other day when the court is not in session, the time limit shall expire with the end of the next working day.

The provisions of paragraph 4 of this Article shall also apply to time limits when a complaint must be filed in accordance with specific regulations, as well as to the prescription for a claim or other right.

Article 107

It shall be considered that a time-bound submission is enclosed in due time if it is submitted prior to expiration of the time limit.

If a submission is sent to the court by registered mail or by telegraph, it shall be considered that the date of delivery to the post office is the date of enclosing the submission to the court.

If a submission is sent to the court by telegraph, it shall be considered to be timely only if a proper submission is enclosed with the court, or if it is sent to the court by registered mail, within 3 days of the day when the telegram was delivered to the post office.

For conscripts in the Army of Serbia and other persons serving in military units or institutions, the day of delivering a submission to a military unit or institution shall be

considered to be the day of the submission to the court.

For persons deprived of liberty, the day of delivering a submission to the penitentiary institution shall be considered to be the day of submission to the court.

If a time-bound submission is enclosed or sent to a court lacking jurisdiction prior to expiration of time limit, and it reaches the court having jurisdiction after the expiration of the time limit, it shall be considered that it was submitted in due time if the failure to convey it to the court having jurisdiction can be attributed to ignorance or manifestly erroneous act on the part of submitter.

The provisions of paragraphs 1 and 6 of this Article also apply to time limit where a complaint must be filed pursuant to the specific regulations, as well as to the prescription for a claim or other right.

Hearings

Article 108

Hearings shall be scheduled by the court pursuant to the law or if required for the purpose of the proceedings. No appeal shall be permitted against the ruling by which a hearing was scheduled.

The court shall timely summon to the hearing the parties and other persons whose presence is deemed necessary. The summons shall be served upon the parties attached to submission that gave rise to scheduling of the hearing, and it shall indicate the relevant venue, room and time of the hearing. If the summons is served without an attached submission, it shall indicate the parties, matter of dispute and the action that should be undertaken at the hearing.

The summons shall duly advise the parties on the legal consequences of failing to appear at a hearing.

Article 109

A hearing shall, as a rule, be held in the court premises.

The court may decide that a hearing should be held outside the court premises if it finds it necessary or time-saving or that it would reduce the costs of the proceedings.

No appeal shall be permitted against such ruling.

Article 110

The court may adjourn a hearing if necessary to present the evidence, or if other justified reasons exist.

When a hearing is adjourned, the court shall, if possible, immediately communicate to the parties the time and the venue of the next hearing.

No appeal shall be permitted against such ruling.

Restitutio in integrum

Article 111

If a party fails to appear at a hearing or comply with a time limit for undertaking an action, and therefore loses the right to proceed with that action, the court shall, upon receiving such motion, allow the party to subsequently execute such act (motion to restore a prior status), if it finds that justifiable cause for such failure exists.

When a motion to restore a prior status is sustained, the proceedings are restored into the state that existed prior to the omission, and all decisions the court rendered on account of the omission shall be revoked accordingly.

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Article 112

A motion to restore a prior status shall be submitted with the court at which the omitted act should have been executed.

The motion shall be submitted within the time limit of eight days calculating from the day when the reason for the omission ceased to exist, and if a party subsequently became aware of the omission, within eight days from the date when a party became aware of it.

Upon expiration of time limit of sixty days, calculating from the day of the omission, no motion to restore a prior status may be submitted.

If a motion to restore a prior status is submitted on account of failure to comply with a time limit, the requesting party shall, concurring with the motion, undertake the omitted action.

Article 113

No motion to restore the prior status shall be permitted if the party has failed to comply with the time limit referred to in paragraphs 2 and 3 of the Article 112 of this Law, or if

the party has failed to appear at the hearing scheduled on account of the motion to restore a prior status.

Article 114

A motion to restore a prior status shall not affect the course of the proceedings. The court may decide to suspend the proceedings until the ruling on the motion becomes legally effective.

Article 115

The court shall reject untimely and inadmissible motions to restore a prior status, by a ruling.

The court shall reject a motion to restore a prior status as invalid, if the facts underlying such motion are not commonly known, and a party failed to propose or submit adequate evidence.

The court shall, as a rule, adjudicate on a motion to restore a prior status, without holding a hearing.

The court shall schedule a hearing if it finds it necessary to establish the facts or hear the evidence.

Article 116

No appeal shall be permitted against a ruling sustaining a motion to restore a prior status, except if sustained motion was untimely or inadmissible.

Chapter 9

MINUTES

Article 117

Minutes shall be taken of the actions taken at the hearing.

Minutes shall also be taken of important declarations and notifications made by parties or other participants outside of a hearing. No minutes shall be taken of less important statements or notifications, whereas such items shall be duly recorded in the case file in the form of an official note.

Minutes shall be taken by a court recorder.

Article 118

The following shall be entered in the minutes: name and composition of the court, place where action is taken, date and hour when action is taken, indication of the matter of dispute and names of the attending parties or third parties and their legal representatives or attorneys.

Minutes shall contain essential information pertaining to the contents of the action taken. The minutes of the trial hearing shall in particular contain the following: whether the hearing was open to public or not, statements of the parties, their motions, evidence presented, and evidence which were derived with contents of the statements of witnesses and expert witnesses enclosed, and decisions rendered by the court at the hearing.

Article 119

Minutes shall be taken in an orderly manner; nothing shall be deleted, supplemented or amended.

Article 120

Minutes shall be taken in such manner that a president of the chamber shall dictate the contents in a loud voice to the court recorder.

Parties shall have the right to read the minutes or to demand that the minutes be read to them, as well as to file their objections as to the contents of the minutes.

That right shall also be exercised by other parties whose statements have been recorded in the minutes, but only with reference to the parts of the minutes containing their statements.

Any amendment or supplementation with regard to the contents of the minutes which shall be made upon objections filed by the parties or other persons or *ex officio* shall be recorded at the end of the minutes. Upon request of the aforementioned persons, overruled objections shall also be recorded in the minutes.

Article 121

Minutes shall be signed by a president of the chamber, court recorder, parties to the proceedings, their legal representatives or attorneys and interpreter.

Witnesses and expert witnesses shall sign their statements in the minutes when they are heard before a delegated judge taking a testimony, or the president of the chamber.

An illiterate person or a person unable to sign shall put on the minutes a fingerprint of his or her forefinger, and the court recorder shall add his or her name and surname below such fingerprint.

If a party, its legal representative or attorney, witness or expert witness leaves before the signing of the minutes, or if he or she is not willing to sign the minutes, that fact shall be duly recorded in the minutes, and a reason shall be indicated.

Article 122

Separate minutes pertaining to deliberations and voting shall be taken. If before a court adjudicating a legal remedy the decision was made unanimously, notes on deliberations and voting shall be made instead of the minutes.

Minutes of deliberations and voting shall specify the course of the voting and of the contents of the decision reached.

Dissenting opinions shall be attached to the minutes pertaining to deliberations and voting, unless such opinions have already been recorded in the minutes.

Minutes or a note on voting shall be signed by all members of the chamber and by the court recorder.

Minutes on deliberations and voting shall be put in a specified file. These minutes may be examined only by the court adjudicating a legal remedy in the course of proceedings pertaining to the legal remedy, and in such case the minutes shall be put in a specified file, on which an indication that the minutes have been examined shall be added.

Chapter 10

RENDERING OF DECISIONS

Article 123

The court shall render its decisions in the form of judgements or rulings.

The court shall adjudicate on a claim by a judgement, whereas in trespass proceedings it shall adjudicate by a ruling.

When not adjudicating by a judgement, the court shall adjudicate by a ruling.

In the proceedings for issuance of a payment order, the ruling granting the claim shall be issued in the form of a payment order.

The adjudication on expenses and costs within a judgement shall be considered a ruling.

Article 124

chambers render decisions upon deliberation, by voting.

In the room where deliberations and voting take place only the members of the chamber and the court reporter may be present.

When a decision on simple issues needs to be rendered, the chamber may also render a decision at the session.

Article 125

The president of the chamber shall conduct the deliberations and voting and shall be the last to vote. He or she shall take due care that all issues are thoroughly and comprehensively discussed.

The majority of votes is required for each decision rendered by the chamber.

Members of the chamber may not refuse to vote on issues raised by the president of the chamber. A member of the chamber, who was in the minority when vote was taken on a previous issue, may not abstain from voting on an issue to be later decided.

If, in relation to particular issues to be decided, votes are split between several different opinions, so that neither of them holds majority, the issues shall be separated and voting repeated until required majority is achieved.

Article 126

Before adjudicating on the merits, the court shall decide whether it is necessary to supplement the proceedings, or upon other preliminary issues.

If it is required to adjudicate on several claims when a ruling is rendered on the merits, a vote shall be taken on each claim separately.

Chapter 11

SERVICE OF COMMUNICATIONS OF THE COURT AND EXAMINATION OF CASE FILES

Manner of Service

Article 127

Communications of the court shall be served by mail, or through a particular court clerk, through a competent municipal body, by a legal entity registered for delivery services, directly in the court premises or by other means pursuant to the specific law.

Article 128

Service to government bodies, local authorities and bodies of autonomous provinces shall be effected by delivering the communication of the court to the person authorised to receive service in the designated office premises.

Service to the public prosecutor or public attorney shall be effected by delivering the communication of the court to their registry office. The date when the communication of the court was delivered to the registry office shall be deemed as the date of service

Service to legal entities shall be effected by delivering the communication of the court to the person authorised to receive service in the designated office premises.

The service referred in the paragraphs 1 and 3 of this Article is effected in the equal manner if the parties referred to in these paragraphs appointed one of their employees as their attorney.

Article 129

Summons shall be served on military personnel, members of police forces and persons employed in land, river, maritime and air transport through their command or immediate superior, and if necessary, other communications of the court may also be served upon them in this manner.

Article 130

When service is to be effected on persons or institutions in a foreign country or on foreign citizens enjoying the right to immunity, it shall be effected through diplomatic channels, unless otherwise provided in an international agreement or this Law (Article 141).

If service of a communication of the court has to be effected on the citizens of the Republic of Serbia in a foreign country, it shall be effected through the competent consular or diplomatic representative of the Republic of Serbia executing consular functions in the foreign country concerned, or through an international legal entity registered for delivery services.

Service is valid only if the person to be served consents to receiving the communication.

Service to legal entities with a seat in a foreign country and a representative office in the Republic of Serbia may be effected in the premises of the representative office.

Article 131

Service shall be effected on persons deprived of liberty through the penitentiary institution.

Article 132

If a party is represented by legal representative or attorney, service shall be effected on the legal representative or attorney, unless otherwise provided by this Law.

If a party has several legal representatives or attorneys, it shall be sufficient to effect service on only one of them.

Article 133

Service on a lawyer acting in the capacity of attorney to a party may be effected by delivery of a document to an employee in his or her office.

Service on a lawyer may be effected by delivering a document to an adult member of the lawyer's household if he or she performs his professional activities at home.

Article 134

Service shall be effected on a person due to be served on any day at his or her workplace, or at home only from 7:00a.m. to 10:00p.m., or in the court premises when the person to be served is found there.

Service may be effected at other time and place pursuant to a specific court decision, which must be produced, upon request, by a person effecting service.

Article 135

If the person on whom a communication of the court is to be served is not found in his or her dwelling, service shall be effected by delivering the communication of the court on an adult member of his or her household, who shall be obliged to receive the communication of the court.

If service is to be effected at the workplace of the person on whom a communication of the court is to be served, and that person is not found there, the service may be effected on a person working at the same workplace, provided that person consents to receiving the communication of the court.

Delivery of a communication of the court to another person shall not be permitted if such person participates in the litigation as an adversary of the person on whom the service is to be effected.

Article 136

A complaint, payment order, extraordinary legal remedy, judgement and a ruling against which a specific appeal is permitted shall be served on the party or his or her legal representative or attorney, in person. Service of other communications of the court shall be effected in person when it is expressly provided for by this or other law, or when the court deems that greater prudence is needed because of the original documents attached.

If the person on whom a communication of the court is to be served in person is not found in the place where the document should be served, the court messenger shall be informed as to when and where he or she could find that person, and shall leave a notice, with a person referred in Article 135, paragraphs 1 and 2 of this Law, indicating the day and hour when a person should be in his or her dwelling or workplace in order to receive the communication of the court. If afterwards a court messenger remains unable to locate the

person on whom the communication of the court is to be served, the provisions of Article 135 shall apply, and it shall be deemed that service has been effected.

If the communication of the court referred to in paragraph 1 of this Article is to be served on public authorities and bodies, or legal entities, service shall be effected pursuant to the provisions of Article 128 of this Law.

Article 137

If it is established that the person on whom a communication of the court is to be served is absent and that persons, referred to in Article 135, paragraphs 1 and 2 of this Law, cannot serve on him or her the communication of the court in due time, such communication shall be returned to the court, with the indication of the whereabouts of the absent person.

Refusal of Service

Article 138

If the person to whom a communication of the court is addressed, or an adult member of his or her household, or an authorised official of a public authority or legal entity, denies the reception of a communication of the court without a lawful reason, the court messenger shall leave it in the dwelling or in the office premises where person in respect of whom a service is addressed, works, or attach it to the door of the dwelling or office premises. The court messenger shall indicate on the acknowledgment of delivery the date, time and reason for such refusal, as well as the location where the communication of the court was left, so it shall therefore be deemed that the service has been duly effected.

Change of Address

Article 139

If a party or its legal representative changes its address prior to service of a second instance judgement which effectively concluded the proceedings, it shall promptly inform the court of this fact.

If they fail to do so, the court shall order that all further services of communications of the court pertaining to the case of that party shall be effected by attaching the documents on the notice board of the court.

Service is deemed to be effected upon the expiry of the time limit of 8 days, calculated from the day of attaching the document on the notice board of the court.

If an attorney of a party, or a person designated to receive communications of the court changes its address, prior to service of a second instance judgement which effectively concluded the proceedings, and fails to notify the court of this fact, service shall be

effected as if an attorney or a designated person had not been appointed.
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Ineffective Service

Article 140

If, in the course of the proceedings, service could not be effected, service shall be effected by attaching the documents on the notice board of the court.

Service is deemed effected upon the expiry of the time limit of 8 days, calculated from the day of attaching the document on the notice board of the court.

Attorney and representative for receiving the communications of the court

Article 141

The court shall invite a party or its representative who are in a foreign country, and do not have an appointed attorney in the Republic of Serbia, to appoint , within a reasonable time, an attorney to receive communications of the court in the Republic of Serbia. If a party or its legal representative fails to appoint such an attorney, the court shall appoint one, at the expense of the party, and shall inform the party or its legal representative accordingly.

Article 142

When co-litigants have no joint legal representative or attorney, the court may request them to appoint, within a specified time limit, a representative for the reception of communications of the court. The court shall concurrently inform the co-litigants that it shall designate one of them as their representative for receiving communications of the court if they fail to appoint such representative.
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Agreement on Address for Service

Article 143

Parties to the proceedings may agree that service shall be effected to a particular address or through a particular person in the Republic of Serbia. Service is effected if a communication of the court was delivered to the person specified in their agreement. If the service in accordance with their agreement can not be effected, the court shall order service to be effected by attaching a document on the notice board.

Notice of delivery

Article 144

The certificate of service (notice of delivery) shall be signed both by the recipient and the court messenger. The recipient shall write, in letters, on the notice of delivery, the date of delivery.

If the recipient is illiterate or unable to sign, the court messenger shall write his or her name and surname and date of the receipt in letters, and shall add a remark as to why the recipient failed to put its signature.

If the recipient refuses to sign the notice of delivery, the court messenger shall duly indicate this fact on the notice of delivery, and shall write in letters the date of delivery, so it shall therefore be deemed that the service has been duly effected.

If the service has been effected pursuant to the provisions of Article 136, Paragraph 2 of this Law, the notice of delivery shall contain, in addition to a certificate of service of the communication of the court, also the indication that a written notice had previously been attempted.

If pursuant to the provisions of the law a communications of the court was delivered to a person other than the designated recipient, the court messenger shall duly indicate the relation between these two persons on the notice of delivery.

If on the notice of delivery the date of delivery is incorrectly indicated, it shall be deemed that the service was effected on the date when the communication of the court was delivered.

Examination and transcription of the case file

Article 145

Parties may examine, photocopy and transcribe the case file of the litigation in which they participate.

Other persons having justified interest shall also be allowed to examine and transcribe particular case files. If the proceedings are still pending, such leave shall be granted by a judge, and if the proceedings have been concluded, a leave shall be granted by the president of the court, or a court official appointed by the president.

Chapter 12

COSTS OF THE PROCEEDINGS

Costs of the litigation

Article 146

Litigation costs shall include expenses incurred in the course of or in relation to the proceedings.

Litigations costs shall also include remuneration for the work of lawyers and other persons entitled to remuneration pursuant to the law.

Article 147

Each party shall bear in advance all the costs incurred for undertaking its actions.

Article 148

When a party proposes presentation of the evidence, it shall, upon the order of the court, advance a deposit sufficient to cover the costs incurred by the presentation of such evidence.

When both parties propose presentation of the evidence, the court shall order both parties to advance a deposit sufficient to cover the costs incurred, on equal basis. If the court *ex officio* orders presentation of the evidence, it shall order the party that bears the burden of evidence to advance a deposit.

If the parties, in the course of the proceedings, agree to attempt mediation, or the court directs the parties to mediation, the court shall order both parties to advance a deposit to cover the costs of such procedure on equal basis.

The court shall suspend the presentation of evidence if the required amount to cover the costs is not deposited within a time limit specified by the court. In that case, taking into account all the circumstances, the court shall assess at its own discretion the relevance of the party's failure to deposit the funds in due time.

By means of an exception to the provision of Paragraph 4 of this Article, if the court *ex officio* orders presentation of the evidence to establish facts with regard to the application of Article 3, Paragraph 3 of this Law, and the parties fail to deposit the specified amount, the court shall bear the costs of hearing of the evidence.

Article 149

The losing party in litigation shall reimburse the costs of the other party.

If a party is partially successful in litigation, the court may, in the view of the success achieved, order each party to bear its own costs, or that one party reimburses the other party a proportional amount of the costs

The court shall, with regard to the result of the presentation of evidence, rule whether the costs, referred to in Article 148, paragraph 5 of this Law, shall be covered by one or both of the parties, or whether the court shall bear the costs.

A intervener is entitled to reimbursement of costs from the opposing party only in respect of the actions in proceedings undertaken instead of the party it has joined.

Article 150

The court shall, when ruling on the costs to be reimbursed to a party, take into account only such costs that were required to conduct the proceedings. The court shall rule upon the costs as well as the amounts required, having considered all the circumstances.

If a tariff on attorney's fees or other costs is prescribed, the costs shall be weighed according to this tariff.

Article 151

A party is obliged, regardless of the outcome of the litigation, to reimburse the costs to the opposing party, which are incurred by its own fault or by the events this party sustained.

The court may rule that the legal representative or an attorney of the party shall reimburse the costs incurred by their own fault to the opposing party.

Article 152

The plaintiff shall reimburse the costs of litigation to the respondent if the latter gave no rise to the complaint or if he admitted the claim at the preliminary hearing, and if no preliminary hearing is scheduled, at the trial hearing prior to the debate on the merits of the case.

Article 153

A plaintiff who withdraws the complaint is obliged to reimburse the costs of litigation to the opposing party, unless the withdrawal ensued immediately upon the respondent's performance of the plaintiff's claim.

A party who withdraws the legal remedy is obliged to reimburse the costs incurred by the legal remedy to the opposing party.

Article 154

Each party shall bear its own costs if the case is concluded with a court settlement, or settlement following mediation, unless the parties agree otherwise.

The costs of litigation shall include the costs of an attempted settlement (Article 326) that failed, as well as the costs of an attempted mediation (article 148) that failed.

Article 155

If in an exclusion dispute plaintiff's claim for exclusion of certain objects is sustained, and the court establishes that the respondent as a creditor in the enforcement proceedings had justifiable reasons to consider that there was no third party's claim to these items, the court shall order that each party shall bear its own costs.

Article 156

Co-litigants shall bear the costs on equal basis.

If there is a significant difference in terms of co litigants' share in the subject of the dispute, the court shall, in respect to the proportion of each share, determine the portion of the costs to be reimbursed by each co-litigant.

Co-litigants concurrently liable in respect of the merits of the case, shall be also jointly liable for the costs ruled to be reimbursed to the opposing party.

Other co-litigants shall not be liable for costs incurred by separate actions undertaken by individual co-litigants.

Article 157

When a public prosecutor participates in the proceedings as a party, he or she is entitled to reimbursement of costs pursuant to the provisions of this Law, but is not entitled to a fee.

The court shall reimburse the costs that a public prosecutor should bear pursuant to the provisions of this Law.

Each party shall bear its costs incurred by the participation of a public prosecutor in the proceedings (Article 207).

The public prosecutor's office shall bear the costs of a public prosecutor incurred by his or her participation in the proceedings (Article 207) .

Article 158

The provisions referring to costs also apply to the parties represented by the public

attorney. In this event, the costs of the proceedings shall also include the amount that would have been awarded to a party as the lawyer's fee.

Article 159

The court shall decide on the reimbursement of costs upon specific request of a party, without conducting a hearing.

A party shall explicitly state costs it requests to be reimbursed.

A party shall put forward its request for the reimbursement of costs before the conclusion of the hearing which precedes the deliberation on costs, and in the event of the ruling passed without prior hearing, a party shall include the request for reimbursement of costs in the motion that shall be adjudicated by the court.

The court shall decide on the request for reimbursement of costs upon passing the judgment or ruling, which effectively concludes the proceedings before that court.

If the judgment or ruling ordering the reimbursement of costs is pronounced orally, the court may adjudicate to determine the amount of the costs in the written judgment or a ruling, if a ruling is to be served on the parties.

In the course of the proceedings the court shall adjudicate by a separate ruling on reimbursement of costs only if the entitlement to reimbursement of costs is not related to the decision on the merits of the case.

When, pursuant to Article 153 of this Law, the withdrawal of the complaint or the legal remedy is not carried out at the trial, the request for reimbursement of costs may be submitted within time limit of 8 days upon receiving the notice of the withdrawal.

Article 160

The court may adjudicate in a partial or interim judgement to rule on the reimbursement of costs in a final decision.

Article 161

If the court dismisses or rejects a legal remedy, it shall rule on the costs incurred in that legal remedy proceedings.

When the court amends the decision against which a legal remedy was submitted, or if it annuls that decision and rejects the complaint, it shall rule on the costs of the entire proceedings.

When a decision is set aside upon a legal remedy, and the case shall be retried, the ruling on the costs of the proceedings incurred in relation to the legal remedy will be adjudicated in the final decision.

The court may act pursuant to the provision of Paragraph 3 of this Article even if the decision is only partially set aside upon a legal remedy.

Article 162

The decision on costs included in the judgment may only be contested by an appeal against the ruling provided that the decision on merits of the case is not challenged concurrently.

If one party contests the judgment in respect of the costs only, and the other party challenges it in respect of the merits of the case, a higher court shall render a single decision on both legal remedies.

Costs of presentation of the evidence

Article 163

The costs of the presentation of evidence shall bear the party that submitted the motion to present the evidence. This party shall also reimburse costs to the opposing party or to the interim representative appointed.

A party may subsequently claim these costs as part of the costs of litigation, as per its success in litigation.
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Exemption from the reimbursement of the costs of the proceedings

Article 164

The court shall exempt a party from the liability of reimbursement of the costs of the proceedings if that party's state of property does not allow it to bear such costs.

Exemption from reimbursement of the costs of proceedings includes exemption from the payment of court fees and the deposit for expenses of witnesses, expert witnesses, investigations and court announcements.

The court may exempt a party from payment of court fees only.

In rendering a decision on exemption from the reimbursement of the costs of proceedings, the court shall assess all the circumstances, and shall particularly take into consideration the value of the subject of the dispute, the number of persons supported by the party, as well as the income and the property assets of the party and its family members.

Article 165

The decision on the exemption from reimbursement of the costs of the proceedings shall be rendered by the court of first instance upon the motion of the party.

The party shall attach to the motion a certificate on its state of property issued by the competent authority.

The certificate of state of property shall indicate the amount of tax paid by the household and its individual members, as well as other sources of income, and general status of financial means of a party to whom such certificate is issued.

If necessary, the court may *ex officio* obtain the required information and data on the state of property of the party requesting exemption, and may also hear the opposing party on the subject.

No appeal is permitted against the ruling of the court granting the motion of a party.

Article 166

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When a party is completely exempted from reimbursement of the costs of the proceedings (Article 164, paragraph 2), the court of first instance shall grant that party free legal representation, if this is necessary for the protection of its rights.

The party shall be appointed a legal counsel from the list of lawyers submitted to the court by the Bar association.

The president of the court shall appoint and dismiss the counsel.

The counsel may ask to be dismissed if justifiable reasons exist.

No appeal is permitted against the decision of the court on the dismissal of the counsel.

No appeal is permitted against the ruling of the court which approves the request by the party for the appointment of a legal counsel.

Article 167

When a party is completely exempted from reimbursement of the costs of the proceedings (Article 164, paragraph 2), a deposit shall be paid from the court funds to\cover the expenses of witnesses, expert witnesses, investigations and court announcements and the actual costs of the appointed counsel.

Article 168

The ruling on exemption from reimbursement of costs of the proceedings and on the appointment of a counsel may be repealed by the court of first instance in the course of the proceedings if it establishes that the party is capable of bearing the litigation costs. On that occasion, the court shall rule whether the party shall completely or partially reimburse the expenses and fees in respect to which it was previously exempted, as well as the real costs and remuneration for the appointed counsel.

The expenses paid from the court budget shall be reimbursed first.

Article 169

Fees and expenses paid from the court funds as well as the actual expenses and remuneration of the appointed counsel shall comprise part of the litigation costs.

The court shall adjudicate whether these costs should be reimbursed by the opposing party to the one exempted from reimbursement of costs, pursuant to the provisions governing reimbursement of costs.

Fees and expenses paid from the court funds shall be *ex officio* collected from the party liable for reimbursement.

If the party opposing a party which is exempted from reimbursement of costs is ordered to pay litigation costs, and is established that it is not capable of covering those expenses, the court shall subsequently order for the costs from Paragraph 1 of this Article to be paid in full or partially by a party who is exempted from reimbursement of costs from the amount awarded to that party. This shall not prejudice the right of this party to request compensation from the opposing party in that respect.

Chapter 13

LEGAL ASSISTANCE

Article 170

Courts are obliged to provide mutual legal assistance in civil proceedings.

If the requested court is lacking jurisdiction to execute the action in subject of the request, it shall pass the request to a court with jurisdiction or other relevant authority, and shall duly notify the requesting court on this fact, and if a court having jurisdiction or relevant authority remain unknown to the requested court, the latter shall duly pass the request back.

If several courts having subject matter jurisdiction for providing legal assistance exist in a particular place or region, the request for legal assistance may be submitted to any of these

courts, unless otherwise provided by the specific law.

Article 171

The courts communicate using languages in their official use.

If a communication of the court composed in the language of a national minority is to be served on a court where the language of this minority is not in official use, the Serbian translation of that communication shall be attached to the original document in the language of a national minority.

Article 172

The courts shall provide legal assistance to foreign courts in cases enacted by the international agreements and if reciprocity in mutual legal assistance exists. In cases of doubt regarding the existence of reciprocity instructions shall be provided by the Ministry of Justice.

The court shall deny legal assistance to a foreign court if an action contravening to public order of the Republic of Serbia is requested. In such case, the court competent for providing legal assistance shall *ex officio* refer the case to the Supreme Court of Cassation, which shall pass the final decision.

The provisions of Article 170, paragraphs 2 and 3 of this Law shall also apply to the request of a foreign court.

Article 173

The courts provide legal assistance to foreign courts in a manner pursuant to the national law. An action requested by a foreign court may be executed in a manner requested by a foreign court, if this procedure does not contravene the public order of the Republic of Serbia.

Article 174

If not otherwise stipulated by an international agreement, the courts shall proceed upon the request for legal assistance of the foreign courts only if such requests are submitted through diplomatic channels and provided the application and attachments are composed in Serbian language, or officially translated to this language.

Article 175

Unless otherwise stipulated by an international agreement, requests for legal assistance by the national courts are submitted to foreign courts through diplomatic channels. The applications and attachments shall be composed in the language of the relevant country, or an official translation into that language shall be enclosed.

Chapter 14

PROCEDURE FOR RESOLVING A CONTROVERSIAL LEGAL ISSUE

Article 176

When, in the course of the proceedings before the court of first instance, interpretation is required pertaining to a controversial point of law, arising in a significant number of cases, and such issue is considered as being of decisive importance for adjudication of the case, the court of first instance shall, *ex officio* or upon a motion of a party, file a request with the Supreme Court of Cassation to resolve the controversial legal issue.

The court which filed the request shall suspend the proceedings until the proceedings before the Supreme Court of Cassation is concluded.

Article 177

The request to the Supreme Court of Cassation should contain a brief account of the facts established in a particular legal matter, allegations of the parties pertaining to the controversial issue and reasons on which the court of first instance is requesting an interpretation. The court may also express its own interpretation of the controversial point of law.

The court of first instance shall duly submit the case file, enclosed with the request, to the Supreme Court of Cassation.

Article 178

The Supreme Court of Cassation shall resolve the controversial legal issue within time limit of 90 days from the receipt of the request.

The Supreme Court of Cassation shall decline providing an interpretation on the controversial legal issue if it is not of significance for adjudication the large number of cases.

If the Supreme Court of Cassation rules to resolve the controversial legal issue, it shall publish its decision in the Supreme Court of Cassation bulletin, or in any other appropriate manner.

The Supreme Court of Cassation rules on the request to resolve a controversial legal issue pursuant to the rules governing the adoption of legal interpretations.

Article 179

In its interpretation of a point of law pertaining to the request for resolving controversial legal issue, the Supreme Court of Cassation shall consider the legal matter in the subject of

controversy, and shall provide reasoning to support its decision.

Interpretation shall be served upon a requesting court and published in the Supreme Court of Cassation bulletin.

Article 180

If the Supreme Court of Cassation has provided legal interpretation of the controversial issue, the parties to the proceedings in which that particular point of law is addressed are not entitled to file subsequent request for resolving that issue in the course of the litigation.

Chapter 15

FINES FOR CONTEMPT OF THE PROCEEDINGS

Article 181

The court shall, in the course of the proceedings, impose a fine of up to 30,000 Dinars on a natural person, and a fine of up to 100,000 Dinars on a legal entity, if it finds any abuse in the proceedings committed by a party, intervener, legal representative, attorney or expert witness.

The court shall impose a fine referred to in paragraph 1 of this Article on a third person, or shall undertake other measures in case of interference with execution of procedural acts of litigants, outside of a hearing.

A ruling imposing a fine or other measure shall be *ex officio* executed pursuant to regulations of the enforcement procedure.

Article 182

If the abuse of proceedings inflicted damage to a party, the court shall rule a compensation order to the injured party upon request.

If a party claims compensation due to the abuse of proceedings, the court shall dissociate such claim from the proceedings on expediency grounds.

Article 183

The court shall impose a fine of 30,000 Dinars on a person designated to receive communications of the court who fails to notify the court on the change of its address, contravening to this Law.

The court shall, upon the request of a party, order a person designated to receive communications of the court to compensate the costs to a party incurred by his or her failure to notify the court about the change of address.

Article 184

The court shall impose a fine of up to 30,000 Dinars on a person who obstructs service of communications of the court or a case file, or intentionally obstructs or hinders the application of the provisions of this Law pertaining to service.

The court shall, upon the request of a party, order a person referred to in paragraph 1 of this Article to compensate the costs to a party incurred by a conduct referred to in paragraph 1 of this Article.

Article 185

An appeal against a ruling passed on contempt of proceedings shall not delay its execution.

Part Two

THE COURSE OF PROCEEDINGS

A. Proceedings before first-instance court

Chapter 16

COMPLAINT

Article 186

Civil proceedings are instituted by complaints.

Contents of a complaint

Article 187

A complaint must contain a specific claim regarding the merits and accessory claims, the facts on which the plaintiff founds the claim, evidence to support these facts, value of the subject of dispute and other information which are duly enclosed with every submission (Article 100).

The plaintiff having a permanent or temporary residence or a seat in a foreign country, shall appoint a person authorised to receive communications of the court. If the plaintiff fails to do so, the court shall reject the complaint.

When jurisdiction, composition of the court, the right to request review on points of law, depends on the value of the subject of the dispute, and the subject of the claim is not

pecuniary amount, the plaintiff shall duly indicate the value of the subject of dispute in the complaint.

The court shall proceed upon the complaint even if the plaintiff has not stated legal grounds of the complaint, and if the plaintiff has stated legal grounds, the court shall not be bound by it.

Declaratory Complaints

Article 188

The plaintiff may in its complaint request the court to establish only the existence of a particular right, legal relation or the authenticity of a document.

This form of complaint may be filed pursuant to specific regulations, if the plaintiff has a legal interest for the court to establish whether or not certain disputable right or legal relation exists prior to the effective date of an agreement, or whether a document is authentic or not, or if the plaintiff has other legal interest in bringing such action.

Declaratory claim in the course of litigation

Article 189

If the adjudication on the dispute depends on whether or not a particular form of legal relation which gave rise to an issue of dispute in the course of the litigation exists, the plaintiff may, in addition to the existing claim, put forward a claim for the court to establish whether the relation in concern exists or does not exist, provided this matter lies with the jurisdiction of a court conducting the litigation.

Putting forward a claim pursuant to the provisions of Paragraph 1 of this Article shall not be deemed as an amendment of the claim.

A single complaint comprising several claims

Article 190

The plaintiff who requests a court to order the respondent to perform an obligation may propose that the respondent disburses a pecuniary amount of performs another obligation.

It is not incumbent upon the court to determine whether the pecuniary amount the plaintiff agrees to receive instead of the non pecuniary obligation is corresponding to its value.

Article 191

A plaintiff may put forward several claims against a single respondent in a single complaint when these claims stand related by the equivalent factual and legal grounds. If the claims are not related by the equivalent factual and legal grounds they may be put forward in a single complaint against the single respondent only provided the court that has subject matter jurisdiction for each of these claims, and if the identical form of the proceedings is prescribed for all of the claims.

The plaintiff may put forward two or more related claims in a single complaint, so that the court may grant the subsequent claim if it finds that the preceding claim is unfounded.

The claims, referred to in paragraph 2 of this Article, may be put forward in a single complaint only if the court has subject matter jurisdiction for each of the claims put forward, and if the identical form of the proceedings is prescribed for all of the claims.

If certain claims put forward in the single complaint shall be adjudicated by a chamber of judges whereas other claims shall be ruled by a single judge of the same court, a chamber of judges shall adjudicate on all the claims.

Counter complaint

Article 192

The respondent may, prior to the conclusion of the trial hearing before the court, submit a counter complaint with the same court, if the subject of the counter complaint is related to the subject of the dispute, or if these two claims can be compensated, or if the counter complaint requests the court to establish certain right or legal relation on whose existence the rule on the complaint relies upon, either completely or partially.

Counter complaint may not be filed if the subject of the counter complaint lies within the subject matter jurisdiction of a higher court or a court of another type.

Counter complaint may also be filed if the subject of the counter complaint shall be adjudicated before the same court in a different composition.

Amendments to the complaint

Article 193

The plaintiff may amend the complaint prior to the conclusion of the trial hearing.

Upon service of the complaint on the respondent, his or her consent is required. The court may allow the amendment despite the objection of the respondent if it deems that it would contribute the final resolution of disputed relations between the parties, and if the court considers that proceedings upon the amended complaint shall not contribute to the extension of the litigation. It shall be deemed that the respondent has consented to the amendment of the complaint if he or she contests the merits of the case on the amended complaint without prior objections to the amendment.

If the civil court is lacking subject matter jurisdiction for adjudication on the amended complaint, it shall refer the case to the competent court, which shall, if the respondent counteracts to the amendment, rule whether the amendment is allowed.

Upon allowing the amendment of the complaint, it is incumbent on the court to afford respondent sufficient time to declare on the amended complaint, if a respondent was not afforded appropriate time.

If a complaint is amended at a hearing at which the respondent was absent, the court shall adjourn the hearing and serve a transcript of the minutes pertaining to the hearing on the respondent.

No appeal is permitted against a ruling by which an amendment to a complaint is allowed or dismissed.

Article 194

An amendment to a complaint shall mean amendment as to the identity of the claim, an increase in the existing claim, or putting forward a supplementing claim to the existing one.

If the plaintiff amends the complaint so that, due to the circumstances arising subsequently to the filing of the complaint, claims another item or pecuniary amount on the equivalent facts, the respondent may not object to these amendments.

The complaint is not considered as amended if the plaintiff alters the legal grounds of the claim, reduces the claim, or amends, supplements or corrects particular statements which do not alter the claim.

Article 195

The plaintiff may amend the complaint prior to the conclusion of the trial hearing also in respect of suing another person instead of the prior respondent.

For an amendment of the claim pursuant to the meaning of paragraph 1 of this Article, consent of the person accessing the litigation instead of the respondent is duly required, and if the respondent has already commenced with arguing on the merits of the case, his or her consent is also required.

If the respondent has commenced with arguing on the merits of the case, a new plaintiff may only access the litigation instead of the former upon the consent of the respondent.

The person accessing the litigation instead of a party must accept the litigation in its current state.

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Withdrawal of Complaint

Article 196

The plaintiff may withdraw a complaint without the consent of the respondent before the respondent commences with the argument on the merits of the case.

A complaint may also be withdrawn subsequently, but not later than at the conclusion of the trial hearing, upon consent of the respondent. If the respondent fails to declare on the motion within time limit of 15 days from the notice on the withdrawal of the complaint, it shall be deemed that he or she granted consent to the withdrawal.

If a complaint is withdrawn, it shall be deemed not to have been filed, and may be re-submitted.

The existence of litigation

Article 197

Litigation commences with the service of the complaint on the respondent.

In respect of a claim put forward by a party in the course of proceedings, the litigation commences upon due notification of the opposing party on the particular claim.

In the course of the proceedings, new litigation pertaining to the identical claim between identical parties may not be instituted, and if such litigation is submitted, the court shall dismiss the complaint.

The court shall *ex officio,* in the course of the entire proceedings duly observe as to whether another litigation is pending on the identical claim and between the identical parties.

Article 198

If a party alienates the property or right which is the subject of litigation, it shall not be an impediment to the conclusion of the litigation between the same parties.

The person who acquired the property or right which is the subject of litigation may access to the litigation instead of either plaintiff or respondent only if both parties express their consent.

Chapter 15

CO-LITIGANTS

Article 199

Several persons may file a single complaint or be sued by a single complaint (co-litigants):

1) If they constitute a legal relationship as regards the subject of the dispute, or their rights or obligations ensue from the equal facts and legal grounds.

2) If the subject of the dispute are complaints or obligations of the equal type, founded on the substantially equal facts and legal grounds, and if over each claim and every respondent a particular court has subject matter and territorial jurisdiction.

3) If stipulated by other law

Pursuant to the provisions of paragraph 1 of this Article and before the conclusion of the trial hearing, a new plaintiff may access the litigation, or the claim may be extended on another respondent upon his or her consent.

A new plaintiff may not access the litigation without the consent of the respondent if the latter commenced with the argument on the merits of the case.

A person accessing the complaint, or a person upon whom the claim is extended, must accept the status of the litigation in its current state.

Article 200

The plaintiff may file a single complaint against two or more respondents, so as to request a claim to pass against the subsequent respondent if it is effectively dismissed on the preceding respondent.

The plaintiff may include two or more respondents in a complaint pursuant to the provisions referred to in paragraph 1 of this Article, only if he or she puts forward the equal claim on each one of them, or he or she puts forward diverse claims standing in mutual relation, and if over each claim a particular court has subject matter and territorial jurisdiction.

Article 201

A person, entirely or partially claiming an object or a right already subject to a pending litigation between other parties, may file a single complaint against both parties before the court where such litigation is pending, prior to effective conclusion of the proceedings.
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Article 202

The principal debtor and guarantor may be sued concurrently if such act is not in contravention of the contents of the guarantee agreement.

Article 203

Each co-litigant is an independent party in the litigation, and his or her actions or omissions shall neither benefit nor harm other co-litigants.

Article 204

If pursuant to the law, or due to the nature of a legal relation, the dispute may only be resolved equally towards all co-litigants (united co-litigants) they shall be deemed to be a single party to the litigation, so that if an individual co-litigant omits a procedural action, the effect of the procedural actions undertaken by other co-litigants extends over those that have failed to undertake that action.

Article 205

If the time limits for execution of particular procedural actions for individual united co-litigants expire at different times, each co-litigant may undertake that action in the proceedings provided the time limit for at least one of them has not duly expired.

Article 206

Each co-litigant is entitled to put forward motions pertaining to the course of the litigation.

Chapter 18

PARTICIPATION OF THIRD PARTIES

Participation of the Public Prosecutor

Article 207

If a doubt exists that one or both parties are abusing their rights in order to impede with

the application of compulsory regulations concerning natural resources, evade obligations pertaining to public finances, or impede application of mandatory obligations enacted by an international agreement, the competent public prosecutor is entitled to participate in a litigation pending between other parties.

When the public prosecutor participates in a litigation pending between other parties, pursuant to its legal authorisation, he or she is vested with powers to propose, within a scope of the claim, presentation of the facts and evidence not proposed by the parties, as well as to file the legal remedies.

The public prosecutor shall submit a notification to the court to register for participation in a litigation pending between other parties.

If the court deems that the legal requirements for the participation of a public prosecutor in litigation are met, it shall inform the relevant public prosecutor and determine a time limit for the prosecutor to register for participation. The court shall suspend the proceedings until the expiry of such time limit, albeit the public prosecutor may exercise his or her right referred to in the paragraph 2 of this Article upon the expiry of that time limit.

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The court shall summon the public prosecutor to hearings and serve upon the prosecutor all the decisions liable to a legal remedy.

PARTICIPATION OF THE INTERVENER

Article 208

A person having a legal interest for one of the parties to succeed in a litigation pending between other parties may adhere to that party.

An intervener may access the litigation in the entire course of the proceedings prior to the legal effectiveness of the decision on the claim, as well as in the course of proceedings resumed upon submission of an extraordinary legal remedy.

An intervener is entitled to declare a notification on access to the litigation at a hearing or by a written submission.

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The written submission of an intervener shall be served on both parties to the litigation, and if the declaration was made at a hearing, the transcript of the relevant section of the minutes shall only be served on the party who was absent at the particular hearing.

Article 209

Each party may contest the right of a intervener to participate in the proceedings and propose to the court to reject a third party, and the court may reject the participation of a

third party, without obtaining prior declaration of the parties, if it establishes that a legal interest of an intervener does not exist.

Until the legal effectiveness of the ruling rejecting its participation, the intervener may participate in the proceedings, and his or her procedural actions cannot be excluded.

No appeal is permitted against the decision by the court to allow participation of an intervener.

Article 210

An intervener must accept the litigation in its current status. In the further course of the litigation, an intervener may put forward motions and undertake all other procedural actions within the time limits which are binding a party he or she adhered to.

If an intervener accesses the litigation before the legal effectiveness of the ruling on the claim, such party is also entitled to submit a motion for an extraordinary legal remedy.

If an intervener files a motion for a legal remedy, a copy of the submission shall be served on a party he or she adhered to.

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The procedural actions of an intervener shall have legal effect upon the party he or she has adhered to if such acts are not in contravention to the actions of that party.

Upon the consent of both parties to the proceedings, an intervener may access the litigation as a party instead of the party he or she adhered to.

Article 211

If the legal effectiveness of the judgment should also have legal effect upon the intervener, he or she shall assume the status of a united co-litigant (Article 204).

An intervener with a status of a united co-litigant may also submit an extraordinary legal remedy pertaining to the litigation in which he or she has not participated as an intervener before the ruling on the claim becomes legally effective, as well as to participate in proceedings in respect of motion for *writ of certiorari*.

Appointment of predecessor

Article 212

A party who is sued as a holder of an object or as a beneficiary of a particular right, and claims to hold the object or makes use of a right on behalf of a third person, may prior to the conclusion of the preliminary hearing, or if preliminary hearing is not held then at the trial hearing, prior to commencing argument on the merits of the case, submit a motion with the court to invite that person (predecessor) to access the litigation as a party

substituting him or her.

The consent of the plaintiff for the predecessor to access the litigation is required only provided the plaintiff puts forward claims against the respondent in respect of whom there is no relevance as to whether the respondent is holding an object or benefiting a right on behalf of the predecessor.

If the predecessor is orderly summoned but fails to appear at the hearing or denies accessing the litigation, the respondent cannot object to the due outset of the litigation.

Notice to third parties pertaining to litigation

Article 213

If either the plaintiff or a respondent need a third party to be informed about the pending litigation to constitute a specific civil legal effect, they may, prior to the effective conclusion of the litigation, effect such notification by a submission with the court conducting the litigation, adding to it the reason for the notice and the current status of the litigation.

Such notification does not allow the party who submitted this act to a third party to request the discontinuation of the proceedings, extension of the time limits or postponement of the hearings.

Chapter 19

DISCONTINUANCE AND SUSPENSION OF THE PROCEEDINGS

Article 214

The proceedings are discontinued if:

1) a party dies;

2) a party loses litigation capacity;

3) the legal representative of a party dies or his or her authorisation for representation ceases;

4) a party who is a legal entity ceases to exist or if a competent body renders a legally effective decision to put a ban on its operation;

5) due to legal consequences of the institution of insolvency proceedings or liquidation;

6) the court discontinues to work due to a war or other similar causes;

7) provided by another law.

Article 215

In addition to cases provided by this Law, the court shall also discontinue the proceedings:

1) if the court has adjudicated not to rule on interlocutory issue (Article 12);

2) if a party is situated in the area cut off from the court by a natural disaster (flood etc.).

Article 216

The discontinuance of the proceedings shall cause all time limits determined for procedural actions to be suspended.

In the period of discontinuance of the proceedings the court shall not undertake any action. However, if the proceedings were discontinued after the conclusion of the trial hearing, the court may issue a ruling upon on the trial hearing.

Actions undertaken by a party during the discontinuance of the proceedings shall render no legal effect on the other party. Such actions shall have legal effect only upon the continuation of the proceedings.
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Article 217

The proceedings, discontinued for the reasons referred to in Article 214, paragraphs 1 through 5 of this Law, shall resume when the heir or inheritance trustee, new legal representative, insolvency administrator or legal successors of a legal entity take over the proceedings or if the court requests them to do so upon a motion of the opposing party.

If the court discontinued the proceedings for the reasons referred in Article 215, paragraph 1, the proceedings shall resume upon effective conclusion of the proceedings before the court or other competent body, or when the court finds that no further reasons exist to await the conclusion of such proceedings.

In all other cases, discontinued proceedings shall resume upon a motion by a party, as soon as the reasons for the suspension have ceased.

The time limits suspended due to discontinuation of the proceedings shall duly resume as of the day when the court serves the ruling on the continuation of the proceedings on the interested party.

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The court shall serve the ruling on discontinuation of the proceedings on the party which did not move for the continuance of the litigation pursuant to the provisions of Article 136 of this Law.

Article 218

A specific appeal is permitted against a ruling on confirming (Article 214) or ordering (Article 215) discontinuation of the proceedings.

No specific appeal is permitted if at the hearing the court dismisses the motion to discontinue the proceedings and rules for the proceedings to resume immediately.

Article 219

The court shall suspend the proceedings if so expressly provided by the law or at any point in course of the proceedings if the court finds it appropriate.

The court shall *ex officio* pass a ruling to suspend the proceedings to attend for the outcome of a particular action in the proceedings or to allow undertaking of such action.

The ruling of the court on the suspension of the proceedings shall also specify period of the suspension.

No appeal is permitted against the ruling on the suspension of the proceedings.

The court shall *ex officio* resume the proceedings as soon as the reasons which gave rise to a suspension cease to exist.

In the course of the suspension, the court may undertake only such actions affected by the risk of delay.

Suspension of the proceedings shall have no effect upon the time limits for undertaking procedural actions.

Chapter 20

EVIDENCE

General Provisions

Article 220

Each party shall present facts and propose evidence to support its claim or contest the allegations and evidence of the opposing party.

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Article 221

Evidence comprises all facts relevant for rendering a decision.

The court shall decide which evidence shall be presented to establish relevant facts.

Article 222

The evidence or facts, which the party has admitted before the court, shall not be presented. The court may order the presentation of evidence on such facts if it deems that the party admitted the facts in attempt to dispose with a claim in respect of which is not allowed to dispose. (Article 3, Paragraph 3).

Taking into consideration all the circumstances, the court shall decide whether to consider a fact as admitted or contested if a party had initially admitted the fact and subsequently contested it, entirely or partially, or limited the admission supplementing new facts.

Commonly known facts shall not be subject to proving. Facts ascertained by the court in the course of exercising its function shall be also deemed as commonly known, provided the court has communicated those facts to the parties at the hearing.

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Article 223

If the court cannot establish a fact based on the evidence presented (Article 8) with certainty, it shall apply the rules pertaining to the burden of evidence accordingly.

The party who claims to have certain right shall bear the burden of evidence pertaining to the fact essential for the existence or the exercise of that particular right, if not otherwise stipulated by this Law.

A party contesting the existence of a particular right shall bear the burden of evidence pertaining to the fact which prevented the existence or exercise of that right, or the fact which gave rise for that right to cease to exist, if not otherwise stipulated by this Law.

Article 224

If it is established that a party is entitled to the compensation of damages, to the pecuniary amount or replaceable objects, but the amount or quantity of such objects cannot be established, or could be established with inappropriate difficulty, the court shall determine the pecuniary amount or the quantity of replaceable things at its own discretion.
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Article 225

Evidence shall be presented at the trial hearing.

The court may rule for particular evidence to be presented before another court (requested court). The minutes pertaining to the presented evidence before the requested court shall be read at the trial hearing.

The notice of request to another court shall contain facts relevant for the case. The court shall indicate circumstances which shall be awarded due consideration for the presentation of evidence.

The parties shall be duly notified on the hearing before the requested court.

The requested court shall have equal powers pertaining to the presentation of evidence as the acting court, if the presentation of evidence is conducted at the hearing.

No specific appeal against a ruling of the court for the evidence to be presented before requested court is permitted.

Article 226

In a ruling on the presentation of the evidence the court shall determine a time limit for presentation of evidence to be completed, if the circumstances indicate that particular evidence cannot be presented or could not be presented within a reasonable time, or shall be presented in a foreign country.

Upon the expiry of such time limit, the hearing shall be conducted regardless of the failure to present particular piece of the evidence.

Investigation

Article 227

An investigation shall be undertaken when a direct observation of the court is required to establish a particular fact or clarify particular circumstances.

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An expert witness may take part in the investigation.

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Article 228

The court shall undertake an investigation if the object to be examined cannot be furnished before the court, or if such act would incur considerable expenses.

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Article 229

If the object to be examined is in the possession of one of the parties or a third party, provisions of this Law pertaining to obtaining of the documents shall apply accordingly (Articles 232 to 235).

Documents

Article 230

A document issued in a prescribed form by a competent public authority, acting within the scope of its powers, as well as a document issued in such form by a company or other organisation executing a delegated public authority pursuant to the law (a public document), shall be the proof of the fact confirmed or ordered by the document.

Other documents which are, pursuant to specific regulations, equal in respect of probative force to public documents shall have identical probative force.

It is permitted to prove that facts contained in a public document are false, or that a document is incorrect in form.

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If the court suspects the authenticity of the document, it may request the relevant issuing public authority to declare on such allegations.

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Article 231

Unless otherwise provided by international agreement, properly certified foreign public documents shall have, subject to the condition of reciprocity, equal probative force as national public documents.

Article 232

A party shall duly submit a document which it refers as evidence to prove its allegations.

A document in a foreign language shall be submitted with a certified translation enclosed.

If a document is within the possession of a public authority or enterprise or other organisation vested with public authority, and a party is unable to afford the document to be conveyed or presented, the court shall obtain such document upon the motion of the party or *ex officio*.

Article 233

If a party refers to a document and claims that it is within the possession of the other party, the court shall order that party to present the document and determine a time limit for it to comply.

A party may not deny to submit a document if it referred to such document as to corroborate its own allegations, or if it is incumbent upon a party to submit or present such document pursuant to law, or if the document is deemed to be common to both parties, with respect to its content.

With respect to the right of a party to withhold other documents, provisions of Articles 238 and 239 of this Law shall apply accordingly.

When a party who is ordered to furnish a document denies possession of a document, the court may present the evidence to establish this fact.

Taking into consideration all the circumstances, the court shall assess the relevance of the fact that the party possessing a document does not comply with the ruling of the court ordering it to submit a document or, contrary to the conviction of the court, denies that the document is in its possession.

No appeal is permitted against the ruling of the court referred in Paragraph 1 of this Article.

Article 234

The court may order a third person to submit or present a document only when it is so obliged pursuant to the law, or if the concerned document is deemed to be, in respect if its content, common to both the party referring to the document and a third party.

The court shall request the third party to declare before passing a ruling which orders the third party to furnish a document.

When a third party contests its obligation to furnish a document within its possession, the court shall decide whether the third party is obliged to submit a document.

If a third party denies possession of that document, the court may present the evidence to establish this fact.

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A third party is entitled to reimbursement of costs incurred pertaining to the submission of a document. The provisions of Article 248 shall accordingly apply in this case.

Article 235

The court may impose a fine of up to 30,000 Dinars on a natural person, or a fine of up to 100,000 Dinars on a legal entity, which failed to comply with the ruling of the court referred to in Article 234 of this Law..

A fine of 50,000 Dinars shall be imposed on the responsible person within a public authority, local authority, or a body of the autonomous provinces

An appeal against this ruling shall not delay its execution.

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Witnesses

Article 236

Any person summoned as a witness must comply with the summons of the court and testify, unless otherwise provided under this Law.

Only persons capable of relaying information on the facts subject to proving may testify.

Article 237

A person who might violate the duty to protect an official or military classified information by testifying, can not be heard as a witness until a competent authority releases that person from such duty.

Article 238

A witness may withhold a testimony:

1) pertaining to the facts that a party confided to the witness as its attorney;

2) pertaining to the facts that a party or other person confided to the witness as a religious

confessor;

3) pertaining to the facts that the witness learned in the capacity of legal counsel, physician, or exercising other professional activities or duties, if an explicit obligation exists to protect the confidentiality of information obtained through performing professional activities or duties.

The president of the chamber of judges shall warn these persons that they may withhold their testimony

Article 239

A witness may withhold an answer to particular questions if important reasons exist, and especially if by answering it would bring disgrace, or would incur significant damage to its property, or would subject to criminal prosecution itself or its lineal relatives to any degree and collateral relatives up to the third degree conclusively, its spouse or extra matrimonial partner or in-law relatives up to the second degree conclusively, even if marriage was divorced, as well as its guardian or protégé, adoptive parent or an adopted child.

The court shall warn a witness that it may withhold the answers to questions being asked.

Article 240

A witness can not withhold testimony, on account of a property related risk, pertaining to legal transactions he or she was summoned to witness, to transactions, in respect of the disputed relation, which a witness had undertaken in the capacity of a legal predecessor or a representative of a party; pertaining to facts concerning property relations deriving from family or marital relations or the facts related to birth, conclusion of marriage or death, as well as if it is, pursuant to specific regulations, incumbent upon a witness to file an appropriate complaint or to declare.

Article 241

The justification of the reasons for withholding a testimony or answers to particular questions shall be assessed by the court before which the witness should testify. If necessary, the court shall hear the parties prior to ruling on this issue.

The parties are not entitled to a specific appeal against the ruling of the court referred to in paragraph 1 of this Article, and a witness may contest this ruling in the appeal against the decision imposing a fine or a prison sentence upon a withholding of testimony or answer to a question (Article 247, paragraph 2).

Article 242

A party who moves for a specific person to be heard as a witness must previously indicate the subject of such testimony and state the name, occupation and address of that person.

Article 243

Summoning of the witness shall be effected by a service of a written summons containing full name of the person summoned, the time and place of attendance, the subject of the summons, with an indication that he or she is being summoned as a witness. The summons shall contain the warning to the witness pertaining to the consequences of unjustified failure to appear (Article 247) and pertaining to the right to reimbursement of expenses (Article 248).

The witnesses unable to attend to the court due to old age, illness or disability shall be heard at their dwelling.

Article 244

Witnesses shall be heard individually and without the presence of witnesses who are to be subsequently heard. It is incumbent upon a witness to give its answers orally.

Initially, witness shall be warned upon its duty to speak the truth and not to withhold anything, and subsequently, pertaining to the consequences of giving a false testimony.

The witness shall then be questioned on its full name, name of the father, occupation, residence, place of birth, age and on its relationship to the parties.

Article 245

Upon the completion of the general questioning, the witness shall be invited to state all relevant facts known pertaining to the subject its testimony, so that afterwards witness may be questioned in order to confirm, supplement or explain the testimony. It is not permitted to ask questions, which already contain the answer to it.

A witness shall always be asked on how he or she came to be acquainted with the subject of its testimony.

The witnesses may be confronted if their testimonies differ pertaining to the relevant facts. Confronted witnesses shall be heard individually on every circumstance they disagree upon, and their reply shall be duly entered in the minutes.

Article 246

A witness not speaking the language of the proceedings shall be questioned through an interpreter.

If a witness is deaf, questions shall be asked in writing, and if a witness is mute he or she

shall be invited to reply in writing. If it is not possible to conduct the hearing in this manner, the court shall summon a person capable of communicating to the witness to act as an interpreter.

The court shall duly warn the interpreter on its duty to faithfully convey the questions asked to the witness, as well as the witness' testimonies.

Article 247

If a witness who has been orderly summoned fails to appear, or does not provide justified reason for its failure to appear, or without permission or any justified reason leaves the place where he or she is to be heard, the court may order for its presence by coercion, and impose the witness to bear the expenses incurred by such act, and may impose a fine of up to 30,000 Dinars upon such witness.

If a witness appears before the court and, after being warned about the consequences, withholds the testimony or its answers to specific questions, and the court finds those reasons for withholding as unjustified, the court may impose a fine of up to 30,000 Dinars upon such witness. If such witness still declines to testify, the court may imprison him or her. Imprisonment shall last until the witness agrees to testify, or until its testimony becomes irrelevant, but not longer than one month.

An appeal against the ruling of the court imposing a monetary fine or imprisonment shall not delay its execution, unless such appeal also contests the decision of the court upon which the reasons for withholding the testimony or responding to specific questions were dismissed.

The court shall, upon the request of a party, rule to impose on a witness to reimburse expenses incurred by its unjustified failure to appear or unjustified withholding the testimony.

If a witness subsequently justifies its failure to appear, the court shall revoke its ruling on the fine, and it may release the witness entirely or partially from reimbursement of the expenses. The court may also revoke its ruling on a fine if the witness subsequently agrees to testify.

Military personnel and law enforcement agents can not be imprisoned, but their superiors shall be duly informed pertaining to their refusal to testify, for the purpose of sanctioning. If it is necessary to bring such persons to testify by coercion, the court shall address their superior who shall be due to order their bringing to the court.

Article 248

A witness is entitled to reimbursement of travel, food and accommodation expenses, as well as for reimbursement of lost income.

The witness shall demand the reimbursement of expenses immediately upon hearing, or

otherwise the witness forfeits any right to claim such expenses. It is incumbent upon the court to warn the witness of this fact.

In the ruling pertaining to the assessment on expenses to be reimbursed to the witness, the court shall rule a certain amount to be disbursed from the deposit, and if no deposit was submitted, the court shall order the party to reimburse the determined amount to the witness within time limit of eight days.

An appeal against this ruling shall not delay its execution.

Experts witnesses

Article 249

The court shall order presentation of evidence by expertise, if establishment or explanation of a certain fact requires an expert knowledge the court does not dispose with.

Article 250

It is incumbent upon a party which submits a motion for a hearing of an expert witness, to indicate the subject and the scope of expertise, as well as a particular expert, selected from the court official list of expert witnesses.

The opposing party shall declare upon a motion referred to in paragraph 1 of this Article.

If the parties do not agree pertaining to the selection of an expert witness and the subject and scope of expertise, the court shall render a ruling on this subject.

The court may, regardless of the agreement between the parties, appoint another expert witness if the complexity of expertise requires so.

Article 251

Expertise is performed by a single expert. When the court assesses the expertise as complex, it may appoint two or more expert witnesses.

Expert witnesses are selected primarily from the list of permanent appointed court experts for a specific field of expertise.

Expertise may also be delegated to expert institution (hospital, laboratory, university etc.).

If specialised institutions qualified for particular fields of expertise exist (expertise of counterfeit money, graphology, dactiloscopy etc.), such expertise, in particular a complex one, shall primarily be delegated to such institutions.

Article 252

The court shall release an expert witness, upon its request, from the duty of presenting

expert testimony, on equal grounds applied for a witness to withhold its testimony or reply to a specific question.

The court may also release an expert witness, upon its request, from the duty of presenting expert testimony for other justified reasons. Release of an expert witness from its duty of presenting expert testimony may also be requested by an authorised official of a body or an organisation, where an expert is employed.

Article 253

An expert witness may be excluded or disqualified on equal grounds applied for disqualification of a judge or a lay-judge. A person previously heard as a witness may subsequently be appointed as an expert witness.

A party shall submit a motion for disqualification of the expert witness upon learning that reason for such disqualification exists, at latest prior to the commencement of evidence presentation by expert testimony.

It is incumbent upon a party to state the circumstances upon which its motion for disqualification of an expert witness is founded.

The court shall rule upon a motion for exclusion and disqualification. The judge of the requested court and the president of the chamber shall adjudicate on disqualification if they duly conduct presentation of evidence by expert testimony.

No appeal is permitted against a ruling of the court which grants the motion for disqualification, and no specific appeal is permitted against a ruling which dismisses such motion.

If a party has become aware of a reason pertaining to exclusion or disqualification after an expert testimony was executed, and a party objects to such testimony on those grounds, the court shall act as if the motion was put forward prior to the expert testimony.

Article 254

The court may impose a fine of up to 30,000 Dinars on an properly summoned expert witness who had failed to appear at the hearing, and subsequently failed to justify its absence, as well as on the expert who rejects to provide an expert testimony without a justified reason.

The court may revoke a ruling on imposing a fine pursuant to the conditions referred to in Article 247, paragraph 5 of this Law.

Upon a motion of a party, the court may rule to order the expert witness to reimburse the expenses incurred pertaining to its unjustified absence or unjustified refusal to furnish an expert testimony.

Article 255

An expert witness is entitled to reimbursement of expenses for travel, food and accommodation, lost income and costs of expert testimony, as well as to the remuneration for expert testimony.

In respect of reimbursement and remuneration of the expert witnesses provisions of Article 248, paragraphs 2 and 3 of this Law shall be applied accordingly.

Article 256

The court shall order an expert testimony by a ruling which contains full name and profession of the expert witness, the subject of the dispute, the subject and scope of expertise and a time limit for submission of the expert findings and opinion, in writing.

A transcript of the ruling is served upon the expert witness enclosed with the summons to the trial hearing.

The court shall in its summons warn the expert witness on its duty to convey its expertise in accordance with its conscience and rules of the science and profession. The court shall also warn the expert witness upon the consequences of a failure to submit the expert findings and opinion within the determined time limit, or upon an unjustified failure to appear at the hearing, as well as pertaining to its right to remuneration and reimbursement of costs.

Article 257

The expert shall submit to the court its findings and opinion in writing, with a reasoning attached, prior to the trial hearing.

The court shall serve the expertise on the parties to the proceedings, within at least eight days prior to the trial hearing.

Article 258

If the expert fails to submit the findings and the opinion within the determined time limit, the court shall appoint a new expert upon the expiry of the time limit determined for the parties to declare upon such failure.

If the expert presents an expertise which is unclear, incomplete, inherently contradictious or contravening the established circumstances, the court shall appoint an expert to complete or correct the findings and the opinion, and shall determine a time limit for resubmission of the expertise.

Article 259

If several experts are appointed, they may submit their findings and the opinion concurrently provided they agree on such findings and opinion. If they do not agree on such findings and opinion, each expert will present its findings and opinion separately.

If data furnished upon their findings differ significantly among the expert witnesses, or if findings of one or several expert witnesses are unclear, incomplete, inherently contradictious or contravening the established circumstances, and such deficiencies can not be alleviated by re-examination of the expert witnesses, new expert testimony shall be executed with existing or new experts.

If the opinion of one or several experts contains contradictions or other deficiencies, or if a reasonable doubt pertaining to correctness of the furnished opinion appears, and such deficiencies or doubt can not be alleviated by re-examination of the experts, an opinion shall be requested from other experts.

Article 260

No appeal is permitted against the ruling of the court pursuant to Articles 250, 251 and 259 of this Law.

Article 261

Provisions of this Law in respect of expert witnesses shall apply to court translators or interpreters accordingly.

Hearing the parties

Article 262

Relevant facts can be established by hearing the parties.

The court may rule to present the evidence by hearing the parties when no other evidence is available or, in addition to other evidence obtained, when the court deems it necessary in order to establish relevant facts.

Article 263

If the court is convinced that a party, or a person to be heard on behalf of such party, has no knowledge of the disputed facts, or if hearing of such party is not possible, the court may rule to hear the other party only.

The court may rule to hear one party only, if the other party withholds its statement or does not comply with the court summons.

If in the course of the proceedings a party dies or if a new hearing of the party is not possible, or is impeded for other reasons, the court shall read the minutes containing the statement of the relevant party.

Article 264

Presentation of the evidence by hearing parties through a form of a request, shall only be permitted if a party is unable to appear in person pertaining to the inevitable obstacles or if

its attendance would incur inappropriate expenses.

Article 265

On behalf of a party lacking litigation capacity, his or her legal representative shall be heard. The court may rule to hear the legal representative, either instead or in addition to hearing such party, if such hearing is possible.

On behalf of a legal entity, the court shall hear a person designated to represent such legal entity pursuant to the law or to the regulations.

If several persons are comprising a single party participating to the dispute, the court shall rule whether to hear all these persons or some of them only.

Article 266

The summons to the hearing for presenting the evidence by hearing the parties shall indicate that the party appearing at the hearing may be heard in the absence of an opposing party.

Article 267

No coercive measures shall be applied against a party who fails to comply with the summons of the court to be heard, nor shall it be coerced into declaring a statement.

The court shall, considering all the circumstances, assess the relevance of the fact that a party failed to appear at the hearing, or withheld the statement.

Article 268

The provisions on the presentation of evidence by hearing witnesses shall also be applied to the presentation of evidence by hearing the parties, unless otherwise provided for the hearing of the latter.

Chapter 21

OBTAINING THE EVIDENCE

Article 269

If a reasonable concern exists indicating that particular evidence could not be presented, or that its presentation at a latter point would be impeded, a motion may be put forward to present such evidence pending or prior to institution of a litigation.
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A motion to obtain the evidence may be filed even after the decision concluding the proceedings becomes legally effective, if it is so required prior or pending the proceedings on extraordinary legal remedies.

The aforementioned proceedings is urgent.

Article 270

If a motion to obtain the evidence is filed in the course of the proceedings, the court conducting the proceedings shall act upon such motion.

When a motion to obtain the evidence is filed prior to initiation of the proceedings, as well as in case of urgency if proceedings are already pending, the lower court of the first instance on whose territory the objects to be examined are located, shall have jurisdiction, or the court on whose territory is the residence of the person to be heard.

The court conducting the proceedings shall rule upon the motion referred to in paragraph 1 of this Article.

Article 271

In the submission for obtaining the evidence prior to institution of the proceedings, a party submitting a motion shall state the facts subject to probation, evidence to be presented and reasons upon which a party is relying its allegation that subsequent presentation shall not be possible, or that the presentation of evidence shall be impeded. The submission shall contain the full name of the opposing party, its residence or dwelling, unless circumstances imply that identity of that party is unknown.

Article 272

A submission containing the motion for obtaining the evidence shall be served upon an opposing party, provided its identity is known. If a risk of a delay exists, the court shall rule on the motion without obtaining prior declaration of the opposing party.

In its ruling granting the motion, the court shall determine a date of a hearing for presentation of evidence, state the facts pertaining to the presentation of evidence, as well as the evidence to be presented, and shall appoint expert witnesses, if necessary.
If a motion for obtaining the evidence has not been served upon an opposing party, the service shall be effected by attaching this motion to the ruling of a court granting a motion for obtaining the evidence.

If an opposing party or its temporary residence is unknown, the court may appoint a interim legal representative to such party to participate in the hearing for presentation of evidence (Article 79). It is not required to publish a notice pertaining to such appointment.

In cases demanding urgency, the court may order a presentation of evidence to commence before the ruling granting the motion to obtain the evidence is served on the opposing party.

No appeal is permitted against the court ruling granting the motion to obtain the evidence, or against a ruling ordering a presentation of evidence to commence before such act is served on the opposing party.

Article 273

If evidence is presented prior to the institution of the proceedings, the minutes pertaining to the presentation of evidence shall remain with the court that conducted the presentation of evidence.

If the proceedings are pending, and the evidence have not been obtained by the litigation court, the minutes shall be duly served on that court.

Chapter 22

PREPARATION FOR THE TRIAL HEARING

Article 274

The court shall duly prepare the trial hearing upon reception of the complaint.

These preparations shall include preliminary examination of the complaint, service of the complaint on the respondent for reply, holding of a preliminary hearing and scheduling of the trial hearing.

In the course of preparations for the trial hearing, parties may file, in due time, written submissions, stating the facts they intend to present at the trial hearing, as well as the evidence they intend to propose for presentation.

Article 275

In the course of preparations for the trial hearing, prior to the first hearing, the court shall rule on all issues concerning the conduct of the proceedings.

A party who failed to appoint an attorney and, due to the ignorance, failed to exercise the rights in the proceedings it is entitled to pursuant to the law, shall be duly advised by the court as to which actions it may undertake in the proceedings.

No appeal shall be permitted against rulings on conduct of the proceedings, rendered by the court pending preparations for a trial hearing.

Article 276

In the course of the preparations for the trial hearing, the court may render a judgement on

admission plea, judgement on waiving of a claim, or default judgement, and, if the settlement of the parties is reached, shall record it in the minutes.

In the course of the preparations for the trial hearing, the presiding of the chamber may, upon the reception of a reply to a complaint, render a judgement if he or she establishes that the facts are undisputed by the parties and no other impediments exist for rendering a judgement.

Preliminary examination of the complaint

Article 277

Upon a preliminary examination of the complaint, the court is entitled to pass a ruling pursuant to the provisions of the Article 279 of this Law, unless a ruling on the issues in concern, by a nature, or pursuant to provisions of this Law, may only be passed in the further course of the proceedings.

Article 278

Upon establishing that the complaint is incomprehensible or incomplete, or that it contains deficiencies pertaining to the litigation capacity on a part of plaintiff or respondent, or deficiencies pertaining to the legal representation of a party, or deficiencies pertaining to power of attorney for institution of a litigation when such authorisation is required, the court shall undertake appropriate measures provided by this Law (Articles 78 and 103) to remedy those defects.

Article 279

Upon a preliminary examination of the complaint, the court shall reject the claim by a ruling if it establishes that:

1) adjudication of the claim does not lie within the jurisdiction of the court;

2) a complaint was untimely filed if specific regulations prescribe time limit for submission of a complaint;

3) another litigation is pending upon a particular claim;

4) a matter was adjudicated by an effective decision;

5) a court settlement was reached on a particular matter;

6) a plaintiff holds no legal interest to file a complaint pursuant to Article 188 of this Law;

7) a complaint is incomprehensible or incomplete to be proceeded upon.

Associates of a judge may, upon themselves, perform activities pertaining to preliminary examination of a complaint, with regard to undertaking specific measures and deliberations provided by this Law (Article 278 and Article 279, paragraph 1), or in

relation to a conduct of a preliminary hearing or an opening of the trail hearing. Prior to scheduling of a hearing, they may summon the parties or their representatives to provide required statements, or to obtain required documents with regard to clarification of particular issues, as well as to engage with other activities pertaining to the conduct of the proceedings.

Associates of a judge may perform activities pursuant to paragraph 2 of this Article, equally in the proceedings upon legal remedies.

Article 280

If the president of a chamber deems that no sufficient grounds exist to rule on a particular issue arising in the preliminary examination of the complaint, he or she shall postpone rendering such decision until service of the reply to the claim is effected, or shall postpone it to the preliminary hearing, or to the opening hearing of the trial, if a preliminary hearing is not held.

Reply to the complaint

Article 281

The court shall serve the complaint with relevant submissions enclosed on the respondent to reply within the time limit of 30 days upon filing of a complaint with the court.

Article 282

It is incumbent upon a respondent to submit its reply to the court within the time limit of 30 days upon reception of a complaint with relevant submissions enclosed.

It is incumbent upon the court to duly advise the respondent upon the contents of the reply, as well as to the consequences of its failure to submit a reply within a time limit determined.

Article 283

Exceptionally, if the circumstances of a particular case so require, and especially if it is necessary to rule on a motion for ordering provisional measures, the court may immediately schedule a hearing and order that a copy of the complaint is served upon the respondent.

Article 284

The respondent shall, in its reply to the complaint, put forward its objections and declare whether he or she admits or contests the claim. The reply must contain other information relevant for any other submission (Article 100).

If the respondent contests the claim, the reply must contain facts on which its allegations are founded as well as the evidence to support such facts.

Article 285

If a reply to the complaint contains deficiencies (Articles 100 and 284), precluding a court to proceed upon it, the court shall deem that the respondent failed to submit its reply to the complaint.

Preliminary hearing

Article 286

The court shall, as a rule, schedule the preliminary hearing upon the reception of the reply to the complaint.

If the respondent failed to submit its reply to the complaint, and no requirements for rendering a default judgement existed, the court shall duly schedule and hold the preliminary hearing within 30 days of the day upon the expiry of the time limit determined for the respondent to serve his reply to the court.

Article 287

The preliminary hearing is mandatory, unless the court, upon the reception of the complaint and the reply to the complaint, establishes that the facts are undisputed by the parties, or that the dispute is uncomplicated, or if so provided by the law.

Article 288

In the summons for the preliminary hearing the parties shall be ordered to furnish to the hearing all documents in support of the evidence, as well as all objects due to be examined in the court.

If it is required to obtain case files for a preliminary hearing, documents or objects which are maintained by the court, any other public authority or enterprise, or by other organisation vested with powers to perform public authority, the court shall order for these objects or documents to be acquired in due time.

The summons for the preliminary hearing shall be served at least 8 days before the hearing. .

Article 289

If a properly summoned plaintiff fails to appear at the preliminary hearing, it shall be deemed that the complaint has been withdrawn, unless a respondent moves for the hearing to be held.

Article 290

Preliminary hearing commences with the presentation of a complaint, succeeded by the respondent's reply to a complaint.

The court shall demand the parties to elaborate their allegations or proposals, if deems it necessary.

Article 291

Upon the presentation of a complaint and the reply to a complaint, the court shall debate on issues pertaining to impediments for further conduct of the proceedings, and, if necessary, the evidence with regard to these issues may be presented.

The court shall, upon the motion of a party or *ex officio* rule on the issues specified in the Article 279 of this Law, unless otherwise provided by this Law.

The court shall rule upon an objection pertaining to procedural impediments concurrently with the adjudication on the merits of a claim, except if the objection refers to contesting the territorial jurisdiction.

No specific appeal is permitted against a ruling referred to in paragraph 3 of this Article.

Article 292

In the further course of the preliminary hearing, the court shall argue on motions and requests of the parties, as well as on the allegations supporting their motions and requests.

Article 293

The court shall rule on the evidence to be presented at the trial hearing.

The court shall dismiss motions which it deems irrelevant for adjudicating the case by a ruling which shall contain reasoning.

No specific appeal is permitted against a ruling referred to in paragraph 2 of this Article.
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In the further course of the litigation, the court is not bound by rulings passed on the conduct of the proceedings.

Scheduling a Trial Hearing

Article 294

The court schedules the trial hearing.

The court shall summon the parties, witnesses and expert witnesses it has ruled to summon at the preliminary hearing.

Provisions of Article 288 of this Law shall also apply to scheduling of a trial hearing.

Chapter 23

TRIAL HEARING

The course of the trial hearing

Article 295

The court shall open the trial hearing and announce the subject of the hearing, establish whether all summoned have appeared, ascertain whether all have been properly summoned, as well as whether they have justified their failure to appear before the court.

Article 296

If the properly summoned plaintiff or the respondent fails to appear at the trial hearing, the hearing shall be held with the participation of a party that appeared before the court.

If a plaintiff and a respondent fail to appear at the trial hearing with no justification, the complaint shall be deemed to be withdrawn.

Article 297

Upon the motion of a party, the court shall adjourn a trial hearing if an ignorant party has no attorney and is unable to manifestly declare upon the subject of a dispute.

Article 298

If a preliminary hearing was not previously held, the first hearing of a trial shall commence with presentation of a complaint, so that the respondent shall subsequently reply to the allegations in a complaint.

If a preliminary hearing was held prior to the trial hearing, the president of a chamber shall duly acquaint the chamber with the course and the outcome of a particular hearing. Parties shall be allowed to supplement the exposure of the president of a chamber.

In the further course of the proceedings, motions and allegations supporting the motions of the parties shall be argued, or the motions of the opposing party shall be contested, their evidence shall be presented and argued, and the outcome of presentation of the evidence

shall be examined.

Parties may explain their legal considerations pertaining to the subject of dispute.

A party may, if provided by this Law, put forward an objection or motion, or may undertake other action in the proceedings until the respondent commences argument of the merits of the case at the trial hearing. A plaintiff may put forward such an objection or motion, or may undertake another action in the litigation prior to concluding the presentation of the claim, whereas a respondent may engage with such activities prior to the completion of its reply to the complaint.

Article 299

The court shall, by asking questions or by other appropriate means, take due care in the course of the proceedings, that all required accounts are provided for establishment of the facts relevant for deliberation, as well as to exceptionally order *ex officio* presentation of the evidence relevant for deliberation, if this is provided pursuant to the law.

Article 300

Each party shall present all the facts relevant in support of its motions, afford the evidence required in support of its allegations and declare on the allegations and evidence presented by the opposing party.

Parties may present new facts and propose new evidence throughout the course of the trial hearing.

Parties may, in the course of the trial hearing, also submit their motions in due time, stating the facts to be presented at the hearing or the evidence they intend to propose at the hearing.

Article 301

The court shall render a ruling a on the presentation of evidence which indicates the disputed fact and the means for the presentation of evidence.

The court shall dismiss proposed evidence which it deems irrelevant for the judgement and provide the reason for dismissal in its ruling.

No specific appeal is permitted against the ruling on allowing or dismissing the presentation of evidence.

In the further course of the proceedings, the court is not bound by its prior ruling on the presentation of evidence.

Article 302

If a party objects that adjudication of the claim shall not lie within the jurisdiction of the court, that the court has neither subject matter or territorial jurisdiction, that another litigation is pending on the particular claim, that the matter is effectively adjudicated, that a court settlement was reached on the same claim; or that the plaintiff waived the claim before the court, the court shall rule whether to argue and deliberate the objection separately or concurrently to the merits of the case.

If the court dismisses the objection referred to in paragraph 1 of this Article argued concurrently to the merits of the case, or if upon a separate argument the court dismisses the objection and rules to resume with the trial hearing without delay, the ruling on the objection shall be acceded to the adjudication of the merits of the case.

No specific appeal is permitted against the ruling on dismissal of the objections of the parties, if the chamber of judges adjudicated to resume with the argument on the merits of the case.

Provisions of paragraphs 1 to 3 of this Article shall accordingly apply if the court *ex officio* rules to deliberate whether the issue lies within the jurisdiction of the court, separately from the merits of the case, whether the litigation is pending already, whether the matter is effectively adjudicated; whether the plaintiff waived the claim before the court, as well as whether court settlement is reached.

Article 303

Members of the chamber of judges, a party and its legal representative or attorney may directly examine a witness, an expert witness or a party upon conclusion of the hearing of those by the president of the chamber of judges.

The court shall not allow a party to inquire on a particular question or shall preclude the reply to a leading question, or to a question not relevant to the case.

If the president of the chamber of judges precludes a particular question or a particular reply, a party is entitled to move for the chamber to adjudicate upon the issue.

Upon a motion of a party, a question dismissed by the chamber shall be recorded in the minutes, as well as a question upon which the reply has been precluded.

Article 304

The witnesses and expert witnesses heard shall remain in the courtroom unless the court, upon a declaration of the parties, releases or orders them to temporarily leave the courtroom.
The court may rule for the witnesses heard to be re-summoned and re-examined in the

presence or absence of other witnesses and expert witnesses.

Article 305

When the chamber of judges holds the case as argued for a judgement to be passed, the court shall announce that the trial hearing is concluded.

The court may also rule to conclude the trial hearing if particular documents containing relevant evidence remain to be acquired, or if the minutes on the evidence presented before the requested judge shall be expected upon, and the parties refrain from arguing of such evidence, or the court holds such debate unnecessary.

Article 306

The court may, in the course of deliberation and voting, rule for the concluded trial hearing to be reopened if it holds it necessary to supplement the proceedings, or afford clarification of particular relevant issues.

The trial hearing is public

Article 307

The trial hearing is public.

Only adults may attend the trial hearing.

Persons attending the trial must not carry weapons or dangerous implements.

The provision of paragraph 3 of this Article shall not apply upon the guards of the participants to the proceedings.

Article 308

The court may exclude the public entirely or partially from the trial hearing, if so required in the interest of protection of official or corporate classified information, personal secret, or due to reasons pertaining to public order or rules of ethics.

The chamber may also exclude the public when measures for maintaining of order provided pursuant to this Law would not secure undisturbed conduct of the trial hearing.

Article 309

Exclusion of the public shall not apply to the parties, their legal representatives, attorneys and interveners.

The court may allow particular officials, as well as scientists and public figures, to attend

the trial hearing in respect of which the public has been excluded, if in the interest of their official activity, scientific or public work.

Upon the motion of a party, no more than two persons, designated by that party, shall attend the trial hearing.

The court shall duly warn persons attending the trial hearing in respect of which a public is excluded of their duty to withhold as secret all information they acquired at the trial hearing, and duly advise them pertaining to the consequences of a breach of such confidentiality.

Article 310

The court shall render a ruling on exclusion of the public, extended with a compulsory reasoning and duly announced to the public.

No specific appeal is permitted against a ruling on exclusion of the public.

Article 311

Provisions pertaining to publicity of the trial hearing shall accordingly apply to other hearings.

Conduct of the trial hearing

Article 312

The court conducts the trial hearing, examines the parties, presents evidence, and allows the parties, their legal representatives and attorneys to speak and announces rulings of the chamber of judges.

It is incumbent upon the court to duly ascertain that the subject of a dispute is thoroughly examined, the dispute is not unduly delayed and that the proceedings are concluded, if possible, by a single hearing.

If a participant at the hearing objects to an action of a president of the chamber undertaken in respect of the conduct of the trial hearing, or to a question asked by either the president or a member of the chamber, or another participant to the proceedings, the chamber shall render a ruling upon such objection.

The court is not bound by its rulings passed on the conduct of the trial hearing.

No specific appeal is permitted against a ruling on the conduct of the trial hearing.

Article 313

Outside the trial hearing, the court renders a ruling on amendments to a submission, on appointment of an interim legal representative, on a correctness of the letter extending

power of attorney, on deposit with respect to expenses for undertaking specific actions in the proceedings, on release from reimbursement of costs of the proceedings, on securing the litigation costs, on service of the communications of the court, on obtaining the evidence, on interlocutory relief, on measures pertaining to securing procedural order and fines, on discontinuance and suspension of the proceedings, on costs of proceedings incurred in respect of the withdrawn claim, on scheduling and adjournment of hearings, on concurrence of disputes, and on determining of time limits.

The court is authorised to order necessary amendments or supplements, upon receiving the minutes containing records of presentation of the evidence before the requested judge.

Outside the trial hearing, the court is authorised to, upon a declaration of the respondent or plaintiff produced in writing or on a record with the court conducting a litigation, render a default judgement, judgement on admission plea, or judgement on waiving of a claim, and, if the court settlement of the parties is reached, the court shall record it in the minutes.

Article 314

If several litigations before a single court are pending between the same parties, or if a single person appears as the opposing party to several plaintiffs or respondents, the court may rule to concur all these civil actions for common hearing, if such ruling would expedite the argument or reduce costs. The court may render a single judgement adjudicating concurred actions.

The court may order separate hearing of individual claims encompassed by a single complaint, and may render separate rulings on such claims upon conclusion of these separate hearings.

Article 315

When the court rules to adjourn a hearing, it shall ensure that all evidence to be presented at the next hearing is acquired, and other preparations accomplished, in order to conclude the argument at such hearing.

No appeal is permitted against a ruling of the court adjourning the hearing or dismissing the motions of the parties to postpone a hearing.

Article 316

If a hearing is adjourned, the new hearing shall be held before the same chamber, if possible.

If a new hearing is held before the same chamber, the trial hearing shall be resumed and the president of the chamber shall brief the court on the course of previous hearings, however, in this case the chamber may rule to reopen the hearing.

Article 317

If a hearing is held before an altered chamber, or before a single judge, the trial hearing shall be reopened, however, the court shall rule that the parties, witnesses and expert witnesses, are not to be re-examined, and that new investigation is not be conducted, but shall rule for the minutes containing presentation of the evidence to be read.

Maintaining of order at the trial hearing

Article 318

It is incumbent upon the court to maintain order in the courtroom and protect dignity of the court in the course of the trial hearing.

Article 319

If a participant to the proceedings or a person attending the hearing offends the court or other participants to the proceedings, impedes with the conduct of hearing or fails to comply with the orders of the court on maintaining order, the court shall warn such person. If the warning had no avail, the chamber should dismiss the person from the courtroom, or should impose a fine of up to 30,000 Dinars on it, or both.

If a party is dismissed from the courtroom, the hearing shall be held in its absence.

If an attorney is dismissed from the courtroom, the court shall adjourn the hearing upon a motion of a party, and if such party failed to appear at the hearing, the court shall duly adjourn the hearing and notify the party pertaining to a dismissal of its attorney from the hearing on contempt of the court.

When the court imposes a fine or dismisses a lawyer or its associate acting as attorney, it shall notify the bar association accordingly.

An appeal against the ruling on fine or dismissal from the courtroom shall not delay its execution.

Article 320

If a public prosecutor or a public attorney or person acting on their behalf, is conducting disorderly, the court shall notify the relevant public prosecutor or public attorney accordingly. The court may adjourn the hearing and request the relevant public prosecutor or public attorney to appoint another person to act in the proceedings.

Article 321

The judge disposes with powers for maintaining order at trial hearing equally at all other hearings.

Chapter 24

SETTLEMENT BEFORE THE COURT

Article 322

Parties are entitled to reach a settlement before the court of first instance throughout the entire course of the proceedings.

The settlement may refer to a claim in its entirety or to a part.

In the course of the proceedings, the court shall duly advise the parties as per their liability to reach a settlement before the court and shall act to facilitate a settlement.

No settlement can be reached before the court in respect of claims the parties are not liable to dispose with (Article 3, paragraph 3).

If the court renders a ruling to decline the settlement between the parties, it shall suspend the proceedings before the ruling becomes effective.

Article 323

Agreement of the parties on the settlement shall be duly recorded in the minutes.

A settlement is perfected as the parties sign the minutes of the settlement upon reading it.

A certified copy of the minutes of the settlement shall be issued to the parties, and it shall have the effect of a judgement.

Article 324

Throughout the entire course of the proceedings the court shall *ex officio* care whether litigation is pending on a claim in respect of which a prior settlement was reached, and if the court establishes that litigation is pending on a claim in respect of which a prior settlement was reached, it shall reject the complaint.

Article 325

A settlement before the court may only be contested by a complaint.

A settlement before the court is null and void if it has been reached upon the claims the

parties are not entitled to dispose with (Article 3, paragraph 3).

If a settlement before the court is revoked, the proceedings shall resume as if it was not reached.

Article 326

A person who intends to file a complaint may attempt to reach a settlement before the lower court of first instance on whose territory the opposing party has residence.

The court which receives such motion shall summon the opposing party and inform it pertaining to the motion for settlement.

The costs of such proceedings shall bear the party submitting a motion.

Article 327

If the court holds or the parties consensually put forward for a dispute to be resolved through mediation, it shall direct the parties to mediation and suspend the proceedings. Mediation is closed to the public.

The president of the court assigns mediators from among renowned professionals (judges, lawyers, etc.) who volunteer as mediators.

Mediator is assigned concomitantly to the type of litigation from the list referred to in paragraph 2 of this Article which is composed by the president of the court.

Article 328

A party is entitled to be represented by an attorney in the course of mediation.

An agreement reached through mediation shall represent an out of court settlement, which the mediator shall serve upon the court in order for the settlement to be reached before the court.

Motions and declarations of the parties and their attorneys produced in the course of mediation shall not be used in the proceedings before the court.

The court shall schedule a trial hearing if the parties fail to settle the dispute through mediation within a time limit of 30 days.

Article 329

Mediation is voluntary, confidential and urgent.

Chapter 25

JUDGMENT

Article 330

The court adjudicates on the merits of the claim and subsidiary claims by a judgement.

If several claims exist, the court shall, as a rule, adjudicate all those claims in a single judgement.

If several litigations are concurrently tried for the purpose of common argument, and only one of those is prepared for final adjudication, the judgement may be rendered only in respect of such action.

Article 331

The court may order the respondent to perform an obligation only if such duty has become due before the conclusion of the trial hearing.

If the court passes a claim for maintenance or compensation in the form of annuity to indemnify for lost profit, or other labour related income or in the case of lost maintenance, it may order the respondent to perform an obligation which is not due.

A judgement ordering the respondent to dispense or accept the objects under lease may be rendered prior to cease of such relations.

Article 332

If the plaintiff in the complaint claimed the adjudication of a particular object or claimed a particular performance of the obligation, and has stated in the claim or prior to conclusion of the trial hearing willingness to accept performance of another obligation or pecuniary amount instead of a claimed object, the court shall, if it passes such claim, declare in a judgement a ruling to relief the respondent of its obligation to deliver or to perform if the he or she satisfies the pecuniary amount or complies with alternate obligation to perform.

Article 333

If a party is ordered by to perform a particular obligation the judgement shall also determine a time limit for a party to comply with.

Unless otherwise provided by specific regulations, the time limit for performance of the obligation shall be fifteen days. The court may determine a longer time limit if the performance is not of pecuniary nature. In litigations pertaining to bills of exchange and checks the time limit shall be eight days.

The time limit for performance of an obligation shall commence with the first day upon a service of a transcript of the judgement on a party ordered to perform such action.

Partial Judgement

Article 334

If only some of several claims put forward are ready for final adjudication on the grounds of admission plea or waiver or argument, or if only a part of the claim is ready for final ruling, the court is entitled to conclude a trial hearing and render a judgement in respect of claims that are ready, or in respect of a part of the claim (partial judgement).

The court may also pass a partial judgement if a counter complaint has been submitted and the claim or the counter complaint is deemed ready.

The court shall, in its assessment on whether to render a partial judgement, particularly take into due account the volume of the claim, or a part of the claim ready for adjudication.

Partial judgement is an independent judgement in respect of legal remedies and enforcement.

Interim judgement

Article 335

If the respondent contested both the grounds and the amount referred to in a claim, and the claim is with regard to its grounds ready for adjudication, the court may, for reasons of appropriateness, first render a judgement solely on the grounds for the claim (interim judgement).

The court shall suspend an argument pertaining to the amount referred to in a claim until interim judgement comes into effect.

Judgement on the grounds of admission plea

Article 336

If the respondent admits a claim prior to the conclusion of the trial hearing, the court shall render a judgement without further argument, granting the claim (judgement on the grounds of admission plea).

The court shall not render a judgement on the grounds of admission plea even if required conditions are complied with, if it holds that the parties can not dispose with a concerned claim (Article 3, paragraph 3).

Rendering of judgement on the grounds of admission plea shall be deferred if the court finds it necessary to acquire information beforehand pertaining to the circumstances referred to in paragraph 3 of this Article.

The respondent is entitled to revoke its admission of a claim at the hearing or by written submission, without the consent of the plaintiff, before a judgement is passed.

Judgement on the grounds of waiver of a claim

Article 337

If the plaintiff waives a claim prior to conclusion of the trial hearing, the court shall render a judgement dismissing the claim without further argument (judgement on the grounds of waiver).

Consent of the respondent is not required for a waiver of a claim.

The court shall not render a judgement on the grounds of waiver even if required conditions are complied with, if it holds that the parties can not dispose with a concerned claim (Article 3, paragraph 3).

Rendering of judgement on the grounds of waiver shall be deferred if the court finds it necessary to acquire information beforehand pertaining to the circumstances referred to in paragraph 3 of this Article.

The plaintiff is entitled to revoke a waiver of a claim at the hearing or by written submission, without the consent of the respondent, before a judgement is passed.

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Default judgement

Article 338

If the respondent fails to submit a reply to the complaint within a determined time limit, the court shall render a judgement granting a claim (default judgement), if the following conditions are complied with:

1) if the complaint is properly served on a respondent with a notification on the consequences of failure to submit a reply;
2) if the facts supporting a claim are not contravening to the evidence presented by the plaintiff or to commonly known facts;
3) if legitimacy of a claim is ensuing from the facts stated in the complaint;
4) if no commonly known facts exist ensuing that the respondent was impeded by justified reasons to reply to the complaint.

The court shall not render a default judgement even if the conditions referred to in paragraph 1 of this Article are complied with, if it holds that the parties can not dispose with a concerned claim (Article 3, paragraph 3).

If the legitimacy of the claim is not ensuing from the facts stated in the complaint, the court shall schedule a preliminary hearing, and if the complaint is not amended at the hearing, the court shall render a judgement dismissing the claim.

Rendering of a default judgement shall be deferred if the court finds it necessary to acquire information beforehand pertaining to the circumstances referred to in paragraph 2 of this Article.

Rendering of a default judgement shall also be deferred if no evidence corroborate that the complaint was properly served on the respondent, albeit the complaint was undoubtedly despatched. In such case, the court shall determine a time limit of up to thirty days for a service to be effected in the country, or longer than the time limit referred to within a meaning of Article 130, paragraph 2 of this Law, in order to investigate whether the complaint was properly served on a respondent. If it is established within such time limit that the respondent was properly served, the court shall render a default judgement.

No specific appeal is permitted against the ruling of the court dismissing the motion of the plaintiff for rendering a default judgement, referred to in paragraph 2 of this Article.

In cases referred to in paragraphs 4 and 5 of this Article, the court may render a default judgement without hearing of the parties.

Rendering and announcing a judgement

Article 339

A judgement is rendered and announced in the name of the people.

If a trial hearing is being held before a chamber, a judgement is rendered by the president of the chamber and the members of the chamber who have participated in the hearing at which the trial is concluded. Immediately upon the conclusion of the trial hearing, the court shall render a judgement announced by the president of the chamber.

In more complex cases, the court may defer rendering of judgement for eight days from the day of conclusion of a trial hearing. In such cases, the judgement shall not be announced and the court shall duly serve the transcript of the judgement on the parties.

In a case referred to in Article 305, paragraph 2 of this Law, a judgement shall be rendered, not later than within eight days from the day documents or minutes have been received. This judgement shall not be announced.

Article 340

If a judgement is announced, the president of the chamber shall publicly read the order of a judgement and briefly announce the reasons thereof.

On announcement of a judgement, the court may declare its decision to rule on the assessment of costs subsequently. In such case, costs shall be assessed by a judge, and a

ruling shall be included in the written specimen of a judgement.

If the public was excluded from a trial hearing, the order of a judgement shall always be publicly announced, and the court shall rule whether to exclude the public from announcing the reasons for such judgement.

All present shall rise to hear the reading of the judgement.

Written version and service of the judgement

Article 341

A judgement shall be produced in writing within the time limit of eight days from the day of its rendering. In more complex cases, the court is entitled to delay writing of a judgement be for another 15 days.

The president of the chamber shall sign the original of a judgement.

A certified transcript of a judgement shall be served upon the parties containing the instructions on the right to file a motion for legal remedy against the judgement.

Article 342

A judgement produced in writing shall contain introduction, order of the judgement and statement of reasons.

An introduction contains: declaration that the judgement is rendered in the name of the people, the title of the court, a full name of the president of the chamber and its members, full name and permanent or temporary residence, or the seat of the parties, their representatives and attorneys, the value of the subject of dispute, a brief indication of the subject of dispute, the date of the conclusion of a trial hearing, indication of the parties, their representatives and attorneys who attended the final hearing, as well as the date of rendering the judgement.

The order of a judgement contains a deliberation of the court on granting or dismissing particular claims pertaining to the merits of a claim and to the ancillary claims, and a deliberation pertaining to the existence or non existence of a claim put forward for setting-off the accounts (Article 346).

In a statement of reasons the court shall pronounce: claims of the parties and their allegations pertaining to the facts in support of such claims, evidence and regulations in respect of which the court founded its judgement, unless otherwise stipulated by the law.

In a statement of reasons within a default judgement, judgement on the grounds of admission plea or judgement on the grounds of waiver, reasons that justify rendering such judgements shall solely be declared.

Supplemental Judgment

Article 343

If the court failed to adjudicate all claims which should have been adjudicated by a judgement, or failed to adjudicate on a part of the claim, a party may, within a time limit of fifteen days of receiving the judgement, submit a motion to supplement the judgement

The court shall dismiss an untimely or ill founded motion to supplement the judgment without holding a hearing.

If a party fails to submit a motion for rendering of a supplementary judgment within the time limit referred in paragraph 1 of this Article, it shall be deemed that the complaint has been withdrawn in that part.

Article 344

When the court finds that the motion for rendering a supplemental judgement is well founded, it shall schedule a trial hearing in order to render a judgement on the unresolved claim (supplemental judgement).

A supplemental judgement may be rendered without re opening of the trial hearing if this judgement shall be rendered by the very chamber that adjudicated the original judgement, and provided the claim in respect to which the supplementation is requested has been sufficiently argued.

If the court finds that a motion to supplement a judgement is untimely or ill founded, it shall dismiss or reject such motion by a ruling.

If a motion for rendering a supplemental judgement pertains to the costs of the proceedings solely, the court shall adjudicate without holding a hearing.

Article 345

If an appeal against a judgement has been filed, in addition to a motion to supplement a judgement, the court of first instance shall suspend the service of an appeal on the court of second instance until a ruling in respect of a motion for rendering a supplemental judgement has been adjudicated, and until the expiry of a time limit to appeal the ruling on a supplemental judgement.

If an appeal against a ruling on a supplemental judgement has been filed, such an appeal shall be served on the court of second instance attached to an appeal against the original judgement.

If a first instance judgement is appealed in respect of the failure of the court of first instance to adjudicate on all claims of the parties comprising the subject of a litigation, the appeal shall be considered as a motion for rendering a supplemental judgement.

Legal effectiveness of a judgement

Article 346

A judgement not eligible for further appeal becomes effective if it adjudicates on a claim or a counter complaint.

In the course of the entire proceedings, the court shall take due care *ex officio* whether the matter has already been adjudicated effectively, and if the court establishes that the litigation was initiated pertaining to the claim that has already been ruled effectively, it shall reject the complaint.

If a judgement rules on a claim that the respondent put forward in a plea for a set-off, the ruling on establishing either existence or non-existence of such claim shall become legally effective.

Article 347

A legally effective judgement shall hold its effect only between the parties.

An effective judgement shall also hold its effect upon the third parties by reasons of nature of a disputed right or a legal relation, legal relation between the parties and the third parties, or if provisions of the law provide so.

Legal effectiveness of a judgement is relied upon the facts established prior to the conclusion of the trial hearing.

Article 348

The court is bound by its judgement upon its announcement, and if the judgement has not been announced, upon its service.

The judgement shall hold its legal effect upon the parties from the date of its effective service on them.

Correcting a Judgment

Article 349

Errors in names and numbers and other manifest errors in writing and computation, defects in form or conformity of a transcript of the judgment with its original, shall be duly corrected by the President of a chamber or a single judge at any time

Corrections shall be effected by a specific ruling, and it shall be entered at the end of the original, and a transcript of such ruling shall be served to the parties.

If a discrepancy between the original and a transcript of a judgement exist in respect of a particular ruling contained in a judgement, a corrected transcript of a judgement shall be served on the parties, with indication that such transcript is replacing the earlier transcript of a judgement. In such case, the time limit for filing a legal remedy in respect to the corrected part of the judgement shall run from the date of service of the corrected transcript of a judgement.

The court may rule to correct the judgement without hearing the parties.

Chapter 26

RULING

Article 350

All rulings rendered at a hearing shall be announced by the president of a chamber or a single judge.

A ruling announced at the hearing shall be served on the parties as a certified transcript only if a specific appeal is permitted against such ruling, or if enforcement may immediately be requested on the basis of such ruling, or if the conduct of the proceedings would so require.

The court shall be bound by its rulings, if those are not pertinent to the conduct of the proceedings, or unless otherwise provided by this Law.

When a ruling is not served in writing, it shall hold effect on the parties immediately upon its announcement.

Article 351

Rulings rendered by a court without holding a hearing are communicated to the parties by serving a certified transcript of the ruling on them.

If a ruling dismisses a motion of a party without previous hearing of the opposed party, the ruling shall not be served on the latter.

Article 352

A ruling shall contain reasoning if an appeal against it is permitted.

A ruling issued in writing shall always contain introduction and the order of the judgement, and shall contain reasoning only if required so pursuant to paragraph 1 of this Article.

Article 353

Legally effective rulings on sanctions which are rendered pursuant to provisions of this Law shall be enforced *ex officio*.

Article 354

Provisions of Article 333, Article 348, paragraph 2, Article 339, paragraph 2, Article 340, paragraph 2, Articles 341 to 345 and Article 349 of this Law shall also apply to rulings accordingly.

B. PROCEDURE UPON LEGAL REMEDIES

Chapter 27

ORDINARY LEGAL REMEDIES

1. Appeal against judgement

Right to appeal

Article 355

Parties are entitled to submit an appeal against the first instance judgement within time limit of fifteen days from the date of serving a judgement transcript on them, unless other time limit is determined pursuant to this Law. In litigation pertaining to promissory notes and cheques the time limit to submit an appeal shall be eight days.

An appeal submitted in due time shall impede with the judgement becoming effective in the part contested by an appeal.

The court of second instance shall rule on an appeal against a judgement.

Article 356

A party may waive its right to appeal upon announcement of the judgement, and if the judgement is not announced, upon service of the transcript of the judgement on a party.

A party may withdraw an appeal at any time prior to the adjudication of the court of second instance.

A party may not revoke its waiver of a right to a legal remedy or withdrawal of an appeal.

Contents of an Appeal

Article 357

An appeal shall contain:

1) a designation of the judgement which is appealed;

2) a declaration pertaining to whether judgement is contested entirely or partially;

3) the reasons for an appeal;

4) the signature of an appellant.

Article 358

If in respect of the information declared in an appeal it can not be established which judgement is contested, or if an appeal is not signed (incomplete appeal), the court of first instance shall render a ruling, against which no appeal is permitted, to order the appellant to supplement or amend the appeal within a determined time limit in a submission, pursuant to requirements of Article 103 of this Law.

If the appellant fails to comply with the order of the court within a determined time limit, the court shall reject such appeal as incomplete.

If an appeal contains other deficiencies, the court of first instance shall serve an appeal on the court of second instance without ordering the appellant to supplement or amend such appeal.

Article 359

New facts can be presented and new evidence proposed in an appeal, provided the appellant satisfies the court that failure to produce such facts or evidence prior to the conclusion of the trial hearing did not rest upon him or her.

The court shall conduct investigation in respect of veracity of appellant’s allegations if it considers it necessary.

An appeal shall not contain either a motion on prescription or a plea for set-off.

The appellant who fails to satisfy the court that he or she justifiably failed to deposit the funds required to cover the expenses of presentation of the proposed evidence in the first instance procedure (Article 148, paragraph 4), shall not be allowed to propose presentation

of such evidence in the appeal.

A plea of set-off not submitted before the court of first instance can not be put forward in an appeal.

If costs are incurred due to the presentation of new facts or proposal of new evidence, in the course of the appeal proceedings, an appellant presenting new facts or proposing presentation of new evidence shall bear such costs regardless of the outcome of litigation.

Grounds upon which a judgment may be contested

Article 360

A judgement may be contested on the grounds of:

1) substantial violation of civil procedure rules;

2) incorrect or incomplete establishment of facts;

3) incorrect application of the substantive law.

A default judgement can not be contested on the grounds of an incorrect or incomplete establishment of facts.

A judgement on the grounds of admission plea or waiver of a claim may be contested in relation to substantial violation of civil procedure rules, or if declarations pertaining to admission or waiver of a claim were afforded under misapprehension, coercion or deception.

Article 361

A substantial violation of civil procedure rules exists if, in the course of the proceedings, the court failed to apply, or improperly applied a particular provision of this Law, which affected or might have affected rendering of a lawful and proper judgement.

Substantial violations of civil procedure rules invariably exist:

1. if the court was improperly composed, or if an acting judge in the proceedings should have been excluded or disqualified, or if a judge who had not participated in the trial hearing was engaged in rendering of a judgement;

2. if a claim that does not lie with a jurisdiction of the court was adjudicated (Article 16);

3. if a claim was adjudicated upon expiry of the time limit for a submission of a complaint

prescribed by the law;

4. if the court rendered a ruling on a claim which lies with the subject matter jurisdiction of a higher court of the same kind, or with the court of another kind (Article 16), or if the court, upon a motion of the parties, erroneously ruled that it had subject matter jurisdiction;

5. if the court, contrary to the provisions of this Law, rendered a ruling on a claim that the parties could not dispose with (Article 3, paragraph 3);

6. if the court, contrary to the provisions of this Law, rendered a default judgement, or judgement on the grounds of admission plea or upon a waiver;

7. if any party failed to be afforded an opportunity to argue before the court ensuing from an unlawful act, and in particular, ensuing from an ineffective service;

8. if the court, contrary to provisions of the law, dismissed the motion of a party to use its own language or script;

9. if a person not liable to be a party in the proceedings participated in the proceedings in the capacity of a plaintiff or respondent, or if a party which is a legal entity was not represented by an authorised person, or if a party without litigation capacity had no legal representative in the proceedings, or if a legal representative or an attorney to a party did not possess appropriate authority to conduct litigation or to take specific actions in the proceedings, unless the conduct of litigation or undertaking of specific actions in the proceedings have been subsequently approved, if all these deficiencies pertain to a party who submitted an appeal;

10. if a ruling was rendered on a claim which had been previously effectively adjudicated, or on a claim that was the subject of settlement before the court, or on a claim which is the subject of the pending litigation;

11. if the public was excluded from the trial hearing contravening the law;

12. if a judgement contains deficiencies impeding its examination, and in particular if the order of the judgement is incomprehensible, if a judgement is in self contradiction or if it contradicts to its grounds, or if the judgment has no grounds for reasoning at all, or if it does not specify the grounds for reasoning on substantial facts, or if such reasons are unclear or contradictory, or if contradiction exists in respect of substantial facts versus the specified reasoning on the contents of the documents, minutes of the declarations extended in the course of the proceedings and the very documents, minutes or presented evidence.

Article 362

Incorrect or incomplete establishment of facts shall exist if a court establishes a particular relevant fact incorrectly, or does not establish such fact at all.

Incomplete establishment of facts also exists if implied by new facts or new evidence

(Article 359).

Article 363

Incorrect application of the substantive law exists if the court failed to apply an appropriate provision of substantive law or applied it incorrectly.

Procedure upon Appeal

Article 364

An appeal is submitted to the court which rendered the first instance judgement, in sufficient number of copies for the court and for the opposing party.

Article 365

The court of first instance shall render a ruling to dismiss an untimely, incomplete (Article 358, paragraph 1) or inadmissible appeal.

An appeal is untimely if it is filed after the expiry of the legally binding time limit for its submission.

An appeal is inadmissible if it is filed by a person unauthorised to submit an appeal, if it is filed by a person who waived its right to appeal or withdrew an appeal, if the person who filed an appeal had no legal interest to submit an appeal.

Article 366

The court of first instance shall duly serve a copy of a timely, complete and admissible appeal to the opposing party, which is entitled to submit a reply to an appeal to the court within time limit of eight days.

The court of first instance shall submit a copy of the reply to the appellant.

The court of second instance shall not consider an untimely submitted reply to the appeal.

Article 367

The court of first instance shall, upon receiving a reply to an appeal or upon the expiry of the time limit to submit a reply, serve an appeal and the reply to an appeal, if submitted, attached to the case file, on the court of second instance within time limit of eight days.

If an appellant alleges substantial violations of civil procedure rules in the course of the

first instance proceedings, the court of first instance shall provide its reasoning pertaining to allegations of the appeal in respect of these infractions, and if necessary, the court shall conduct examination to ascertain the veracity of relevant allegations of an appeal.

Article 368

When the court of second instance receives documents pertaining to an appeal, the reporting judge shall produce a report on the case for the chamber of appeal

The reporting judge may, if necessary, obtain a report pertaining to infringements of civil procedure rules from the court of first instance, and require that investigation is conducted into establishing of such violations.

Article 369

The court of second instance shall, as a rule, adjudicate upon an appeal without holding a hearing.

If a chamber of the court of second instance finds it necessary to reopen the presentation of evidence before the court of second instance in order to establish facts correctly, it shall duly schedule a trial hearing before that court.

The court of second instance shall duly schedule a hearing and adjudicate upon the appeal and the requests put forward by the parties, if the first instance judgement has already been set aside pursuant to provisions of this Law and the concerned judgement was based on incorrect or incomplete establishment of facts or if substantial violations of civil procedure rules were inflicted in the course of the proceedings before the court of first instance.

Article 370

Parties or their legal representatives or attorneys, as well as witnesses and expert witnesses, whom the court rules to hear, shall be summoned for the hearing.

If one or both parties fail to appear at the hearing, the court shall deliberate an appeal and render a ruling particularly taking into consideration allegations contained in an appeal and in the reply to an appeal.

A hearing before the court of second instance shall commence with the report of the reporting judge, who shall elaborate the matter refraining to afford his or her opinion on the grounds of an appeal.

Subsequently, the judgement or the part of the judgement contested in an appeal shall be read, and if necessary, the minutes of the trial hearing conducted before the court of first instance shall also be read. The appellant shall then be afforded leave to explain the appeal and the opposing party shall be allowed a reply to the appeal.

A party may present facts and propose evidence with regard to an appeal pursuant to the Article 359.

Article 371

Unless Articles 369 and 370 of this Law provide otherwise, provisions referred to trial hearing before the court of first instance (Articles 295 to 321), as well as provisions of Articles 322 to 333, 343 to 345 and 349 of this Law shall accordingly apply to the hearing and the proceedings before the court of second instance.

Limits of examination of the first instance judgment

Article 372

The court of second instance shall review a first instance judgement in the part contested by an appeal, and if an appeal fails to identify the contested part, the court of second instance shall deem that a judgement is contested in the part in respect of which an appellant lost the litigation.

The court of second instance shall review a first instance judgement within the extent of the limits pertaining to reasons stated in the appeal and shall *ex officio* take due care in respect of substantial violations of the civil procedure rules, pursuant to Article 361, paragraph 2, subparagraphs 1, 2, 5, 7 and 9 of this Law, and upon correct application of substantive law.

The court of second instance shall examine whether the judgment exceeded the claim solely upon the request of a party.

Ruling of a court of second instance on the appeal

Article 373

The court of second instance may, at a session of the chamber of appeal or upon a hearing:

1) reject an appeal as untimely, incomplete or inadmissible;

2) dismiss an appeal as ill founded and confirm the first instance judgement;

3) set aside a judgement and refer the case to the court of first instance for a retrial;

4) set aside the first instance judgement and reject the complaint;

5) reverse a first instance judgement and rule upon the claims of the parties.

The court of second instance may also set aside a judgement solely in respect of the value of the claim, if it finds that, in respect of the ruling on the merits of the claim, no other reasons to contest a judgement exist, as well as those court duly observes *ex officio*.

The court of second instance shall not be bound by motions put forward in an appeal.

Article 374

The court of second instance shall reject by a ruling an untimely, incomplete or inadmissible appeal, if the court of first instance failed to reject such an appeal (Article 365).

Article 375

The court of second instance shall, by a judgment, dismiss the appeal as being ill-founded and shall confirm the first instance judgment if it establishes that there exist neither the grounds on which the judgment is contested, nor those to which the court shall pay due attention *ex officio.*

Article 376

The second instance court shall, by a ruling, set aside the first-instance judgment if it establishes that there is a substantial violation of civil procedure rules (Article 361) and shall refer the case to the same court of first instance, or to a court of first instance having jurisdiction for a retrial. In its ruling, the court of second instance shall determine which actions undertaken and affected by the substantial violation of civil procedure rules are due to be set aside.

If in the proceedings before the court of first instance, the provisions referred to in Article 361, paragraph 2, subparagraphs 2, 3 and 10 of this Law have been infringed, the court of second instance shall set aside the first instance judgement and reject the complaint.

If in the proceedings before the court of first instance, the provisions referred to in Article 361, paragraph 2, subparagraph 9 of this Law have been infringed, the court of second instance shall, with regard to the nature of such violation, set aside the first instance judgement and refer the case to the court of first instance which has jurisdiction, or shall set aside the first instance judgement and reject the complaint.

Article 377

The court of second instance shall, by a ruling, set aside a judgment rendered by the court of first instance and refer the case to that court for a retrial if it deems necessary that, for the purpose of proper establishment of facts (Article 359), a new trial hearing should be held before the court of first instance.

The court of second instance shall, by a ruling, set aside a judgment of the court of first instance and return the case to that court for a retrial if, due to incorrect application of substantive law, the facts were established incompletely.

Article 378

When the court of second instance has set aside a judgment rendered by the court of first instance and referred the case to the same court for a retrial, it may order the retrial to be held before another chamber or a single judge.

Article 379

If the first instance judgment exceeded the claim in that it awarded more than what was claimed, the court of second instance shall set aside, by a ruling, the judgment of the court of first instance in the part in which the claim was exceeded.

If the first instance judgment exceeded the claim in that a deliberation was not made on the subject of the complaint, but on something else, it shall set aside, by a ruling, the judgment of the court of first instance and refer the case for a retrial.

Article 380

The court of second instance shall, by a judgment, reverse the first instance judgment:

1) if upon a hearing, it establishes different facts from those established in the first instance judgement;

2) if the court of first instance incorrectly assessed documents or circumstantial evidence, and the deliberation of that court was based solely on such evidence;

3) if the court of first instance, upon the established facts derived incorrect conclusion as to existence of other facts, on which the judgement was founded;

4) if it deems that the facts in the first instance judgement were established correctly, but the court of first instance applied substantive law improperly.

Article 381

The court of second instance can not reverse a judgement to the detriment of the party who filed an appeal if this party is the only one who appealed the judgement.

Article 382

In its reasoning of a judgement or a ruling, the court of second instance shall assess relevant allegations contained in the appeal and shall indicate the reasons it has taken into account ex *officio*.

If a first instance judgement is set aside on grounds of substantial violation of civil procedure rules, the reasoning should indicate all the provisions that have been infringed, nature of the infractions, and all established deficiencies relevant for rendering a proper ruling.

If a first instance judgement is set aside and case referred to the court of first instance for a retrial on grounds of incorrect or incomplete establishment of facts, the reasoning should indicate nature and the contents of the deficiencies, as well as the relevance of new facts for rendering a proper ruling.

If a first instance judgement is set aside and case referred to the court of first instance for a retrial when incomplete establishment of facts occurred as a consequence of incorrect application of substantive law, the court of second instance shall duly indicate the relevance of new facts and evidence for rendering a proper ruling.

Article 383

It is incumbent upon a court of second instance to retrieve relevant documents to the court of first instance within a time limit of 30 days from the date of rendering a ruling.

Article 384

It is incumbent upon a court of first instance to schedule a hearing without delay, upon reception of a ruling rendered by a court of second instance, within a time limit of 30 days from the date of rendering a ruling.

The court of first instance shall conduct all procedural actions and shall hear upon all disputed issues indicated by the court of second instance in its ruling.

In the course of retrial parties may present new facts and propose new evidence.

If a judgement is set aside on the grounds of being rendered by a court lacking jurisdiction, a retrial shall be held before the court of first instance pursuant to provisions relevant in case of a trial hearing before altered chamber of judges (Article 317).

2. APPEAL AGAINST A RULING

Article 385

An appeal against a ruling of the court of first instance is permitted, unless otherwise stipulated by this Law.

If this Law expressively provides that no specific appeal is permitted, a ruling of the court of first instance can be contested only by an appeal against the final decision.

Article 386

A timely submitted appeal shall delay execution of a ruling, unless otherwise stipulated by this Law.

A ruling against which no appeal is permitted shall be immediately enforceable.

Article 387

Upon deliberating an appeal the court of second instance may:

1) reject an appeal as untimely, incomplete or inadmissible (Article 365, paragraphs 1 to 3, and Article 385, paragraph 1);

2) dismiss an appeal as ill- founded and confirm the ruling of the court of first instance;

3) reverse or set aside a ruling, and, if appropriate, refer the case for a retrial.

Article 388

In the appeal proceedings against rulings, provisions applicable to appeals against judgements shall apply accordingly, with the exception of provisions pertaining to the reply to an appeal as well as to the conduct of a hearing before the court of second instance.

Chapter 28

EXTRAORDINARY LEGAL REMEDIES

1. An appeal with alternative motion for review (direct review)

Article 389

Parties may file an appeal against a first instance judgement liable to be reviewed, to the Supreme Court of Cassation within time limit of 15 days from the date of service of a judgement, if a party puts forward a motion in the appeal for the Supreme Court to adjudicate on this legal remedy, an the opposing party affords its consent.

This legal remedy may be contested in civil actions liable to be reviewed only due to an incorrect application of substantive law and a substantial violation of civil procedure rules pursuant to provisions of Article 361, paragraph 2, subparagraph 5 of this Law.

Article 390

An appeal is submitted with the court which adjudicated the first instance judgement, in a sufficient number of copies for the court and the opposing party.

The court of first instance shall serve an appeal, referred to in paragraph 1 of this Article, on the opposing party who shall be bound to reply, attached with a notice rendering information that it may afford consent for the Supreme Court of Cassation to adjudicate an appeal.

If the opposing party extends consent for this legal remedy to be adjudicated by the Supreme Court of Cassation, and that court admits to adjudication for the purposes of uniform interpretation of a controversial point of law, it shall be deemed that an appeal

against the first instance judgement has been withdrawn.

In the proceedings upon this legal remedy, legal entity acting in a capacity of a party shall duly be represented by an attorney.

If a party, in its reply to an appeal, fails to afford its consent for the Supreme Court of Cassation to adjudicate on this legal remedy, or the parties were not represented by an attorney in the proceedings upon this legal remedy, the court of second instance shall adjudicate an appeal against the first instance judgement pursuant to general rules.

Article 391

Upon reception of a reply to an appeal, the court of first instance shall serve an appeal with a reply to an appeal, enclosed with relevant case files, on the court of second instance, if no conditions exist to act pursuant to the meaning of Article 365 of this Law.

It is incumbent upon the court of second instance to refer the case to Supreme Court of Cassation, if the former does not reject an appeal.

Article 392

The Supreme Court of Cassation shall rule on the admissibility and legal grounds of the legal remedy referred to in Article 389 of this Law, in a chamber of three judges

The Supreme Court of Cassation shall examine a contested judgement within the extent of reasons stated in the motion for this legal remedy.

A ruling shall be rendered and served on the court of first instance within time limit of three months upon the date when the Supreme Court of Cassation received a case.

Article 393

The Supreme Court of Cassation may dismiss the legal remedy referred to in Article 389 and may confirm or reverse the first instance judgement.

2. Review

Article 394

Parties may file a motion for review of an effective second instance judgement within time limit of 30 days from the date of effected service of a transcript of the judgement.

Review shall not be permitted in litigations related to property if the claim pertains to establishment of property rights on real estate, pecuniary amount, surrender of items or performance of another obligation, if the value of the subject of litigation, in respect to the contested part of an effective judgement, does not exceed 100.000 EUR, calculated upon official daily mean exchange rate of the Central bank of Serbia on the date of filing of the complaint.

Review of the judgement is always permitted if provided by a specific law.

Article 395

Exceptionally, review shall be permitted against a second instance judgement, which is not liable to a review pursuant to provisions referred to in Article 394 of this Law, if, in the assessment of the Appellate Court on the admissibility of a review, this is required to examine legal issues of the common interest, achieve uniformity of jurisprudence or when a new legal interpretation is required.

Article 396

The Supreme Court of Cassation shall rule on a motion for review.

Article 397

A motion for review shall not delay the execution of the effective judgement against which it was filed.

Article 398

A motion for review may be filed on the grounds of:

1) substantial violation of civil procedure rules pursuant to Article 361 paragraph 2, except subparagraph 4

2) substantial violation of civil procedure rules pursuant to Article 361, paragraph 1 of this Law that was inflicted in the proceedings before the court of second instance;

3) incorrect application of substantive law;

4) exceeding of the claim, only if such infraction was inflicted in the course of second - instance proceedings

A motion for review may not be filed due to incorrectly or incompletely established facts.

Article 399

The court of revision shall examine a judgement solely in respect of the part contested by the motion for a review and within the limits of reasons stated in the motion, and shall take due care, *ex officio,* upon a substantial violation of the civil procedure rules pursuant to Article 361, paragraph 2, subparagraph 9 of this Law, and upon correct application of substantive law.

Article 400

A motion for review is filed with the court which rendered the first instance judgement.

Article 401

The president of the court of first instance chamber shall render a ruling to dismiss an untimely, incomplete or inadmissible motion for review, with the exception pursuant to Article 389 of this Law, without holding a hearing.

Review shall not be permitted:

1) if a motion is filed by a person who is not authorised to undertake such an act;

2) if a motion is filed by a person who is not a lawyer;

3) if a motion is filed by a person who waived the right to review;

4) if a motion is filed by a person who holds no legal interest to request a review;

5) if a motion is filed against a judgement which is not liable to review pursuant to the law, except within a meaning of Article 393 of this Law.

Article 402

The president of the court of first instance chamber shall serve a copy of a timely, complete and admissible motion for review to the opposing party and to the public prosecutor who is competent for filing a motion for *writ of certiorari* (Article 416) within time limit of eight days.

A transcript of the judgement against which a review is requested shall be served enclosed with the motion on the public prosecutor.

An opposing party may submit a reply to the motion for review to the court within time limit of 15 days.

Upon reception of a reply, or upon the expiry of the time limit for a reply, the president of the court of first instance chamber shall serve a motion for review with a reply on the revision court, with all relevant case files enclosed, whereas the service shall be effected via the court of second instance within time limit of 15 days.

Article 403

The court of revision shall rule upon a motion for review without holding a hearing.

Article 404

The court of revision shall reject an untimely, incomplete or inadmissible motion for review by a ruling, if the court of first instance, within the scope of its powers (Article

401), failed to act in that respect.

Article 405

The court of revision shall dismiss a motion for review as ill–founded by a judgement if it establishes that no reasons, in respect of which a review was requested, existed, or the reasons upon which the court takes due care *ex officio*.

The court of revision shall not provide a detailed reasoning of a judgement which dismisses a motion for review as ill founded if it finds it unnecessary on account of reiteration of the appeal grounds in the motion for review, or if a reasoning of the judgement rejecting review would neither provide a new interpretation of a point of law, nor would contribute to uniform interpretation of law.

Article 406

If the court of revision establishes a substantial violation of the civil procedure rules pursuant to Article 361, paragraphs 1 and 2 of this Law, on account of which a review may be requested, this court shall, entirely or partially, set aside by its ruling the judgements rendered by both the court of second instance and the court of first instance, or solely the judgement of the former. The court of revision shall consequently refer the case for retrial to the same or another court chamber of the court of first instance, or of the court of second instance, or another competent court.

If, in the course of the proceedings before a court of first instance or a court of second instance, violation of provisions pursuant to Article 361, paragraph 2, subparagraphs 2, 3 and 10 of this Law existed, the court of revision shall set aside, by a ruling, the judgement of either a court of first instance or a court of second instance and reject the complaint.

If, in the course of the proceedings before a court of first instance or a court of second instance, violation pursuant to Article 361, paragraph 2, subparagraph 9 of this Law existed, the court of revision shall, taking into account nature of the violation, act pursuant to the provisions of paragraph 1 or 2 of this Article.

Article 407

If the court of revision establishes that substantive law was applied incorrectly, it shall render a judgement granting a motion for review and reverse the contested judgement.

If the court of revision finds that the facts were established incompletely due to incorrect application of substantive law, and consequently no grounds for the contested judgement to be reversed existed, it shall render a ruling to grant a motion for review and, entirely or partially, set aside the judgements of a court of first instance and a court of second instance, or solely the judgement of a former. The court of revision shall consequently refer the case for retrial to the same or another court chamber of the court of first instance,

or of the court of second instance, or another competent court.

Article 408

If the court of revision finds that the second instance judgement exceeded the claim by awarding more than it was claimed, it shall set aside the second instance judgement in respect of its part pertaining to the exceeded claim.

If the court of revision finds that the second instance judgement exceeded the claim by adjudicating on a subject other than the one claimed by a complaint, it shall set aside the second instance judgement and refer the case for retrial.

Article 409
(deleted)

Article 410

The ruling of the review court shall be served on the court of first instance through the court of second instance.

A copy of the ruling shall also be served on the relevant public prosecutor (Article 416).

Article 411

Unless Articles 394 to 410 of this Law do not provide otherwise, in the course of the review proceedings, provisions of this Law pertaining to an appeal against a judgement shall be applied accordingly pursuant to Articles 342, 356, paragraph 2 and 3, Articles 357, 358, 363, 366, paragraph 2 and 3, Article 367, paragraph 2, Articles 368, 373, 378 and Articles 381 to 384.

Article 412

Parties may also file a motion for the review against a ruling in respect of which the proceedings was effectively concluded before the court of second instance.

Review against a ruling referred to in paragraph 1 of this Article is not permitted in civil actions in respect of which no review against an effective judgement would be allowed (Article 394, paragraphs 2 and 3).

Review is always permitted against a ruling of a court of second instance by which this court rejected an appeal, or which confirmed a ruling of the court of first instance to reject a motion for review.

Review is always permitted against a ruling of a court of second instance by which a court effectively adjudicated on a motion for retrial.

The provisions of this Law pertaining to the review of judgements shall accordingly apply to the review of the rulings.

3. Motion for *writ of certiorari*

Article 413

The public prosecutor may file a motion for *writ of certiorari* against an effective decision of the court *ex officio* or upon the motion of a party, within time limit of three months.

The time limit for the motion referred to under paragraph 1 of this Article shall be calculated:

1) against a first instance decision which has not been appealed - as of the day when no appeal may be submitted against such decision;

2) against a second instance decision in respect of which no motion for a review has been filed - as of the day when such decision is served upon a party who was the latter one to receive it.

Against a decision, referred to in paragraph 1 of this Article, rendered in second instance, on which parties have filed a motion for a review, the public prosecutor may submit a motion for *writ of certiorari* strictly within time limit of 30 days of the day when he or she was served with the motion for review from the party whose motion was to be formerly delivered (Article 402, paragraph 1).

A motion for *writ of certiorari* shall not be permitted against a decision which was rendered upon a motion for a review or *writ of certiorari* by the court having jurisdiction to adjudicate on those legal remedies (Article 396).

Article 414

The public prosecutor may, within a time limit of one year, submit a motion for *writ of certiorari* against an effective decision in civil action pertaining to a real estate purchase contract, if such contract is, by its contents or purpose, contravening to compulsory regulations, public order or rules of ethics. The time limit shall be calculated to commence from the date of the legal effectiveness of a concerned decision, and if a motion for review was filed against the decision – from the date when the court of revision rendered a decision which concluded the proceedings.

Article 415

The Supreme Court of Cassation shall adjudicate on a motion for *writ of certiorari*.

Article 416

A motion for *writ of certiorari* against the decision referred to in Article 413 of this Law shall be filed by the public prosecutor determined by the law.

Article 417

The public prosecutor may file a motion for *writ of certiorari* due to substantial violations of the civil procedure rules referred to in Article 361, paragraph 2, subparagraph 5 of this Law.

Article 418

If the public prosecutor fails to file a motion for *writ of certiorari* within the time limits determined by the law, the party who filed a motion shall, within time limit of 30 days from the date of receiving a notification that relevant public prosecutor shall not file a motion for *writ of certiorari*, submit such motion itself.

Article 419

If both a motion for review and a motion for *writ of certiorari* were filed against the same decision, the Supreme Court of Cassation shall adjudicate these legal remedies by a single ruling.

Article 420

A party filing a motion for *writ of certiorari* shall be duly notified pertaining to the court session at which the court shall adjudicate upon such motion.

A party who did not file a motion for this legal remedy shall not be summoned to attend the court session at which the court shall adjudicate upon such motion.

If a party filing a motion fails to appear at the court session, the court shall deliberate and adjudicate on such legal remedy.

The session shall commence with the report of the reporting judge who shall expose the matter and shall refrain from affording his or her opinion as to whether the motion is founded. Subsequently, the judgement or the part of the judgement in respect of which a motion for legal remedy is put forward, and if necessary, minutes from the case file shall be read . The party who filed the motion shall then provide its reasoning.

Article 421

When adjudicating upon a motion for *writ of certiorari*, the Supreme Court of Cassation shall solely examine violations indicated by a party who filed the motion.

Unless Articles 413 through 420 of this Law provide otherwise, provisions of Articles 397, 400 through 406, 410 and 411 of this Law shall apply accordingly to the proceedings initiated by a motion for *writ of certiorari*.

4. Retrial

Article 422

A trial effectively concluded by a decision of a court may be opened for a retrial upon the motion of a party:

1) if a party was not afforded leave to argue before the court due to an unlawful conduct, and in particular due to the failure of the court to effect service;

2) if a person who is not entitled to be a party to the proceedings participated in the proceedings as either the plaintiff or a respondent, or if a legal entity acting as a party to the proceedings was not represented by an authorised person, or if a party incompetent for litigation was not represented by a legal representative, or if a legal representative or attorney of a party were not properly authorised to participate in the proceedings or to undertake particular actions in the proceedings, unless the participation to the proceedings or exercise of particular actions was subsequently approved;

3) if a decision of the court was founded on a perjury of a witness or expert witness;

4) if a decision of the court was founded on a counterfeited document or on a document certifying false contents;

5) if a decision of the court was a result of a criminal offence committed by a judge, a lay-judge, a legal representative or an attorney of a party, an opposing party or a third party;

6) if a party has gained the possibility to have recourse to a legally effective court decision that had been adjudicated earlier with regard to the same parties on the same claim;

7) if a decision of the court is based upon another decision of the court or another body, and such decision becomes subsequently reversed, set aside or annulled with a legal effect;

8) if an interlocutory issue (Article 12) upon which a decision is relied was subsequently adjudicated before the competent body by an effective decision;

9) if the party has learned about new facts or has been given or has gained a possibility to have recourse to new evidence on the basis of which a more favourable decision could have been passed for the party had such facts or evidence been used in the previous proceedings.

10) if the European Court for Human Rights, upon effectively concluded proceedings before a national court, passed a decision pertaining to the same or similar legal relationship against the Republic of Serbia.

11) if in the proceedings upon a constitutional appeal the Constitutional court established a violation or denial of a human right, minority right or a freedom, pertaining to the civil

action, guaranteed by the Constitution.

Article 423

No retrial may be requested on the grounds referred to in Article 422, subparagraphs 1 through 3 of this Law, if those grounds were raised unsuccessfully in the course of the previous proceedings.

Retrial may be allowed, due to circumstances referred in Article 422, subparagraphs 1, 7, 8 and 9 of this Law, only provided a party upon which no failure rests was not able to present such circumstances prior to the conclusion of the previous proceedings by the effective decision of the court.

Article 424

A motion for retrial shall be submitted within time limit of thirty days:

1) in case referred to in Article 422, subparagraph 1 of this Law – from the date when a party was served with a decision;

2) in case referred to in Article 422, subparagraph 2 of this Law, if a person who is not entitled to be a party to the proceedings participated in the proceedings, as either the plaintiff or a respondent, - from the date when that person was served with a decision; if a legal entity acting as a party to the proceedings was not represented by an authorised person, or if a party incompetent for litigation was not represented by a legal representative - from the date when a person or its legal representative were served with a decision; if a legal representative or attorney of a party were not properly authorised to participate in the proceedings or to undertake particular actions in the proceedings - from the date when a party became aware of this reason;

3) in cases referred to in Article 422, subparagraphs 3 through 5 of this Law, from the date when the party became aware of the legally effective verdict passed in the criminal proceedings, and if the criminal proceedings can not be conducted – from the date when the party became aware of the discontinuance of such proceedings or of the circumstances because of which the proceedings can not be instituted;

4) in cases referred to in Article 422, subparagraphs 6 and 7 of this Law – from the date when the party was entitled to have recourse to the legally effective decision that entails a retrial;

5) in cases referred to in Article 422, subparagraph 8 of this Law, from the date when a decision by which a competent body effectively adjudicated an underlying interlocutory issue is served on a party.

6) in cases referred to in Article 422, subparagraph 9 of this Law – from the date when a

party was able to present new facts or new evidence to the court.

If the time limit specified in Paragraph 1 of this Article would begin to run before the decision becomes legally effective, the time limit shall be calculated from the date the decision becomes legally effective if no legal remedy has been filed against it, or from the service of the legally effective decision rendered by the court of highest instance.

Upon the expiry of the time limit of five years from the date when the decision became legally effective, no motion for retrial may be filed, except when such retrial is requested on the grounds referred to in Article 422, subparagraphs 1, 2, 10 and 11 of this Law.

Article 425

A motion for retrial shall always be submitted with the court which rendered the first instance decision.

The motion shall, in particular, contain: legal basis in respect of which a retrial is requested, circumstances underlying that the motion has been submitted within the statutory time limit, and evidence corroborating the allegations of the party that put forward the motion.

Article 426

President of the court chamber shall reject by a ruling without holding a hearing untimely (Article 424), incomplete (Article 425, paragraph 2) or inadmissible (Article 424) motions for retrial.

If the president of the court chamber does not reject a motion, he or she shall serve a copy of a motion on the opposing party pursuant to provisions of Article 136 of this Law, and the opposing party shall be entitled to submit a reply within time limit of fifteen days. When the court receives a reply to a motion, or upon expiry of the time limit to produce a reply, the president of the court chamber shall duly schedule a hearing to argue the motion.

If a retrial is requested on the grounds referred to in Article 422, subparagraph 9 of this Law, the president of the court chamber may join the hearing of the motion for retrial with the hearing of the merits of the claim.

Article 427

A hearing on the motion for retrial shall be held before the president of the chamber of the court of first instance, unless a hearing of the motion for retrial has been joined with the hearing of the merits of a claim.

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Article 428

After the hearing on the motion for retrial has been held, the president of the chamber of the court of first instance shall render a ruling unless the reason for retrial relates exclusively to the proceedings before the court of second instance (Article 429).

In a ruling by which a retrial is allowed shall be stated that the decision rendered in the previous proceedings shall be set aside.

The president of the chamber shall duly schedule a trial hearing only upon legal effectiveness of the ruling by which a retrial is allowed. However, the president of the chamber is entitled to adjudicate in that ruling for the hearing on the merits to commence immediately. Parties are entitled to present new facts and propose new evidence in the retrial.

No specific appeal is permitted against a ruling by which a retrial is allowed if the president of the chamber ruled for the hearing on the merits to commence immediately.

If the president of the court chamber has allowed a retrial and ruled for the hearing on the merits to commence immediately, or if the motion for retrial was heard concurrently with the merits, the ruling by which retrial is allowed and the decision rendered in the previous proceedings is set aside, shall be included in the decision on the merits of the claim.

Article 429

If the reason for retrial is exclusively related to the proceedings before a court of second instance, the president of the chamber of a court of first instance shall, upon a hearing on a motion for retrial, refer the case to the relevant court of second instance for adjudication of the matter.

When the case is served on the court of second instance, the president of the court chamber shall proceed pursuant to the provisions of Article 368 of this Law.

A court of second instance shall rule on a motion for retrial without holding a hearing.

If the court of second instance finds that a motion for retrial is justified and that it is not necessary to hold a new trial hearing, it shall set aside its own decision, as well as the decision of the court of second instance, if any, and shall render a new decision on the merits of the case.

5. Relation between the motion for retrial and other extraordinary legal remedies

Article 430

If, within the time limit for filing a motion for review, a party submits a motion for retrial, exclusively on the grounds in respect of which a motion for review may me filed, it shall be deemed that such party has filed a motion for review.

If a party files a motion for review on the grounds referred to in Article 361, paragraph 2, subparagraph 10 of this Law, and simultaneously or subsequently files a motion for retrial on any of the grounds referred to in Article 422 of this Law, the court shall suspend the proceedings upon the motion for retrial until the proceedings upon the motion for revision is concluded.

If a party files a motion for revision on any grounds other than those referred to in Article 361, paragraph 2, subparagraph 10 of this Law, and simultaneously or subsequently files a motion for retrial on the grounds referred to in Article 422, subparagraphs 3 through 5 of this Law, that have been corroborated by a legally effective decision rendered in the criminal proceedings, the court shall suspend the proceedings upon the motion for revision until the proceedings upon the motion for retrial is concluded.

In any other case when a party files a motion for revision and simultaneously or subsequently files a motion for a retrial, the court shall rule which proceedings shall be continued and which shall be suspended, taking into account all circumstances, and in particular the grounds on which both legal remedies have been submitted and the evidence presented by the parties.

Article 431

Provisions of Article 430, paragraphs 1 and 3 of this Law shall also be applied when a party had initially filed a motion for retrial and subsequently submitted a motion for review.

In all other cases when a party initially files a motion for retrial and subsequently submits a motion for review, the court shall, as a rule, suspend the proceedings upon the motion for review until the proceedings upon the motion for retrial are concluded, unless it establishes that substantial reasons exist for acting otherwise.

Article 432

The ruling referred to in Article 430 of this Law shall be rendered by the president of the chamber of a court of first instance if a motion for retrial has been effectively served on that court prior to the service of the case subject to review on the court of revision. If a motion for retrial is received after the case subject to review has been effectively served on the court of revision, the ruling referred to in Article 430 of this Law shall be rendered by the court competent for the review.

The ruling referred to in Article 431 of this Law shall be rendered by the president of the chamber of the court of first instance, unless the case pertaining to a motion for retrial, at a time when a review has been effectively served on the court of first instance, has been referred to the court of second instance (Article 429, paragraph 1), in which case the ruling shall be rendered by the court of second instance.

No appeal shall be permitted against a ruling of the court referred to in paragraph 1 and 2 of this Article.

Article 433

The provisions of Article 430 through 432 of this Law shall accordingly apply when a public prosecutor files a motion for *writ of certiorari*, and a party files a motion for retrial

before, simultaneously or subsequently to the legal remedy submitted by a prosecutor.

Part Three

SPECIAL PROCEEDINGS

Chapter 29

LABOUR-RELATED LITIGATIONS

Article 434

Unless this Chapter contains specific provisions, other provisions of this Law shall apply to labour-related litigations.

Article 435

In labour-related litigations, and in particular prior to determining time limits and scheduling hearings, the court shall always take due account to the necessity of resolving labour disputes urgently.

Article 436

In the course of the proceedings, the court may also *ex officio* order injunctions, which shall be applied in enforcement proceedings, for prevention of violent acts or alleviation of irreparable damage.

The court shall issue a ruling on injunctions upon a motion of a party within time limit of eight days from the date of submitting a motion.

No specific appeal shall be permitted against a ruling of a court on injunctions.

Article 437

In a judgement ordering a performance of a specific obligation, the court shall determine a time limit of eight days for execution of such performance.

Article 438

An appeal may be submitted within a time limit of eight days.

Article 439

A review shall be allowed in litigations pertaining to labour disputes on employment, course of employment and termination of employment.

Chapter 30

PROCEEDINGS IN LITIGATIONS PERTAINING TO COLLECTIVE AGREEMENTS

Article 440

Unless this Chapter contains specific provisions pertaining to litigations related to collective agreements, other provisions of this Law shall apply.

Article 441

In civil proceedings pertaining to collective agreements, the signatories of a collective agreement shall claim legal protection of rights determined by a collective agreement in case of dispute arising from signing, amending or supplementing of a collective agreement, if such dispute is not settled amicably or through arbitration agreed between the signatories of a collective agreement, pursuant to provisions of a specific law.

According to the rules of procedure applied in respect of litigations on collective agreements, the court shall also adjudicate disputes pertaining to the representativeness of a trade union, or an association of employers, within the meaning of provisions of a specific law.

In civil proceedings pertaining to collective agreements, one of the parties is the representative trade union.

Article 442

In civil proceedings pertaining to collective agreements, the court shall, upon determining time limits and scheduling hearings, always take due care in respect of the need to resolve these disputes urgently.

Article 443

The court shall, in a judgement ordering the performance of a particular obligation, determine a time limit for its performance.

Article 444

The time limit to file an appeal shall be eight days.

Article 445

Review shall be permitted in litigations pertaining to collective agreements.

Chapter 31

PROCEEDINGS IN LITIGATIONS FOR TRESPASS

Article 446

If no specific provisions exist in this Chapter, other provisions of this Law shall apply to trespass litigations.

In civil proceedings pertaining to trespass, provisions of this Law in respect of reply to a complaint or scheduling and holding a preliminary hearing shall not be applied.

Article 447

On determining time limits and scheduling hearings on trespass complaints, the court shall always take due care to the necessity of resolving trespass litigations urgently, taking into account the nature of each individual case.

Article 448

Hearing on a trespass complaint shall be limited only to examination and proving of facts in respect of the last state of possession prior to trespass and the trespass occurred. The right to possession, legal grounds, conscientiousness or non-conscientiousness of exercising possession, or a claim for compensation of damages shall be excluded from the due examinations at the hearing.

The court shall render a decision on the claim within time limit of 90 days.

Article 449

In the course of the proceedings, the court may also *ex officio* and without hearing the opposing party order injunctions, which shall apply in enforcement proceedings, in order to mitigate the risk of unlawful damage, to prevent violent acts, or to alleviate irreparable damage.

The court shall render a ruling on injunction upon a motion of a party within time limit of eight days from submission of a motion.

No specific appeal is permitted against a ruling by which the court ordered an injunction.

Article 450

The court shall determine a time limit for the parties to perform an obligation with regard to the circumstances of each individual case.

The time limit to file an appeal shall be eight days.

Having regard to reasons of great importance the court may rule that an appeal shall not delay an execution of the ruling.

In proceedings upon an appeal against first instance judgement rendered in trespass litigation, provisions of the Article 369, paragraph 3 and Articles 370 and 371 of this Law shall be applied accordingly.

No review is permitted against rulings rendered in trespass litigations.

Article 451

The plaintiff shall lose its right to request in the enforcement proceedings an execution of a ruling ordering the respondent in a trespass litigation to perform certain action, if plaintiff failed to request execution within time limit of 30 days from the expiry of the time limit determined for the performance of particular action in the ruling of the court.

Article 452

A retrial of the legally effective proceedings for trespass shall be allowed only on the grounds referred to in Article 422, subparagraph 1 and 2 of this Law, within time limit of 30 days upon effectiveness of a ruling on trespass.

Chapter 32

PAYMENT ORDER

Article 453

When a civil claim is related to a pecuniary claim which is due, this claim shall be proven by a credible document enclosed with the complaint either as an original document or a certified transcript, the court shall issue an order to the respondent to settle the claim (payment order).

The following shall be considered as credible documents:

1) public documents;

2) private documents where the signature of the debtor is certified by a competent body;

3) promissory notes and cheques with protest and return accounts if these are required for the foundation of the claim;

4) extracts from business accounts;

5) invoices;

6) documents which are deemed as public documents pursuant to specific provisions.

The payment order shall be issued by the court although the plaintiff did not propose the issue of a payment order in the complaint, and all the requirements are satisfied for a payment order to be issued.

If upon a credible document an execution may be requested pursuant to the Law on enforcement proceedings, the court shall issue a payment order only if the plaintiff satisfies the court that a legal interest for such an act exists.

If the plaintiff fails to satisfy the court upon existence of legal interest for issuance of a payment order, the court shall reject the complaint.

Article 454

When the claim is related to a pecuniary claim which is due and does not exceed the amount in Dinars equivalent to 2.000 EUR, calculated by mean exchange rate of the National bank of Serbia on the day of filing the complaint, the court shall issue a payment order to the respondent although no credible documents were submitted with the complaint, but the complaint indicates the grounds and the amount of debt as well as the evidence upon which the truthfulness of the allegations in a complaint can be established.

The payment order referred to in paragraph 1 of this Article shall be issued only against the principal debtor.

Article 455

The president of the court chamber shall issue a payment order without holding a hearing.

The court shall state in a payment order that the respondent is obliged to perform the claim from the complaint as well to reimburse costs assessed by the court within time limit of eight days from receiving the order, and in litigations pertaining to promissory notes and cheques, within time limit of three days, or to file an objection against the payment order within the same time limits. The court shall advise the respondent in a payment order that untimely objections shall be rejected.

A payment order shall be served on both parties.

A copy of the complaint enclosed with relevant attachments shall be served on the respondent with the payment order.

Article 456

If the court does not grant a motion to issue a payment order, it shall resume the proceedings on the complaint pursuant to the provisions of the Law applicable for the general civil proceedings.

No appeal is permitted against a ruling of the court by which it dismisses a motion to issue a payment order.

Article 457

The respondent may contest the payment order only by an objection. If a payment order is contested only in respect of the decision on costs, such decision may be contested only by an appeal against a ruling.

In the part which has not been contested by an objection the payment order becomes effective.

Article 458

The court shall reject untimely, incomplete or inadmissible objections without holding a hearing.

If the objections are submitted in due time, the court shall duly schedule a trial hearing without delay.

In the course of trial hearing, parties may present new facts and propose new evidence, whereas the respondent is entitled to put forward new motions in respect of the contested part of a payment order.

In its decision on the merits of the claim, the court shall adjudicate whether a payment order should entirely or partially remain in force or be annulled.

Article 459

If the respondent objects that there were no legal grounds for issuing the payment order (Articles 453 and 454) or that some impediments to the further course of the proceedings exist, the court shall first rule on this objection. If it establishes that this objection is well founded, the court shall annul the payment order by a ruling, and upon legal effectiveness of that ruling it shall commence with a hearing on the merits when this is appropriate.

If the court does not allow this objection, it shall proceed with the hearing on the merits of the claim, and the court ruling shall be included in the decision on the merits of the case.

If, upon an objection that the debt is not due, the court finds that the claim had become due subsequent to issuance of a payment order and before the trial hearing was concluded, the court shall annul the payment order by a judgement and adjudicate the claim (Article 331, paragraph 1).

Article 460

The court may *ex officio* declare its lack of territorial jurisdiction, only prior to a payment order being issued.

The respondent is entitled to put forward a motion on the lack of territorial jurisdiction only in an objection against a payment order.

Article 461

If after a payment order has been issued, the court declares itself lacking subject matter jurisdiction, it shall annul the payment order and refer the case to the court having jurisdiction upon legal effectiveness of a ruling on a lack of jurisdiction.

If subsequent to issuing of a payment order, the court finds that it has no territorial jurisdiction, it shall not annul the payment order, but refer the case to the court having jurisdiction upon legal effectiveness of a ruling on a lack of jurisdiction.

Article 462

If the court renders a ruling rejecting the complaint in cases provided by this Law, it shall also annul a payment order.

Article 463

The plaintiff may withdraw the complaint without the consent of the respondent only before the latter files an objection. If the complaint has been withdrawn, the court shall annul the payment order by a ruling.

If the respondent waives all the objections prior to the conclusion of the trial hearing, the payment order shall remain in force.

Article 464

In the procedure for issuing payment order before the Commercial courts, the document on the basis of which the payment order is issued shall not be necessarily submitted in the original or certified transcript.

The transcript of such document can be certified by an authorised person within a legal entity.

Chapter 33

PROCEEDINGS IN SMALL CLAIM DISPUTES

Article 465

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If no special provisions exist in this chapter, other provisions of this Law shall apply to the small claim disputes.

Article 466

The respondent shall be served with the complaint with the summons for a trial hearing,

unless the complaint has already been served upon the respondent.

Article 467

Small claim disputes, pursuant to the meaning of this Chapter, are disputes whereby claims do not exceed the amount in Dinars equivalent to 3.000 EUR, calculated by mean exchange rate of the National bank of Serbia on the day of filing the complaint.

Small claim disputes shall also include those disputes where the claim is not referring to the pecuniary debt, and the plaintiff stated that he or she would accept to receive a pecuniary amount not exceeding the amount specified in paragraph 1 of this Article, instead of the performance of the particular claim (Article 34, paragraph 1).

Small claim disputes shall also include those disputes where the claim is not a pecuniary amount but the surrender of an object whose value, as stated in the complaint, does not exceed the amount specified in paragraph 1 of this Article (Article 34, paragraph 2).

Article 468

Disputes pertaining to real property, labour relations and trespassing are not deemed to be small claim disputes within the meaning of the provisions of this Chapter.

Article 469

Proceedings pertaining to small claim disputes shall duly apply in respect of objections against payment order, if the value of the contested part of the payment order does not exceed the amount in Dinars equivalent to 3.000 EUR, calculated by mean exchange rate of the National bank of Serbia on the day of filing the complaint.

Article 470

Proceedings pertaining to small claim disputes are conducted before the lower courts of first instance, unless otherwise provided by this Law.

Article 471

In small claim proceedings, the complaint is served on a respondent for reply.

No preliminary hearing shall be scheduled or held in small claim litigations.

Article 472

A specific appeal is permitted only against the ruling by which the proceedings are concluded in small claim proceedings.

Other rulings against which an appeal is permitted pursuant to this Law may be contested only by an appeal against the ruling by which the proceedings are concluded.

Rulings referred to in paragraph 2 of this Article are not served on the parties, but announced at a hearing and entered into the written part of the decision.

Article 473

In the proceedings pertaining to small disputes, the minutes of the trial hearing, in addition to the information specified in Article 118, paragraph 1 of this Law, shall contain:

1. relevant declarations of the parties, and particularly those by which the claim is, entirely or partly, admitted or waived, or by which the complaint is amended or withdrawn, or by which the appeal is waived ;

2. essential contents of the presented evidence ;

3. decisions which may be contested by an appeal and which have been announced at the trial hearing;

4. indication as to whether the parties were present when the judgment was announced, and if they were present, whether they were advised on the requirements relevant for filing an appeal.

Article 474

If the plaintiff amends the complaint so that the value of the subject of litigation exceeds the amount in Dinars equivalent to 3.000 EUR, calculated by mean exchange rate of the National bank of Serbia on the day of filing the complaint, the proceedings shall be concluded pursuant to provisions of this Law governing general civil proceedings.

If the plaintiff reduces the claim prior to the conclusion of a trial hearing which is pending pursuant to the provisions of this Law governing general civil proceedings, so that it does not exceed the amount in Dinars equivalent to 3.000 EUR, calculated by mean exchange rate of the National bank of Serbia on the day of filing the complaint, the proceedings shall be resumed pursuant to the provisions of this Law governing small claim proceedings.

Article 475

If the plaintiff fails to appear at the first or any subsequent trial hearing, and was properly summoned, it shall be deemed that he or she has withdrawn the complaint.

If both parties fail to appear at any subsequent hearing, the complaint shall be deemed withdrawn.

The summons for the trial shall, *inter alia*, advise the parties that it shall be deemed that the plaintiff has withdrawn the complaint if he or she fails to appear at the first hearing, that the parties should present all facts and evidence prior to the conclusion of the trial, as new facts and evidence can not be presented in an appeal against the judgement, as well as that the judgement may be contested only in respect of substantial violation of civil procedure rules and incorrect application of substantive law.

Article 476

If the respondent fails to appear at the trail hearing, and was properly summoned, the court shall render a judgement sustaining the claim (default judgement).

The court shall dismiss a claim by a ruling specified in paragraph 1 of this Article if the facts supporting a claim lie in contradiction to the evidence presented by the plaintiff, or to commonly known facts.

The court shall dismiss a claim by a judgment specified in paragraph 1 of this Article if the parties are not entitled to dispose with such claim (Article 3, paragraph 3).

Article 477

The judgement in small claim proceedings shall be announced immediately upon the conclusion of the trial hearing.

A transcript of the judgement shall always be served on a party absent at the announcement, whereas it shall be served on a party present at the announcement only upon his or her request. A party may submit such request not later than at the hearing when judgement is announced.

Upon announcement of the judgement, the court shall advise an ignorant party in respect of the requirements to file an appeal (Article 478).

Article 478

A judgement or a ruling concluding small claim proceedings may be contested only in respect of substantial violation of civil procedure rules referred to in Article 361, paragraph 2 of this Law and incorrect application of substantive law.

Provisions of the Article 377 of this Law shall not apply in respect to an appeal in the small claims proceedings.

Parties may file an appeal against the first instance judgement or a ruling referred to in paragraph 1 of this Article within time limit of eight days.

The time limit for an appeal shall be calculated to commence from the date of announcement of either judgement or a ruling, and if the service of either judgement or a ruling was effected, the time limit shall be calculated to commence from the date of its service.

In small claim proceedings, the time limit specified in Article 333, paragraph 2 and Article 343, paragraph 1 of this Law shall be eight days.

No review is permitted against a decision of the court of second instance.

Chapter 34

PROCEEDINGS IN COMMERCIAL DISPUTES

Article 479

Unless provisions of this Chapter stipulate otherwise, the provisions of this Law shall apply to commercial disputes accordingly.

Jurisdiction and Composition of the Court

Article 480

Disputes for the establishment of the existence or non-existence of a contract, for the performance of a contract, and disputes for the payment of compensation due to failure to perform a contract, shall lie within the jurisdiction of a court in the place where, according to the agreement between the parties, the respondent is obliged to perform the contract, in addition to the court with general territorial jurisdiction.

In status related civil disputes arising from entering or deleting from the court register, in addition to the court of general territorial jurisdiction, the court into whose register an entry was effected shall also have jurisdiction.

In disputes arising from an entry into the court register or deletion from the court register, the court into whose register an entry was effected shall have territorial jurisdiction.
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Article 481

A single judge shall adjudicate in first instance proceedings.

When adjudicating in second instance proceedings, the court chamber shall consist of three judges.

Article 482

The representative of a party is a person entered into the register as authorised person (statutory representative).

Article 483

A party can not reverse or revoke an action carried out by their statutory representative.

Article 484

Upon opening of insolvency proceedings or liquidation against a legal entity or

entrepreneur, the power of attorney issued by the legal representative of a legal entity shall cease to be valid.

Upon opening of insolvency proceedings or liquidation, in the proceedings ensuing from insolvency proceedings, as well as in those which preceded insolvency proceedings and resumed upon opening of aforementioned proceedings, attorneys shall duly obtain a power of attorney issued by insolvency administrator.

Article 485

In the proceedings pertaining to commercial disputes, parties may present new facts and propose new evidence in an appeal, provided the appellant satisfies the court that failure to produce such facts or evidence prior to the conclusion of the trial hearing did not rest upon him or her.

The president of the court of first instance shall, if necessary, at his own initiative or upon a request of the reporting judge of the court of second instance conduct investigation in respect of the veracity of appellant's allegations.

Legal Remedies

Article 486

No review is permitted in the proceedings pertaining to commercial disputes if the subject dispute value of a contested part of an effective judgement does not exceed the amount in Dinars equivalent to 300.000 EUR, calculated by mean exchange rate of the National bank of Serbia on the day of filing the complaint.

Other provisions

Article 487

If both parties consensually propose conduct of mediation pursuant to Article 327 of this Law, the court shall adjourn a hearing and suspend the proceedings.

Article 488

If the court rules to hold a trial hearing, it shall duly tend to schedule a new hearing within time limit of 30 days.

Article 489

The following time limits apply to proceedings pertaining to commercial disputes:

1) time limit of 30 days for filing a motion to restore a prior status referred to in Article 112, paragraph 3 of this Law;

2) time limit of eight days for filing an appeal against a judgement or a ruling, and a time

limit of three days for submitting a reply to an appeal;

3) time limit of eight days for the performance of an obligation, whereas for performance of nonpecuniary obligations the court may determine a longer time limit.

Article 490

In the proceedings pertaining to commercial disputes, small claim disputes shall be those pertaining to claims of pecuniary amount not exceeding the amount in Dinars equivalent to 30.000 EUR, calculated by mean exchange rate of the National bank of Serbia on the day of filing the complaint.

Small claim disputes shall also include those disputes whereby the claim does not relate to a pecuniary amount, and the plaintiff declares in the complaint that he or she, instead of satisfaction of the claim, consents to receiving a particular pecuniary amount not exceeding the amount specified in paragraph 1 of this Article (Article 34, paragraph 1).

Small claim disputes shall also include those disputes whereby the main claim is not a pecuniary amount but surrender of movable item, as declared in the complaint by the plaintiff, is not exceeding the amount specified in paragraph 1 of this Article (Article 34, paragraph 2).

In the proceedings pertaining to commercial disputes of small value the complaint shall not be served on the respondent to reply.

Part Four

TRANSITIONAL AND FINAL PROVISIONS

Article 491

If a first instance judgement or a ruling concluding the proceedings before the court of first instance has been passed before this Law comes into force, further proceedings shall be resumed pursuant to the previous regulations.

On the day when this Law enters into force, the suspended proceedings shall be resumed pursuant to the provisions of this Law.

If upon entering into force of this Law the first instance judgement referred to in paragraph 1 of this Article is set aside, further proceedings shall be resumed pursuant to this Law.

A motion for review put forward against an effective decision of the court of second instance, in the proceedings initiated prior to the application of this Law, shall be adjudicated pursuant to civil procedure rules which were applicable prior to entering into force of this Law.

A motion for the *writ of certiorari* filed with the competent court pursuant to the previous regulations, prior to entering into force of this Law, shall be adjudicated in accordance

with those regulations.

Entering into force of this Law the validity of Civil Procedure Law shall cease ("Official Gazette of SFRY" Nos. 4/77, 36/77, 6/80, 36/80, 43/82, 72/82, 69/82, 58/84, 74/87, 57/89, 20/90, 27/90, 35/91 and "Official Gazette of FRY", Nos. 27/92, 31/93, 24/94, 12/98, 15/98 and 3/2002 except the provisions of Chapter 31 (Articles 468a through 487).

Article 493

Prior to enactment of the Law on Enforcement Procedure, the provisions of this Law (Article 413 through 421) shall accordingly apply in respect of jurisdiction of the court in adjudication upon motions for the *writ of certiorari* filed by a competent public prosecutor against effective court decisions rendered in the enforcement proceedings, upon the conditions for filing a motion and the proceedings.

Article 494

This Law shall enter into force upon the expiry of three months from the day of its publication in the "Official Gazette of the Republic of Serbia", and the provision of the Article 395 shall be applied when Appellate court commences to operate.

Separate Articles of the Law on amendments and supplements of the Civil Procedure Law

(Official Gazette of RS, No. 111/209)

Article 55(s1)

The proceedings initiated prior to entering into force of this Law shall be concluded pursuant to provisions of this Law.

Exceptionally from paragraph 1 of this Article, the Supreme Court of Cassation shall adjudicate in the chamber of three judges upon the motions for the review submitted prior to entering into force of this Law, pursuant to civil procedure regulations applicable prior to entering into force of this Law.

Article 56 (s1)

This Law shall enter into force on the day of its publication in the "Official Gazette of the Republic of Serbia".