

LAW

ON NON-CONTENTIOUS PROCEEDINGS

(Official Gazette of the Socialist Republic of Serbia No 25/82 and 48/88 and Official Gazette of the Republic of Serbia No 46/95 – other law, and 18/2005 – other law)

Part One GENERAL PROVISIONS

Article 1

(1) This law determines the rules under which ordinary courts proceed and decide in personal, family, property, and other legal matters that are to be decided in a non-contentious proceedings, as provided by this or other law.

(2) The provisions of this law shall also apply to other legal matters from the jurisdiction of ordinary courts for which the law does not expressly specify that they shall be resolved in non-contentious proceedings, if they do not relate to the protection of a violated or threatened right, or because due to the parties to the proceedings, the provisions of the Civil Procedure Code may not be applied.

Article 2

(1) The non-contentious proceedings shall be instituted by a petition of a natural or legal person, as well as a petition of a body specified in this or other law.

(2) The non-contentious proceedings shall be instituted by the court *ex officio* in the cases and under the conditions specified in this or other law.

(3) If the proceedings have not been instituted by the body authorised to institute the proceedings under the law, the court shall immediately notify it that the proceedings have been instituted upon the petition of an authorised person. The court may determine a time limit for the authorised body to notify its participation in the proceedings, and shall halt the proceedings until the expiry of such time limit if this is necessary for the protection of the participants in the proceedings or for the protection of the social interest.

Article 3

(1) Participant in the non-contentious proceedings shall mean a person that has instituted the proceedings, the person whose rights or legal interests are decided in the proceedings, as well as the bodies which participate in the proceedings pursuant to an authorisation by law to institute the proceedings, regardless of whether it has instituted the proceedings or entered the proceedings at a later date.

(2) Petitioner for the purposes of this law shall mean the person or the body upon whose petition the proceedings have been instituted, and the respondent shall mean the person in relation to whom the right or the legal interest of the petitioner is exercised.

(3) By way of exception, the court may recognise the capacity of a participant in the proceedings, with legal effect in a specific matter, to those forms of association which do not have legal personality, and which are not specified in special regulations as possible participants in the non-contentious proceedings if they meet the conditions referred to in Article 77 paragraph 3 of the Civil Procedure Code, and if the case of the non-contentious subject matter directly refers to them.

Article 4

(1) In the non-contentious proceedings, the court shall, *ex officio*, take particular care and undertake measures for the protection of rights and legal interests of minors who are without parental care, as well as other persons who are incapable of taking care of the protection of their own rights and interests.

(2) Where the rights and legal interests of minors and other persons under special social protection are decided in the proceedings, the court shall notify the guardianship authority on the institution of the proceedings, summon it to the hearings and serve it applications of the participants and decisions against which legal remedy is allowed, regardless of whether the guardianship authority is participating in the proceedings.

(3) When it deems it necessary, the court shall invite the guardianship authority to participate in the proceedings and set a time limit by which it may notify its participation. Until this time limit expires, the court shall halt the proceedings, but the guardianship authority may use its right to participate in the proceedings even after the lapse of such time limit.

Article 5

The guardianship authority participating in the proceedings, even when it is not authorised to institute the proceedings, shall be authorised to institute all actions in the proceedings for the purposes of protecting the rights and legal interests of minors and other persons under special social protection, in particular, to present facts that the participants have not stated, to propose adduction of evidence and to file for legal remedy.

Article 6

In the non-contentious proceedings the court may appoint a temporary representative for any participant in the proceedings when the conditions referred to in Article 84 of the Civil Procedure Code exist.

Article 7

The court may allow that the participant without legal capacity to institute other actions in the proceedings in addition to the actions for which he is authorised under the law, for

the purposes of exercising his rights, is the court believes that he is capable of understanding the meaning and legal consequences of such actions.

Article 8

(1) In non-contentious matters relating to the personal status of the participants (status-related matters), as well as in other non-contentious matters relating to the rights and legal interests which the participants may not dispose of, in the proceedings before the court they may not waive their claims, admit the claim of their opponent, nor reach a court settlement.

(2) In the proceedings referred to in paragraph 1 of this Article the court may also establish facts that the participants have not disclosed, as well as the facts that are not at issue between the parties if they are important for rendering a decision.

Article 9

The proceedings in which status issues are decided shall be closed to the public.

Article 10

In the non-contentious proceedings there shall be no stay of proceedings.

Article 11

(1) The court shall decide on the claims of participants based on the oral hearing only in the cases provided by this or other laws, or when it assesses that holding a hearing is necessary to clarify or establish decisive facts or when it deems that holding of a hearing is appropriate for other reasons.

(2) The failure of certain participants to appear in the hearing shall not prevent the judge from proceeding further, unless the law provides otherwise in specific cases.

(3) Participants in the proceedings may be heard even in the absence of other participants.

(4) In housing matters in which tenancy rights or specific powers that make up the tenancy right are decided, the decision shall always be rendered on the basis of oral hearing.

Article 12

(1) The petition for the institution of the non-contentious proceedings may be withdrawn until the first instance decision is rendered. A petition filed by several persons shall be withdrawn by means of their joint statement, unless otherwise provided for this or other law.

(2) The petition may also be withdrawn at a later date, until the proceedings are concluded with an enforceable ruling, if this does not violate the rights of other participants whom the decision concerns, or if other participants agree to it.

(3) If the petition is withdrawn after the first instance decision is rendered, the first instance court shall set aside the decision.

(4) The petition shall be deemed withdrawn when the petitioner fails to appear at a hearing or does not respond to the court summons for questioning, if duly summoned, and there are no generally known circumstances that prevented him from appearing in court. Justified reasons for failure to appear may be accepted by the court even without other participants declaring themselves up to the moment the court notifies them of the withdrawal of petition.

(5) In the cases referred to in paragraphs 1 and 4 of this Article, other participants that are authorised under the law to institute the proceedings may apply for the proceedings to continue. The application for the continuance of the proceedings may be filed within 15 days of receipt of the notice of petition withdrawal.

Article 13

(1) In status related matters, the court with competent jurisdiction shall be the court in whose territory the person in whose interest the proceedings are conducted has permanent residence, and if he does not have a permanent residence, then the court in whose territory such person has temporary residence, unless otherwise provided by this or other law.

(2) In other non-contentious matters the court with territorial jurisdiction shall be the court in whose territory the petitioner has a permanent or temporary residence or seat, unless otherwise provided for by this or other law.

(3) Where a non-contentious matter refers to real property, the court with exclusive jurisdiction shall be the court in whose territory the real property is located, and if the real property is located in the territory of several courts, each of these courts shall have jurisdiction.

Article 14

(1) In the non-contentious proceedings the court may, *ex officio*, declare itself as lacking territorial jurisdiction not later than at the first hearing, and if the hearing is not held, until the first action is instituted by a participant upon the court summons.

(2) If in the course of the proceedings the circumstances that are the basis of the territorial jurisdiction of the court change, the court conducting the proceedings may refer the case to the court that has territorial jurisdiction under the changed circumstances, if it is obvious that before such court the proceedings will be easier to conduct, or if it is in the interest of the persons under special social protection.

(3) Where the case is referred to another court in the interest of the person under special social protection, prior to the referral of the case, the judge will invite the guardianship authority to provide its opinion on the appropriateness of the referral. If the guardianship authority does not provide its opinion within the set time limit, the court shall proceed according to the circumstances of the case, taking care of the interests of the person under special social protection.

Article 15

The participants may change the territorial jurisdiction of the court by mutual consent only when this is permitted for particular non-contentious matters by this or other law.

Article 16

(1) Until the decision is rendered on the main issue, the court will, by a separate decision, discontinue the non-contentious proceedings if it establishes that the proceedings should be conducted under the rules of civil procedure. When such decision becomes effective, the proceedings will be conducted under the rules of civil procedure before the competent court.

(2) The actions carried out by the non-contentious court (on-site inspection, expertise, questioning of witnesses, etc) shall be performed again, if in their previous performance a material violation of the civil procedure provisions was made (Article 354 of the Civil Procedure Code).

Article 17

(1) A single judge shall proceed in the first instance non-contentious proceedings, unless otherwise provided by this or other law.

(2) In housing matters in which tenancy rights or specific powers that make up the tenancy right are decided, the court shall sit in a panel comprising one judge and two lay judges.

(3) Certain actions in the proceedings may be undertaken by a judges' assistant if provided by this or other law. The written record of such actions shall be signed by the judge's assistant and the recording secretary who prepared the written record.

Article 18

(1) In the non-contentious proceedings, decisions are rendered in the form of rulings.

(2) A ruling against which a special appeal is allowed and the ruling of a second instance court must contain a statement of reasons.

Article 19

The appeal against the ruling rendered in the first instance may be filed within 15 days from the date of serving the transcript of the ruling, unless otherwise provided by this or other law.

Article 20

(1) The appeal shall stay the execution of the ruling, unless otherwise provided by this or other law, or unless otherwise decided by the court.

(2) Due to reasons of great importance, the court may decide that an appeal shall not stay the execution of the ruling.

(3) In the case referred to in paragraph 2 of this Article, where the need exists to protect the rights of minors or other persons under special social protection, the court may, *ex officio*, for the purposes of protecting the rights of other participants upon their petition, order that cash security be deposited. Where special circumstances of the case require so, the security may be determined in another form.

Article 21

(1) The first instance court may itself, on account of appeal, reverse or set aside its previous ruling if this does not violate the rights of other participants based on such ruling.

(2) If the first instance court does not reverse or set aside its ruling, it shall forward the appeal with accompanying documents to the second instance court for deliberation regardless of whether the appeal was lodged within the time limit specified by the law.

(3) The second instance court may, for reasons of importance, also decide on the lapsed appeal, if it does not violate the rights of other persons based on such ruling.

Article 22

(1) Where the court decision depends on the preliminary issue as to whether a certain right or a legal relationship exists, and such issue has not been decided by court or another competent body (preliminary issue), the court may resolve the issue itself unless otherwise provided by this or other law.

(2) The court's decision on a preliminary issue shall have legal effect only in the non-contentious proceedings in which such issue has been resolved.

Article 23

(1) If the facts of importance for resolving the preliminary issue are disputed between the participants, the court will instruct them to file civil action or institute proceedings before an administrative body to resolve the disputed right or legal relationship.

(2) The court shall refer to the civil action or proceedings between an administrative body the participant whose right is deemed by it to be less plausible, unless otherwise provided by this or other law.

Article 24

(1) If the participant who is referred to a civil action or proceedings before an administrative body, files a civil action or institutes proceedings before an administrative body within a specified time limit, which may not exceed 30 days, the non-contentious proceedings will be halted until the final and enforceable ruling is rendered in such proceedings.

(2) If none of the participants files a civil action or institutes administrative proceedings until the conclusion of the non-contentious proceedings, the court will conclude the proceedings regardless of the claims in relation to which the participant was referred to a civil action or a proceedings before an administrative body.

Article 25

(1) Where the court ruling changes a personal or family status of the participant or his rights and obligations, the legal consequences of the ruling ensue when it becomes enforceable.

(2) The court may decide that the legal consequences of the ruling shall ensue prior to enforceability, if this is necessary to protect minors or other persons under special social protection.

(3) The final ruling changing the personal or family status of participants shall be notified without delay to the registrar responsible for maintaining the register of births for such person.

Article 26

The enforceability of the ruling rendered in the non-contentious proceedings shall not preclude the participants from enforcing their claim on which a ruling was rendered in a civil action or proceedings before an administrative body, when such right is recognized under this or other law.

Article 27

(1) In the proceedings where status matters and non-contentious issues matters relating to tenancy right are decided, a review shall be allowed against the enforceable ruling of the second instance court unless otherwise provided by this or other law.

(2) In the proceedings where property law matters are decided a review shall be allowed under the conditions under which a review is allowed in property law matters under the Law on Civil Procedure, unless otherwise provided by this or other law.

Article 28

(1) The costs of proceedings in status matters shall be freely awarded by the court, taking account of the circumstances of the case and the outcome of the proceedings, provided the provisions of Article 162 of the Civil Procedure Code shall apply to the costs of proceedings caused by the participation of the guardianship body.

(2) In non-contentious matters relating to property rights of participants, the participants shall bear the costs equally, but if there is a significant difference with regard to their share in the property right decided on, the court shall determine according to the proportion of such share, what share of costs each of the participants will bear.

(3) In the non-contentious matters referred to in paragraph 2 of this Article the court may decide that the participant in whose interest the proceedings are conducted or the participants who gave rise to the institution of the proceedings exclusively due to his behaviour shall bear all the costs.

Article 29

(1) Upon the petition to repeat the proceedings, the court shall follow the preliminary procedure shall be as in the case of a lapsed appeal if conditions referred to in Article 21 are met for the second instance court to decide on the admissibility of a lodged lapsed appeal. If the second instance court finds that such conditions are not met, it shall refer the case back to the first instance court to proceed upon the petition.

(2) The petition to repeat the proceedings may not be filed against the enforceable ruling validly concluding the proceedings if under this or other law the participant is recognized the right to enforce his claim in a civil action or proceedings before an administrative body.

Article 30

(1) The provisions of this law shall be applied with regard to all the issues that are not otherwise regulated under particular proceedings contained in this law, as well as in other non-contentious matters for which procedural rules are not regulated by separate laws.

(2) The provisions of the Civil Procedure Code shall apply *mutatis mutandis* to non-contentious proceedings, unless otherwise provided by this or other law.

Part Two

PARTICULAR PROCEEDINGS

I REGULATION OF PERSONAL STATUS

Chapter One

REMOVAL OF LEGAL CAPACITY

Article 31

(1) In these proceedings the court examines whether a person of full age, taking into account the level of his capacity for normal judgment, is capable of taking care of his own rights and interests and decides on complete or partial removal of legal capacity when it establishes that there exist reasons specified in the law, as well as on restoring full or partial legal capacity when the reasons for removal or limitation of legal capacity cease to exist.

(2) The proceedings for removal and restoration of legal capacity shall be urgent proceedings.

Article 32

(1) The proceedings for the removal of legal capacity shall be initiated and conducted by the court *ex officio*, or upon the petition of the guardianship authority, spouse, child or parent of the person who fulfils the legal requirements for the removal or limitation of legal capacity.

(2) The proceedings may also be initiated upon the petition of the grandfather, grandmother, brother, sister or grandchild if he/she lives with such person in the same family community.

(3) The petition to institute proceedings may also be filed by the same person whose legal capacity is to be removed, if he is capable of understanding the meaning and legal consequences of his petition.

Article 33

(1) The petition must contain the facts on which it is based, as well as evidence that confirm or render such facts likely.

(2) If the guardianship authority has not instituted the proceedings, the petition must also contain the information from which arises the authorisation to institute proceedings.

Article 34

(1) If the person in relation to whom the proceedings for the removal of legal capacity have been instituted has real property, the court shall promptly notify the authority maintaining land or other public real property register to make an entry on the proceedings.

(2) The registrar maintaining the register of births for such person shall also be notified.

Article 35

(1) In such proceedings, the ruling shall be made on the basis of oral hearing.

(2) In addition to the guardianship authority, the person in relation to whom the proceedings are conducted, his guardian or temporary representative, and the petitioner shall be summoned to the hearing.

Article 36

(1) The court shall personally question the person in relation to whom the proceedings are conducted, and if such person is in a health care institution, he will be questioned as a decide in such organisation, where the hearing will be held.

(2) The court may abandon the questioning of the person in relation to whom the proceedings are conducted only if this may be harmful to his health or if the hearing is not possible at all, considering the mental or physical condition of such person.

Article 37

The court shall question the guardian or temporary representative, the petitioner and other persons who can provide the required information on the life and behaviour of the person in relation to whom the proceedings are conducted and on other important circumstances. Where needed, the court will also obtain information about such facts from the bodies of the socio-political community, self-management organisations and communities, legal and other persons, to whom such information is available.

Article 38

(1) The person in relation to whom the proceedings for removal of legal capacity are conducted must be examined by no less than two physicians of the appropriate speciality, who will provide their findings and opinion on the mental state and the capacity of such person to make judgments.

(2) The expert examination shall be performed in the presence of a judge, except when it is performed in an in-patient health organisation.

(3) The court may determine by a ruling that the person in relation to whom the proceedings are conducted, shall be temporarily, but for no longer than three months, placed in an appropriate health institution if, in the opinion of the physician, this is necessary to determine his mental state, unless that may cause harmful consequences to his health.

Article 39

(1) The ruling on the placement into the health care institution may be appealed by the person in relation to whom the proceedings are conducted and his guardian or temporary representative within three days of service of the ruling transcript.

(2) The person in relation to whom the proceedings are conducted may lodge an appeal regardless of his mental state.

(3) The appeal shall not stay the execution of the ruling, unless the court decides otherwise for justified reasons.

(4) The court shall forward the appeal with accompanying documents to the second instance court, which shall decide within three days of the receipt of the appeal.

Article 40

(1) Where the court finds that the conditions are met for removal of legal capacity, it shall completely or partially remove legal capacity of the person in relation to whom the proceedings are conducted.

(2) In the ruling partially removing legal capacity of a person, the court may, based on the results of the medical expertise, determine the type of transactions such person may undertake independently in addition to the transactions to which he is authorised by the law.

(3) The person whose legal capacity has been removed may lodge an appeal regardless of his mental state.

Article 41

(1) The court may suspend rendering the ruling on partial removal of legal capacity due to abuse of alcohol or other narcotic substances, if it may reasonably be expected that the person in relation to whom the proceedings are conducted will refrain from the abuse of alcohol or other narcotic substances.

(2) The court may suspend the rendering of the ruling referred to in paragraph 1 of this Article if such person, on his own initiative or the proposal of the court, subjects himself to treatment in a specified health care organisation.

(3) The court may suspend the rendering of ruling on removal of legal capacity for a period of six to 12 months.

(4) The ruling may be revoked if the person terminates the treatment or is discharged from the health care organisation for disorderly behaviour.

Article 42

(1) When the reasons for which the person has had his legal capacity removed cease to exist, the court shall, *ex officio* and upon the motion of the guardianship authority and persons referred to in Article 32 of the present Law, render a ruling on the restoration of legal capacity.

(2) If after rendering a ruling on complete removal of legal capacity of a person it is established that his mental state has improved to such a degree that partial removal of legal capacity is sufficient, the court shall amend its previous ruling and order partial removal of legal capacity.

Article 43

In the proceedings for the restoration of legal capacity the provisions of this Chapter on the removal of legal capacity shall apply *mutatis mutandis*.

Article 44

The enforceable ruling on removal as well as the ruling on the restoration of legal capacity shall be notified by the court to the registrar for the purposes of entering it into the register of births for such person, the body maintaining land or other public real property register if the person concerned has real property, as well as to the guardianship authority.

Chapter Two

DETENTION IN A NEUROPSYCHIATRIC HEALTH CARE ORGANIZATION

Article 45

(1) In these proceedings the court decides on committing to and retaining a mentally ill person in the appropriate health care institution when, due to the nature of the illness, it is necessary that such person's freedom of movement or communication with the outside world be restricted.

(2) The proceedings for committal to and retention in a neuropsychiatric health care organization (health care organization) shall be urgent proceedings.

Article 46

(1) When a health care organization admits a person for treatment without his consent or court ruling, it shall within three days report it to the court in whose territory the organization is located.

(2) The statement of consent to admission must be given in writing before an authorised person in the health care organization, in the presence of two witnesses who have legal capacity and are literate and who are not employees of such organization or persons that are related to the admitted person by lineal or lateral consanguinity up to and including the fourth degree, and by affinity up to the second degree, nor his spouse or the person who brought him to the health care organization

(3) The health care organization report must contain the information on the admitted person, person who brought him to the health care organization and, if possible, about the nature and degree of illness with appropriate medical records.

Article 47

(1) The health care organization shall also proceed in the manner referred to in Article 46 of the present Law when the person who has been admitted to the health care organization of his own will, revokes the given consent, and the authorized person or body of such health care organization deems it necessary to further retain such person.

(2) The time limit for the notification of the court shall begin to run from date of revocation of given consent.

Article 48

The proceedings shall be conducted *ex officio*, as soon as the court receives the report from the health care organization or in another manner becomes aware that a person has been admitted to or retained in a health care organization without his consent.

Article 49

The conditions for retaining a person in a health care organization shall be determined in the manner specified in Article 38 of the present Law.

Article 50

The court shall issue a ruling on whether the person is to be retained in the health care institution, if possible, within fifteen days of the receipt of report on admission or retention of the person in a health care institution, but for no more than thirty days when determining the nature of the illness so necessitates.

Article 51

(1) Then the court decides that the admitted person shall be retained in the health care organization, it shall determine the period of retention, which may not exceed one year.

(2) The health care organization shall submit to the court periodical reports on the health status of the retained person.

Article 52

The court may also decide that the person be discharged from the health care institution prior to the expiry of the time period specified for retaining in the health care institution, *ex officio* or upon the application of the person retained, his guardian or body referred to in Article 32 of the present Law, if it establishes that the health status of the retained person is improving to such a degree that the reasons for his retention have ceased to exist.

Article 53

If the health care organization assesses that the retained person should further remain in treatment upon the expiry of the time limit specified in the court ruling, it shall apply to the court for the extension of retention 30 days prior to the expiry of such time limit.

Article 54

The ruling referred to in Articles 52 and 53 of the present Law shall be rendered by the court on the basis of a repeated examination of the retained person performed in the manner specified in Article 38 of the present Law and upon the questioning of such person, if this is possible and not harmful to his health.

Article 55

The provisions of Article 39 of the present Law shall apply to the proceedings upon the appeal against the ruling on committal to or retention in the health care organization (Articles 50 and 53).

Chapter Three

DECLARATION OF DEATH OF MISSING PERSON AND PERTAINING EVIDENCE

Article 56

In these proceedings the court decides on declaring a missing person dead and determines the death of a person for the fact of whose death there is no legally prescribed evidence.

Article 57

(1) A person:

- a) of whose life there has been no account in the last five years, and from whose birthday seventy years have passed;
- b) of whose life there has been no account in the last five years, and the circumstances of his disappearance make it likely that he is no longer alive;
- v) who disappeared in a ship wreck, car accident, fire, flood, earthquake or another imminent mortal danger, and of whose life there has been no account/report for six months from the date the danger ended;
- g) who disappeared during a war in relation to war events, and who has not been heard of for one year from the date the hostilities ended,

may be declared dead

(2) The time limits referred to in sub-paragraphs a) and b) shall be computed from the date when according to the latest accounts the missing person was undoubtedly alive, and if such date cannot be exactly determined, such time limits shall begin to run upon

the lapse of the month or year in which the missing person was alive according to the latest account.

Article 58

The petition for declaration of death of a missing person may be filed by any person with a direct legal interest, as well as a public prosecutor.

Article 59

(1) The petition must contain the facts on which it is based, as well as the evidence by which such fact is established or rendered likely.

(2) If the proceedings have not been instituted by a public prosecutor, the petition must also contain the information from which arises the petitioner's legal interest in the declaration of death of the missing person.

Article 60

(1) Upon the receipt of the petition, the court shall check if the basic assumptions for instituting the proceedings are fulfilled. If, on the basis of information provided in the petition or performed checks the court assesses that such assumptions are fulfilled, it will appoint a guardian to the missing person and notify the guardianship authority thereof, or invite the guardianship authority to appoint within a specified time limit a guardian who will represent him in the proceedings.

(2) The guardian shall collect evidence on the disappearance or life of the missing person and to propose them to the court, and the court itself shall, *ex officio*, collect or adduce evidence to establish whether and when the missing person died, or whether he is still alive.

Article 61

(1) If the court assesses that the basic assumptions for the institution of the proceedings have been fulfilled, it shall publish a notice stating the main circumstances of the case, invite the missing person and any other person who knows anything about his life to notify the court without delay, and indicate that, when three months from the publication of the notice in the *Official Journal of the SFRY* have elapsed, it will decide on the petition.

(2) The notice shall be published in the *Official Journal of the SFRY*, *Official Gazette of RS* and on the bulletin board of the court, and it shall also be published in the usual manner in the place where the missing person had his last permanent or temporary residence.

Article 62

If the petitioner does not deposit the amount needed for the publication of the notice, as per court order, the petition shall be deemed withdrawn, unless the petition was filed by the public prosecutor.

Article 63

(1) When three months have lapsed from the publication of the notice in the *Official Journal of the SFRY*, if the missing person is not heard from and there are no clues suggesting that he is alive, the court shall schedule a hearing and summon the petitioner and the guardian of the missing person and adduce the required evidence.

(2) If the court establishes that some of the conditions referred to in Article 57 of the present Law have been met, and that the outcome of the entire proceedings reliably indicates that the missing person is not alive, it shall issue a ruling declaring such person dead.

Article 64

(1) The ruling declaring a missing person dead shall specify the date and, if possible, the hour deemed to be the time of death of the missing person.

(2) The day when the missing person died, as determined by adduced evidence, or the day that the missing person probably did not survive shall be deemed the time of death. If such a date cannot be determined, death shall be deemed to have occurred on the first day after the time limits referred to in Article 57 of the present Law lapsed.

Article 65

The enforceable ruling on the declaration of death of a missing person shall be submitted to the registrar for the purposes of making an entry in the register of deaths, to the court having probate jurisdiction, the guardianship authority, and the body maintaining land or other public register on real property, if the person declared dead had any real property.

Article 66

If the person declared dead personally contacts the court, after establishing his identity, the court shall, without any further proceedings, set aside its ruling on declaration of death of such person.

Article 67

(1) If after the ruling on declaration of death of the missing person, the court becomes aware in any manner that the missing person is alive, it shall, *ex officio*, institute and conduct the proceedings to set aside such ruling.

(2) The court shall also conduct such proceedings upon the petition of the body and persons referred to in Article 58 of the present Law.

Article 68

If after the ruling on declaration of death of the missing person is rendered it becomes known that such person died on the date other than the one to be taken as the date of death under the ruling, the court shall, upon the petition of any person who has a direct legal interest and the public prosecutor, conduct the procedure and modify its previous ruling with regard to the date of death.

Article 69

(1) The competent guardianship authority and the probate court in which the probate proceedings are pending shall be notified by the court on the institution of proceedings to set aside or modify the ruling declaring the death of the missing person.

(2) If the probate proceedings have been completed with an enforceable ruling, and if it involved real property, the court shall order an entry to be made on the proceedings to set aside or modify the ruling declaring the death of the missing person in the land or other public real property register.

(3) When the court on the basis of adduced evidence dismisses the petition for setting aside or modifying the rendered ruling declaring the death of the missing person, it shall accordingly notify the competent guardianship authority, the court conducting probate proceedings and the body maintaining land or other public real property register for the purposes of striking the entry on the proceedings from the register.

Article 70

If the death of a person cannot be proven by a document specified in the Law on the Registers of Births, Marriages and Deaths, any person with a direct legal interest, as well as the public prosecutor, may file a petition with the court to determine the death of such person by virtue of a court ruling.

Article 71

The provisions of this chapter on the declaration of death of a missing person shall apply *mutatis mutandis* to the proceedings for proving death of a person, provided that the notice period may not be less than 15 nor more than 30 days.

II REGULATION OF FAMILY RELATIONS

Chapter Four EXTENSION OF PARENTAL RIGHTS

Article 72

(1) In these proceedings the court decides on the extension of parental rights beyond the child's age of majority, when the reasons for it exist as specified by the law.

(2) The proceedings for the extension of parental rights shall be urgent proceedings, and shall be instituted upon the petition of persons or bodies authorised by law.

(3) In the proceedings, the child shall be represented by a special guardian, appointed by the court or a guardianship authority.

Article 73

(1) In these proceedings, the court shall *ex officio* determine the mental and physical status of the child that is of relevance for his capacity to take care of his own person, rights and interests.

(2) The decision on the petition for the extension of parental rights shall be rendered on the basis of oral hearing to which shall be summoned: the guardianship authority, child, child's guardian and parents, regardless of whether they have instituted the proceedings. The questioning of parents shall be mandatory in such proceedings, and the guardianship authority shall provide an opinion on the appropriateness of the extension of parental rights.

(3) The mental state and the capacity of the child shall be determined in the manner specified in Article 38 of the present Law.

Article 74

The provisions of Chapter One, Part Two on the removal and restoration of the legal capacity shall be applied *mutatis mutandis* in the proceedings for the extension of parental rights as well as in the proceedings upon the petition of the persons authorised by law for the termination of extended parental rights, unless otherwise provided by this or other law.

Articles 75-78**

(Repealed)

Chapter Six

GRANTING PERMISSION TO CONCLUDE MARRIAGE

Article 79

In these proceedings the court decides on the permission for marriage between certain persons between whom, due to legally prescribed conditions, a valid marriage may be concluded only on the basis of court permission.

Article 80

(1) The proceedings shall be instituted by a petition of the person who does not meet the legal condition for concluding a valid marriage, and when neither person meets the prescribed condition, the proceedings shall be instituted by their joint petition.

(2) The court in whose territory the petitioner or one of the petitioners has permanent or temporary residence shall be the court with territorial jurisdiction to proceed upon the petition and joint petition respectively.

Article 81

The petition must contain personal information on the persons who wish to conclude marriage, the facts upon which the petition is based, and proof of such facts. If the petitioner is a minor, the petition must contain the information about his parents.

Article 82

(1) Where a petition has been filed by a minor, the court shall investigate in an appropriate manner all the circumstances of relevance for determining whether there exists free will and wish of the minor to conclude marriage, as well as if the minor has achieved physical and mental maturity necessary for exercising rights and duties in marriage.

(2) The court shall obtain the opinion of a health care organization, establish appropriate cooperation with the guardianship authority, question the petitioner, his parents or guardian, the person whom the minor wishes to marry, and may adduce other evidence and obtain other information, as needed. If it deems it important for establishing decisive facts, the court will adduce all or some evidence in the hearing. A parent whose parental rights have been terminated shall not be questioned, and the court shall at its own discretion decide whether to question the parent who does not exercise his parental rights for no justified reason.

(3) The court shall, as a rule, hear the minor without the presence of other participants.

(4) The court shall examine personal qualities, financial standing, and other relevant circumstances relating to the person whom the minor wishes to marry.

(5) Upon the joint petition of persons of full age related by affinity, or adoptive parent and adopted child, the court will examine in an appropriate manner the justifiability of the petition, taking due consideration of the achievement of the purposes of marriage and of the protection of family. Where the joint petition has been filed by the adoptive parent and adopted child, the court will obtain a prior opinion of the guardianship authority.

Article 83

The court ruling permitting the conclusion of marriage shall state personal names of the persons between whom the marriage is permitted.

Article 84

The ruling dismissing the petition to permit a minor to conclude marriage may be appealed only by the minor, and when the proceedings were instituted by a joint petition.

Article 85

(1) The joint petition for the permission to conclude marriage may be withdrawn by the petitioner until the ruling becomes enforceable.

(2) The petition shall also be deemed withdrawn when one of the petitioners abandons the petition.

Article 86

The application for the revision of the final second instance court ruling shall not be allowed.

III PROCEEDINGS REGULATING PROPERTY RELATIONS

Chapter Seven PROBATE PROCEEDINGS

1. General provisions

Article 87

In the probate proceedings the court determines who the heirs of the decedent are, which property makes up his estate and which rights from the estate belong to heirs, legatees and other persons.

Article 88

(1) For the probate proceedings, the court on whose territory the testator had a permanent or temporary residence at the time of death shall have territorial jurisdiction (probate court).

(2) If the testator at the time of death did not have either a permanent or temporary residence in the territory of the Socialist Republic of Serbia outside the territory of autonomous provinces, the court in whose territory the prevailing part of his estate is located shall be the court of competent jurisdiction.

Article 89

(1) The proceedings shall be instituted *ex officio* as soon as the court becomes aware that a person has died or has been declared dead.

(2) In the probate proceedings the court shall take account whether the heirs and legatees with inherited real property and means of labour exceed the maximum specified in the constitution and the law, and when it establishes that the maximum is exceeded it shall notify the relevant competent body.

(3) The court shall take the statement from the heirs regarding the circumstances referred to in paragraph 2 of this Article, and obtain relevant evidence, as needed.

Article 90

In the probate proceedings, all statements and applications of participants, except the declaration of renunciation of inheritance, may also be taken on record by the judge's assistants.

Article 91

(1) Temporary measures to secure the estate may be ordered by the court in whose territory the testator died, as well as the court in whose territory the property of the testator is located.

(2) If the measures to secure the estate have been instituted by a ruling, and due to suspension caused by appeals there is a danger that the execution of such measures may be foiled, the court shall decide that the appeal shall not stay the execution.

2. Preliminary actions

Article 92

(1) When a person has died or has been declared dead, the registrar responsible for making an entry of death in the register of deaths shall be obligated to send the death certificate to the probate court within 30 days of making the entry.

(2) If the registrar is unable to obtain the information to draw up the death certificate, he shall send the death certificate with only such information as is available to him and state the reasons due to which he could not complete the death certificate and provide information which could be of use for the court in locating the heirs to the decedent's property.

(3) If a person died outside the territory of the municipality in which he had a permanent or temporary residence, the registrar shall send to the probate court only the excerpt from the register of deaths and the information available to him, which may serve to draw up the death certificate.

Article 93

(1) The death certificate shall be drawn up on the basis of information obtained from the relatives of the decedent, from the persons with whom the decedent lived, as well as from other persons who can provide information to be entered in the death certificate.

(2) The death certificate shall be completed even in the cases when the decedent has no property left.

Article 94

(1) If the probate court has been sent an incomplete death certificate or only the excerpt from the register of deaths, the court shall, according to the circumstances, complete the death certificate itself in the court, or will order the death certificate to be completed by an employee of the court outside the court house, or will entrust the completion of the death certificate to the registrar.

(2) The court may, if appropriate, complete the death certificate itself, when the death of a person or declaration of death of such person is proven by an excerpt from the register of deaths or another public document.

Article 95

(1) The following information shall be entered in the death certificate: the personal name of the decedent, the personal name of one of his parents, occupation, date of birth and citizenship of the decedent, and, for married persons, their surname prior to conclusion of marriage; day, month and year, place and, if possible, hour of death; the place of permanent or temporary residence of the decedent; the personal name, date of birth, occupation, permanent or temporary residence of the decedent's spouse and his children born in or out of wedlock or adopted; personal name, date of birth and permanent or temporary address of other relatives who could be entitled to the inheritance by operation of the law as well as the persons entitled to inherit on the basis of the will; the approximate value of the real property and, in particular, the approximate value of the personal property of the decedent.

(2) If possible, the death certificate will contain: the place of the property left behind the decedent; if there is property whose holding, storing or reporting is subject to special regulations; whether there is any cash, securities valuables, savings passbooks, or other important instruments; whether the decedent left any debts and how much; whether he left a written will, or a contract of maintenance for life, or a contract of transfer or distribution of property during his lifetime and where they are located, and, if the decedent has made an oral will, then the personal name, occupation and residence of the person before whom the oral will was made.

(3) The death certificate shall particularly indicate if a birth of a child of the decedent is expected and whether his children or spouse have a guardian.

(4) If the spouse or a child of the decedent or another person that could be entitled to inheritance died before the testator, the death certificate shall indicate the date and place of their death.

Article 96

(1) The inventory and the valuation of the decedent's property shall be made by the municipal administrative body.

(2) The inventory and the valuation of the decedent's property shall be made upon the ruling of the probate court when the heirs or their current residence are unknown, when the heirs are the persons who due to minority, mental illness or other circumstances are partly or completely incapable of taking care of their own affairs, when the estate should be handed over to the socio-political community, organization or community of associated labour, socio-political organization or citizen association, or in other justified cases.

(3) The court shall order the inventory and valuation to be made also in the case when so request the heirs, legatees and creditors of the decedent.

(4) The inventory and the valuation shall be made even if there is no decision of the court in the course of drawing up the death certificate if so requested by any of the heirs or legatees.

Article 97

(1) The inventory shall include: the entire property in possession of the decedent at the time of death, the property belonging to the decedent but located with another person with the indication with whom such property is located and on what grounds, as well as the property held by the decedent that is claimed not to be his own property.

(2) The inventory of the estate shall contain entries on the debts owing to or owed by the decedent and, particularly, unpaid contributions to the social community.

Article 98

(1) Personal property shall be inventoried by type, kind, number, measure, weight or individually.

(2) Real property shall be inventoried individually with the indication of the location, types of land and land register data, if known.

(3) While making and inventory of the property, the value of individual real or movable items comprising the estate.

Article 99

(1) If the property was not inventoried and valued by the competent administrative body, this may be done by an employee of the court designated by the judge.

(2) The inventory and the valuation shall be made in the presence of two citizens of full age, and with the participation of an expert witness, as needed.

(3) Any interested party may be present at the inventory and valuation.

Article 100

(1) If the participants raise objections with regard to the inventory or the valuation, the court may, if it deems it necessary, order that a court employee repeat the inventory and valuation.

(2) If the property inventory has not been made, the court may, on the basis of information from interested parties, determine the property that shall be included in the estate.

Article 101

Where the estate is found to contain objects the holding, storing and reporting of which is subject to special regulations, once the inventory is completed, they will be handled in accordance with such regulations.

Article 102

(1) If it is established that none of the present heirs is capable of administering the property and there is no legal representative, or the heirs are unknown or absent, or when other circumstances command particular caution, the competent authorities shall, in urgent cases, hand over the property or part thereof to a reliable person for safe custody, and immediately notify thereof the court in whose territory such property is located, which court may modify or revoke such measure.

(2) Cash, valuables, securities, savings passbooks, and other important instruments shall be handed over for safe custody to the court in whose territory the property is located.

(3) This court shall notify the probate court on all the measures undertaken to secure the estate.

Article 103

(1) Where it is necessary under this law to appoint a temporary administrator of the estate, the appointment will be made by the probate court.

(2) Prior to the appointment of the temporary administrator, the court shall, if possible, obtain the opinion with the regard to the person of the administrator from the persons entitled to inheritance.

Article 104

The measures undertaken to secure the estate may be determined by the probate court at any time during the probate proceedings.

3. Proceedings with a will

Article 105

The authority drawing up the death certificate shall check whether the decedent has left behind a written will or a document on the oral will, and the will the testator left shall be sent to the court together with the death certificate.

Article 106

(1) When the court establishes that the person who left a will has died or has been declared dead, it shall open his will without breaking the seal, read it and make a written record thereof.

(2) This procedure shall be followed regardless of whether the will is valid under the law and regardless of whether there are several wills.

(3) The opening and reading of the will shall be carried out in the presence of two citizens of full age, who may be heirs.

(4) The heirs, legatees and other interested parties may attend the probate of the will, and ask for a copy of the will.

(5) The court with which the will is placed or to which it is submitted shall open and read the will although another court or a foreign body may have probate jurisdiction.

Article 107

(1) The written record of the probate of the will shall state: the number of wills found, what dates they carry and where they were found; who submitted them to the court or the person who drew up the death certificate; which witnesses were present at the probate of the will; whether the submitted will was opened or closed and with which seal it was sealed, and the contents of the will.

(2) If in the course of opening the will it was noticed that the seal was damaged or that something was deleted, crossed out or modified in the will, or if anything suspicious is found, this must also be entered in the written record.

(3) The written record shall be signed by the judge, recording secretary and witnesses.

(4) The court shall affix a certificate of probate to the probate will indicating the date probate was granted, as well as the number and dates of other wills found.

Article 108

(1) If the decedent made an oral will, and there is a pertaining document that the witnesses signed in their own hand, the court shall probate the contents of such document in accordance with the provisions applicable to the probate of the written will.

(2) If there is no such document, the witnesses before whom such oral will was declared, shall be separately questioned about the contents of the will, and, in particular, about the

circumstance on which validity thereof depends, and the written record of the questioning of such witnesses shall be probated in accordance with the provisions applicable to the probate of the written will.

(3) If a party requests that the witnesses to the oral will be questioned under oath, or if the court finds that such questioning is required, it shall schedule a hearing to question such witnesses, to which it will summon the petitioners and other interested parties only if it would not unduly delay the proceedings.

Article 109

(1) If the written will is missing or has been destroyed independently of the testator's will, and there is no disagreement between the interest parties as to the previous existence of such will, or the form in which it was drawn up, or as to how it went missing or was destroyed, and as to the contents of the will, the probate court shall question all interested parties and adduce the required evidence according to their applications, and then probate the written record in accordance with the provisions applicable to the probate of the written will.

(2) If the estate were to become social property, were it not for the will, the agreement of the interested parties on the previous existence of the will, its form and contents shall be valid only with the consent of the competent public attorney.

(3) If among interested parties, there are persons who are incapable of taking care of their affairs, the agreement referred to in paragraphs 1 and 2 of this Article shall be valid only with the consent of the guardianship authority.

Article 110

(1) The written record on the probate of the will with the original written will, or the oral will document, or written record of the questioning of witnesses to the oral will shall be sent to the probate court, and the court which has granted probate of the will shall retain a copy thereof.

(2) The original written will, the oral will document, or written record of the questioning of witnesses to the oral will, as well as the written record of the contents of the missing or destroyed will shall be retained in the probate court separately from the other documents, and a certified copy thereof shall be enclosed with the documents.

4. The probate court procedure upon the receipt of the death certificate

Article 111

If the testator appointed the executor of the will, the court shall notify him and invite him to declare within a specified period of time whether he accepts such duty.

Article 112

(1) If a birth of a child who would be entitled to inherit is expected, the probate court shall notify the guardianship authority thereof.

(2) Unless the guardianship authority determines otherwise, the rights of the unborn child shall be looked after by one of his parents.

Article 113

(1) If according to the data from the death certificate, the decedent has not left any estate, the probate court shall discontinue the probate proceedings.

(2) The court shall proceed in the same manner in the case the decedent only left personal property, and none of the persons entitled to inherit has requested the proceedings to be conducted.

(3) If the court has discontinued the proceedings due to the fact that the decedent estate comprises only personal property, the persons entitled to inherit shall retain the right to request that probate proceedings be held.

Article 114

Where under the law the separation of the decedent's estate from the heirs' property may be requested, the court shall, upon the petition of authorized persons order such separation, applying the provisions of the present Law on temporary measures for securing the estate *mutatis mutandis*.

5. Probate proceedings

Article 115

(1) To probate the estate the court shall schedule a hearing.

(2) In the summons to the hearing the court shall notify the interested parties on the institution of the proceedings and the existence of the will, if any, and invite them to immediately submit to the court the written will or the oral will document, if it is placed with them or to identify the witnesses to the oral will.

(3) In the summons the court shall caution the interested parties that they may provide the court with the declaration on acceptance or renunciation of the inheritance until the conclusion of the proceedings, and if they do not come to the hearing and do not make a declaration – that they will be presumed to accept the inheritance, and that the court shall decide on their rights according to the information available to it. The court shall specifically caution them that a declaration of partial or conditional renunciation of inheritance shall produce no legal effect.

(4) Upon the institution of the probate proceedings, if the decedent left a will, the court shall notify and summon to the hearing all persons who may have the claim on the inheritance under the law.

(5) If the decedent appointed the executor of the will, the court shall also notify him of the institution of the proceedings.

Article 116

(1) If it is unknown whether the decedent has any heirs, the court shall publish a notice inviting people who have a claim on the inheritance to report to the court within one year from the publication of the notice.

(2) The notice shall be attached to the bulletin board of the court, published in the *Official Journal of the SFRY* and otherwise, as needed.

(3) The court shall proceed in the same manner if a temporary guardian has been appointed for the heir due to the fact that the current residence of the heir is unknown and the heir does not have an attorney, or because the heir or his legal representative, who does not have an attorney, is abroad, so the serving of process could not be done. (Article 84, paragraph 2, sub-paragraphs 4 and 5 of the Civil Procedure Code).

(4) Upon the expiry of the time limit referred to in paragraph 1 of this Article, the court shall conduct the probate hearing on the basis of statement of the appointed guardian and information available to the court.

Article 117

(1) In the probate proceedings the court shall deliberate on all the issues relating to the decedent's estate, in particular the right to inheritance, the size of the inherited portion and the right to legacy.

(2) The court shall decide on these rights, as a rule, after taking the required statements from the interested parties.

(3) The court shall decide on the rights of persons who have not come to the hearing and were duly summoned according to the information available to it, taking into consideration their written statements that arrive until the rendering of the decision.

(4) In the course of the probate proceedings, the interested parties may give statements without the presence of other interested parties and it is not necessary that such parties are always given the opportunity to declare themselves about the statements of other interested parties.

(5) If the court suspects that the person who, under the law has a claim on the inheritance, may not be the only or the closest relative of the decedent, it will question the persons deemed by it to have an equal or stronger right to inheritance and shall invite such persons by means of a published notice in accordance with the provisions of Article 116 of the present Law.

Article 118

(1) If the heir has accepted the inheritance or renounced the inheritance, the declaration thereof must be signed by him personally or his attorney.

(2) The signature on the declaration of acceptance of inheritance or renunciation of inheritance that was submitted to the court in writing, as well as the signature on the power of attorney must be authenticated.

(3) The declaration shall be accompanied by a statement as to whether the heir accepts or renounces the share to which he is entitled under the law or will, or the declaration refers only to the reserved portion.

(4) The declaration on the renunciation of inheritance may be made by the heir before the probate court and before any other court with subject matter jurisdiction. This declaration with the same legal effect may be made by the heir before a consular representative or diplomatic representative of the Socialist Federal Republic of Yugoslavia discharging consular affairs.

(5) When making the declaration on the renunciation of inheritance, the heirs will be cautioned by the court that they may renounce inheritance only in their own name.

Article 119

(1) The court will discontinue the probate proceedings and refer the parties to file a civil action or institute proceedings before an administrative body if there is dispute between the parties about the facts on which any of their rights is dependant.

(2) The court shall proceed in such a manner if the disputed facts are those on which depends the right to inheritance, and particularly the validity or the content of the will or the relationship between the heir and the testator on the basis of which inheritance is determined under the law; the facts on which depend the grounds of the claim of the surviving spouse and descendents of the testator who lived with the testator in the same household to separate from the estate the household objects which are used to meet everyday needs; the facts upon which depends the size of the inherited portion; the facts on which depends the admissibility of the exclusion of forced heir or the admissibility of reasons for unworthiness; the facts relating to whether a person has renounced the inheritance.

(3) If in the above cases there is no dispute about the facts, but the parties are in dispute over the application of the law, the probate court shall deliberate on the legal issues in the probate proceedings.

Article 120

If there is a dispute between the parties as to the right to a legacy or another right to the estate, the court shall also refer the parties to file a civil action or institute proceedings before an administrative body, but will not halt the probate proceedings.

Article 121

If the heirs dispute either the facts or the application of the law, the court shall halt the probate proceedings and refer the parties to file a civil suit or institute proceedings before an administrative body in the following cases: if there is a dispute between the heirs as to whether certain property is to be included in the estate; if there is a dispute between parties with regard to the claims of the testator's descendants who lived in the same household with him to exclude from the estate the share that corresponds to their contribution to the increase of value of the testator's estate.

6. Probate ruling

Article 122

(1) When the court establishes which persons have the right to an inheritance, such persons shall be declared heirs in the probate ruling.

(2) The ruling must contain: the personal name of the decedent, name of one parent, occupation, date of birth and nationality of the decedent, and for married decedents the surname they had before marriage; designation of real property with the information from land registers and designations of personal property with reference to the inventory; personal name, occupation and permanent residence of the heir, relationship between the heir and the testator – whether he is an heir at law or testamentary heir, and, if there are several heirs, then also their portion of the estate; whether and to what extent the heir's right is suspended because the time is not yet due, or is limited to a specified period of time, or suspended due to the fact that a condition has not yet been fulfilled, , or is dependent on the condition subsequent or instructions that are to be deemed conditions subsequent, or is restricted by an usufruct and in whose favour; the personal name, occupation and permanent residence of the person who has received a legacy, usufruct or another right from the estate with accurate designation of such right; information about the real property that exceeds the specified maximum for an individual heir or legatee.

(3) If in the probate proceedings all heirs propose in agreement the distribution and manner of distribution, the court shall enter such agreement into the probate ruling.

Article 123

(1) The probate ruling shall be notified to all heirs and legatees, as well as other persons who have raised a claim on the decedent estate.

(2) The enforceable probate ruling shall be notified to the competent administrative body.

Article 124

When the proof of discharging and securing the obligations imposed by the will on the heir in favour of the persons who are incapable of taking care of their own affairs or to achieve a generally useful purpose, the court shall order that the necessary entries be made in the land or other public register, and that the personal property held in safe custody by the court be handed over to authorized persons.

Article 125

When the right of the heir or legatee is suspended because of undue time, or is limited to a specified period of time, or suspended due to the fact that a condition has not yet been fulfilled, or is dependent on the condition subsequent or instructions that are to be deemed conditions subsequent, the court shall, upon the application of the interested party, determine temporary measures to secure the respective part of the inheritance in accordance with the provisions of the Law on Enforcement Proceedings, unless otherwise specified in the will.

Article 126

(1) If the heirs do not dispute the legacy, the court may issue a separate ruling on the legacy, upon the petition of the legatee, even before the probate ruling has been rendered.

(2) In such a case, the provisions on notifying the enforceable probate ruling to the competent administrative body, on entries into land registers and on the handing over of personal property held in safe custody by the court shall apply *mutatis mutandis*.

Article 127*

(Repealed)

7. Probate claims after the probate ruling has become enforceable

Article 128

If after the probate ruling or legacy ruling has become enforceable, the property is discovered that was unknown at the time of rendering the ruling, the court shall not repeat probate proceedings, but shall render a new ruling distributing the such new property on the basis of previously issued probate ruling.

(2) If the probate proceedings have not been conducted, the court shall conduct probate proceedings only if the discovered property comprises real estate.

(3) If the discovered property comprises personal property, the court shall conduct probate proceedings only upon the petition of interested parties.

Article 129

(1) If after the probate ruling or legacy ruling has become enforceable, a will is discovered, the court shall officially probate such will and forward it to the probate court, and retain the copy thereof.

(2) The probate court shall not repeat the probate proceedings, but shall notify the interested parties on the probate of the will and instruct them that they can enforce their rights in a civil action.

Article 130

(1) If after the probate ruling or legacy ruling has become enforceable, a person who did not participate in the probate proceedings raises a claim over the estate as an heir, the probate court shall not repeat the probate proceedings, but shall instruct such person that he may enforce his right in a civil action.

(2) If an heir has previously renounced his inheritance, and property is discovered that was unknown to be part of the estate at the time of rendering the ruling, the court shall invite him make the heir's declaration and if he declares that he accepts the inheritance of such property, the court shall proceed in the manner specified in paragraph 1 of this Article.

Article 131

When the probate proceedings are concluded with an enforceable probate ruling or legacy ruling, and conditions for repeating the proceedings are fulfilled under the rules of civil procedure, the probate proceedings shall not be repeated, but the parties may enforce their rights in a civil action.

Chapter Eight

DETERMINING COMPENSATION FOR EXPROPRIATED REAL PROPERTY

Article 132

In these proceedings the court determines a compensation for the expropriated real property when the expropriation beneficiary and the previous owner have not concluded a valid agreement on the compensation for expropriated real property before a competent municipal body.

Article 133

(1) If the expropriation beneficiary and the previous owner do not conclude an agreement on the compensation for expropriated real property within two months of the date the expropriation ruling become enforceable, and if the public attorney assesses that their agreement was concluded to the detriment of the social community, the municipal administrative body responsible for property law relations shall promptly submit the enforceable expropriation ruling to the competent court.

(2) If the competent administrative body does not proceed within the meaning of paragraph 1 of this Article, the court itself shall, upon the initiative of the participants, request to be submitted the enforceable expropriation ruling with supporting documents.

Article 134

(1) The proceedings for the determination of compensation for expropriated real property shall be instituted and conducted *ex officio*.

(2) These shall be urgent proceedings.

(3) If the previous owner of the expropriated real property dies or loses capacity to sue in the course of the proceedings, and does not have an attorney, or his temporary residence is unknown, the court shall appoint him a temporary attorney and promptly notify the guardianship authority thereof.

Article 135

The court shall deliberate and decide on the compensation for expropriated real property in a panel comprising one judge, as the presiding judge, and two lay judges.

Article 136

(1) The court shall schedule a hearing to give the opportunity to the expropriation beneficiary and previous owner to declare themselves on the form and extent or amount of compensation, and on the evidence of the value of real property that is acquired *ex officio*. When under the law, the municipality is deemed to be the expropriation beneficiary, and the expropriation was carried out for the purposes of another social legal entity, such social legal entity shall be summoned to the hearing in the capacity of participant.

(2) In the hearing, the court shall also adduce other evidence that the participants propose, if it finds them relevant for determining the compensation, and order an expert report, as needed.

(3) The public attorney shall also be summoned to the hearing if he assessed that the compensation agreement between the participants in the proceedings before the competent administrative body was concluded to the detriment of the social community, if the municipality is not the expropriation beneficiary.

Article 137

(1) Upon establishing all relevant facts, the court shall issue a ruling determining the form and extent or amount of compensation.

(2) If the expropriation beneficiary and previous owner agree on the form and extent or amount of compensation, the court shall base its ruling on their agreement, if it finds that it is not contrary to the mandatory legislation and the morality of the self-management socialist society.

(3) The ruling referred to in paragraph 2 of this Article shall be notified to the public attorney even if he did not participate in the procedure that resulted in it.

Article 138

(1) If the expropriation beneficiary and previous owner agree that the compensation for expropriated building or flat shall be set in the form of another building or flat, the agreement shall also set a time limit for the performance of mutual obligations. If they fail to set such a time limit, the court shall in the expropriation ruling set a time limit for the vacation of the expropriated buildings, or flat as a separate part of the building, in accordance with the relevant provision of the Law on Expropriation

(2) The provision of paragraph 1 of this Article shall be applied *mutatis mutandis* to a farmer, where under the agreement with the expropriation beneficiary, the compensation for the expropriated agricultural land was set in the form of title over other real property.

Article 139

The costs of proceedings shall be borne by the expropriation beneficiary, except the costs caused by the unjustified actions of the previous owner.

Article 140

The provisions of the present Law on the procedure for the determination of compensation for expropriated real property shall apply *mutatis mutandis* in other cases when the previous owner is recognized a right to compensation for the real property on which he lost title, or another property right, under the law.

Chapter Nine REGULATION OF MANAGING AND USING A COMMON ASSET

Article 141

In these proceedings the court regulates the manner of managing and using a common asset by co-owners, co-users and other co-possessioners.

Article 142

(1) Any commoner who believes that his right of managing and using the common asset has been violated may institute the proceedings.

(2) The petition must include all commoners, contain the necessary information on the common asset which is the subject matter of the proceedings, and the reasons for which the proceedings are instituted.

(3) The petition shall be filed with the court in whose territory the common asset is located, and if the asset is located in the territory of several courts, the petition may be filed with each of these courts.

Article 143

(1) Upon the receipt of the petition, the court shall schedule a hearing to which it shall summon all commoners, instruct them on the alternatives and assist them in reaching an agreement on the manner of managing or using the common asset.

(2) The agreement between the commoners shall be entered into the written record as a court settlement if the commoners agree to it when the court has explained them the nature and legal effect of the court settlement.

Article 144

(1) If the commoners do not come to an agreement, the court shall adduce the required evidence, and on the basis of the entire proceedings render a ruling regulating the manner of using or managing the common asset according to the relevant legislation in the field of substantive law, taking care of their particular and common interests.

(2) Where the petition requests the regulation of the use of the shared flat or business premises, the court shall particularly regulate which rooms the commoners shall use separately and which jointly, how the common rooms shall be used, as well as how the costs of using rooms shall be borne.

Article 145

(1) When there is a dispute between the commoners as to the right to an asset which is the subject matter of the proceedings, or the scope of the right, the court shall refer the petitioner to file a civil suit or institute proceedings before an administrative body within a specified time limit, to resolve the disputed right or the legal relationship.

(2) If the petitioner institutes the proceedings he has been referred to, the court shall halt the proceedings until the completion of these other proceedings, and if such proceedings are not instituted within the specified time limit, the petition shall be deemed withdrawn.

(3) The court may temporarily, until the decision of the competent body is made, regulate the relations between the commoners with regard to the management or use of the common asset when the circumstances of the case require so, in particular in order to prevent considerable damage, arbitrariness or manifest injustice towards individual co-litigants.

(4) The provisions of paragraph 3 of this Article shall also apply when the commoners are co-possessioners of an asset who do not have evidence on the legal grounds of acquiring possession.

Article 146

(1) The enforceability of the ruling rendered in these proceedings shall not preclude the participants from enforcing their claims with regard to the asset whose management or use was decided by this ruling in a civil action or proceedings before an administrative body.

(2) The ruling may not be appealed.

Article 147

(1) The provisions of this chapter of the Law shall also apply to the owners of separate parts of a building with regard to management and use of the common parts of the building that serve the building as a whole or only some separate parts of the building, in which case the commoners shall be understood to mean only the owners of those parts of the building, if the regulation of their mutual relations does not affect the rights of owners of other parts of the building.

(2) The relations between owners of separate parts of the building shall be regulated in accordance with legislation on the rights on separate parts of the building.

Chapter Ten

DIVISION OF COMMON ASSETS OR PROPERTY

Article 148

In these proceedings the court decides on the division and manner of division of common assets or property.

Article 149

(1) Any commoner may institute the proceedings for the division of assets or property, and the petition must include all the commoners.

(2) The petition must contain the information on the subject matter of the division and shares of the commoners, on the commoners and other persons who have a property right on the asset. In the case of real property, land register information must be stated and the relevant written proof on the rights of ownership, easement and other property rights enclosed.

(3) The petition shall be filed with the court in whose territory the asset or property is located, and if common assets or property are located in the territories of several courts, each of these courts shall have jurisdiction.

Article 150

(1) If the court in the course of proceeding upon the petition establishes that there is a dispute between the commoners as to the right to the assets that are the subject matter of division or the right to the property, share in common assets or property, or that there is a dispute as to which assets or rights constitute common property, the proceedings shall be discontinued and the petitioner instructed to file civil action within a specific time limit.

(2) If the petitioner within the time period specified does not file action, he shall be deemed to have withdrawn the petition.

Article 151

(1) Upon receipt of the petition, the court shall schedule a hearing and summon all commoners and persons who have a property right on the subject matter of the division.

(2) Each participant may propose to have other persons whose interests may be violated by the division summoned to the hearing. If the commoners do not dispute their rights, this shall be entered in the written record and taken into consideration in rendering the ruling on the division.

Article 152

If in the course of the proceedings, the participants reach settlement on the conditions and manner of division, the court shall make a written record of such settlement taking care that the settlement regulates all matters at issue between the commoners, and other persons' property rights on the subject matter of division, and rights of other persons towards commoners with regard to the division performed.

Article 153

(1) If the participants do not reach an agreement on the manner of division, the court shall question them, adduce the required evidence, and obtain an expert report, as needed, and then, on the basis of the outcome of the entire procedure, in accordance with the relevant legislation in the field of substantive law, render a ruling on the division and manner of division of the common asset or property, striving to fulfil justified requests and interests of the commoners.

(2) When deciding to whom a certain asset should belong, the court shall particularly take into consideration the specific needs of a particular participant due to which the asset in question should go to him in particular.

Article 154

(1) The division ruling shall contain: the asset, conditions and manner of division, information on physical parts of the asset and rights that went to each commoner, and their rights and obligations determined by the division.

(2) In the form of a division ruling, the court shall decide on the manner of exercising easement and other property rights: on the parts of the asset that has been physically divided between commoners.

Chapter Eleven

REGULATION OF BOUNDARY LINES

Article 155

In these proceedings the court determines the boundary between adjacent real properties when the boundary markers have been destroyed, damaged or moved, and the neighbours cannot determine the boundary by mutual agreement.

Article 156

(1) The petition for the regulation of boundary between adjacent parcels of land may be filed by any of the owners or users of such parcels, and also authorised body, when so provided by law.

(2) The petition must contain information on the owners or users of adjacent parcels and on the parcels of land between which the boundary is to be regulated, with the designations of such parcels from land and other public registers, as well as the reasons for which the proceedings are instituted.

Article 157

(1) Upon the receipt of the petition, the court may schedule a hearing at the courthouse and invite the participants to try to reach an agreement about the regulation of the boundaries.

(2) If the participants do not reach an agreement, the court shall schedule an on-site hearing to which it shall summon, in addition to participants, an expert surveyor, and, as needed, the witnesses to which the participants referred in the petition or at the hearing before the court.

(3) In the summons to the hearing, the participants shall be instructed to submit all documents and outlines, and other evidence of relevance for the regulation of the boundary, and if possible to bring witnesses. The judge shall caution the participants on the consequences of failure to appear at the hearing.

Article 158

(1) If the petitioner fails to appear at the hearing, when duly summoned, the hearing shall be held if so proposed by any of the other participants.

(2) If nobody proposes that the hearing be held, the petitioner shall be deemed to have withdrawn the petition.

Article 159

(1) If there is a dispute between participants on the area of the boundary the value of which does not exceed RSD 800,000, in the boundary regulation proceedings the court shall rule on the basis of a stronger right, and if that is not possible, on the basis of the last peaceful possession. If the dispute cannot be resolved in this manner either, the court shall divide the boundary area according to equity.

(2) The court shall proceed in such a manner regardless of the value of the boundary area, when the participants so agree.

Article 160

If there is a dispute between the participants on the boundary area whose value exceeds RSD 800,000, and do not reach an agreement within the meaning of Article 159 paragraph 2 of the present Law, the court shall refer the petitioner to a civil action and discontinue the non-contentious proceedings.

Article 161

(1) In the hearing for the regulation of boundaries, the court shall determine the boundary line between the participants' land parcels and mark it with boundary markers.

(2) The actions instituted at the hearing for the regulation of boundaries shall be entered into a written record contain the following entries in particular: description and outlines of the current status, the contents of the statements of participants, expert and other witnesses, as well as the description and the outline of the status established by the regulation of the boundary.

Article 162

The ruling on the regulation of boundary the court shall describe the boundary line between the participants' land parcels, referring to the outline of the newly established status, which shall constitute the integral part of the ruling.

Article 163

The review of the enforceable ruling of the second instance court shall not be subject to review.

Chapter Twelve DOCUMENTS

1. Drawing up and authentication of the contents of a document

Article 164

In the proceedings for the drawing up or authenticating a document, the court shall draw up and authenticate a document when the existence of a public document is required for the creation of a right or the validity of a legal transaction.

Article 165

(1) Any court with subject matter jurisdiction shall be the competent court for the drawing up and authentication of a document.

(2) The document shall be drawn up or authenticated by a judge.

2. Drawing up of a document

Article 166

The document shall be drawn up in the court or outside the courthouse when the participant is incapable of coming to the court or when there are other justified reasons for it.

Article 167

(1) Prior to the actual drawing up of the document, the judge shall identify the participants.

(2) When the judge does not know a participant personally and by name, the participant shall be identified on the basis of a public document with a photograph or the statements of two witnesses of full age identified by their personal documents, and if the participant has a public document with a photograph, the confirmation of his identity by a single witness shall be sufficient.

Article 168

When a participant is illiterate, mute, or blind, or does not know the language which is in official use in the court, the document shall be drawn up in the presence of two witnesses of full age who are personally known to the judge or who have been identified by him on the basis of a public document with a photograph.

Article 169

(1) If the participant does not know the language in which the document is being drawn up, the judge shall draw up the document with the participation of a sworn court interpreter.

(2) If a participant is deaf-mute or blind, the judge shall draw up the document with the participation of the interpreter who can communicate with the participant.

Article 170

The witnesses at the drawing up of the document may be persons who are literate and who know the official language and the language of the participant, and, if the participant is mute, who can communicate with him.

Article 171

(1) When drawing up a document on a legal transaction, the judge shall examine if the participants have legal capacity and capacity to transact legal business which is required for the conclusion of such transaction and if they are authorised to conclude the legal transaction.

(2) The judge shall also proceed in accordance with paragraph 1 of this Article when a representative or an attorney participates in the drawing up of the document, where the judge shall examine whether the representative or the attorney has legal capacity and is authorised to conclude the legal transaction in question.

Article 172

(1) Having determined that the conditions referred to in Article 171 of the present Law are met, the judge shall examine whether there is free and serious will to conclude the legal transaction.

(2) The judge shall explain to the participants the meaning of the legal transaction, to indicate its consequences and to examine whether the legal transaction is allowed, i.e. that it is not in contravention of the mandatory regulations and rules of morality of the socialist self-management society.

Article 173

If the court determines that the conditions referred to in Articles 171 and 172 of the present Law are not met, it shall refuse to draw up the document by virtue of a ruling.

Article 174

(1) A written record shall be composed on the drawing up of the document which shall also contain the manner in which the participants, witnesses and interpreters present at the drawing up of the document were identified.

(2) The written record shall also be signed by the participant and witnesses.

(3) The written record shall be accompanied with the copy of the drawn up document.

3. Will made in court

Article 175

The will made in court shall be drawn up in accordance with the provisions of Articles 166-174, unless otherwise provided by Article 176-182 of the present Law.

Article 176*

(Repealed)

Article 177

(1) While listening to the narration of the testator, the court shall accurately enter his statement on written record, if possible in the testator's own words, taking care that the will of the testator be clearly stated.

(2) All the circumstances that can be of relevance for the validity of the will shall be entered on record.

(3) Where necessary, the judge shall explain to the testator the regulations restriction the testator in testamentary disposition.

Article 178

When the testator has read the written record on the will made in court himself, and declares that his last will is accurately entered on record in all aspects, the judge shall certify it on the document of the will.

Article 179

(1) If the will has been drawn up in the presence of two witnesses due to the fact that the testator cannot read, the judge shall read out the will to him, and then the testator shall, upon declaring that it is indeed his will, affix his signature or a fingerprint of his index finger in the presence of witnesses.

(2) If the testator does not know the language which is in official use at court, or is deaf or mute, the judge shall, through the sworn interpreter, read out the will, and the testator shall, through the interpreter, declare that this is indeed his will.

(3) The witnesses shall affix their signature on the document of the will.

(4) The judge shall certify that all these actions have been performed on the document of the will.

Article 180

(1) If the written record of the drawing up of the will contains several pages, they shall be bound by legal tape, and both ends of the legal tape sealed with the court seal.

(2) Each sheet shall be separately signed by the testator or affixed a fingerprint of the index finger.

(3) At the end of the written record the number of pages comprising the will shall be indicated.

Article 181*

(Repealed)

Article 182

(1) When the testator revokes his will, the provisions of the present Law on the drawing up of the will shall apply *mutatis mutandis* to the revocation of the will.

(2) When the testator has revoked his will, the revocation shall be recorded on the will document placed with the court.

4. Authentication of the document content

Article 183

The court shall authenticate the contents of a document, when the law provides for the contents of the private or other non-public document to be authenticated.

Article 184

(1) The authentication of the document shall be performed in accordance to the provisions of Articles 166-174 of the present Law, unless otherwise provided by the provisions of this Chapter.

(2) The authentication of the document shall be performed on the document itself by affixing the signature of the judge and seal of the court.

Article 185

Having authenticated the document, the court shall hand over the original document to the participants.

5. Custody of documents

Article 186

The court shall accept documents into custody when it is so required for the purposes of securing certain property and other rights, or when it is expressly provided by law for specific types of documents.

Article 187

(1) A document may be submitted for safe custody to any court with subject matter jurisdiction

(2) The person submitting the document shall be identified in accordance with Article 167, paragraph 2 of the present Law.

Article 188

(1) The Court shall draw up a record of the receipt of document for safe custody, which shall contain the entry of the manner of identifying the person who submitted the document for safe custody, as well as the type and title of the received document.

(2) The document received for safe custody shall be placed in a separate envelope, sealed and stored separately from other documents.

Article 189

When handing over the will that has not been drawn up in the court for safe custody, the testator shall personally submit it to the court in an open or closed envelope.

Article 190

When handed over an open will for safe custody, the judge shall read it and indicate to the testator any possible deficiencies which may render it invalid.

Article 191

- (1) If the witnesses to the oral will have submitted to the court a written document containing the will of the testator, the court shall acknowledge the receipt of such document on record, place it in a separate envelope and seal it.
- (2) The court shall proceed in the same manner when the witnesses to an oral will come to court to verbally repeat the statement of the testator.
- (3) When taking witness's statements, the court shall endeavour to determine the statement of will of the testator, and shall, in addition, examine the circumstances on which the validity of the oral will depends.

Article 192

The court shall issue a receipt for the document submitted to the court for safe custody.

Article 193

If a will, except the will made in court, is submitted for safe custody to the court on whose territory the testator does not have a permanent residence, the court shall notify thereof the court of the testator's permanent residence.

Article 194

- (1) The document placed with the court for safe custody shall be returned to the person who has submitted it upon his request.
- (2) The document shall also be returned to his attorney who has a authenticated power of attorney for such task.
- (3) A written record shall be made of the return of the document stating the manner of identification of the person to whom the document is being returned.
- (4) If the document is returned to an attorney, the power of attorney shall be enclosed with the written record and retained by the court.

6. Cancellation of document

Article 195

(1) In the proceedings for the cancellation of a domestic document on which a substantive right is directly based, and whose possession is necessary for exercising such right, it may be declared invalid in the court proceedings if it is lost, stolen, burned or missing or destroyed in any other manner, unless cancellation of such document is forbidden by law.

(2) Under the conditions referred to in paragraph 1 of this Article, a document on which a non-substantive right may also be cancelled if there is no information on the basis of which a competent body or organization may issue a duplicate of such document.

Article 196

(1) The petition to cancel a document issued by a socio-political community authority, an organisation of associated labour or other self-management organization, or community shall be decided by the competent court in whose territory the registered seat of the document issuer is located.

(2) The cancellation of the document, where the document indicates the place of performance of obligation, shall be exclusively decided by the court in whose territory the place of performance of obligation is located.

(3) The petition to cancel a document for which competent jurisdiction cannot be determined on the basis of paragraphs 1 and 2 of this Article, shall be decided by the court in whose territory the seat, or the permanent or temporary residence of the petitioner is located.

Article 197

(1) The petition for document cancellation may be filed by any person who is authorised on the basis of such document to exercise a right or who has legal interest in having the document cancelled.

(2) The petition for the cancellation of document referred to in Article 195, paragraph 1 of the present Law shall contain in particular: material elements of the document (type of document, company name, or name and seat, or name and permanent residence of the document issuer, amount of liability, place and date of document issuance, place of performance of obligation, whether it was made out to a specific person, or to the bearer, or on order of), the facts from which it arises that the petitioner is authorized to file a petition, and that the document is likely missing or destroyed.

(3) The petition for the cancellation of document referred to in Article 195 paragraph 2 of the present Law shall contain in particular: the name and seat of the issuing authority or organisation, type of document, contents of the document, place and date of issuance, as well as evidence that such document has been issued and the certificate of the issuer to the effect that there is no information on the basis of which it can issue such document.

(4) A copy of the document, if any, shall be enclosed with the petition.

(5) A single petition may be used to request the cancellation of several documents, provided that the same court has territorial jurisdiction.

Article 198

(1) If upon preliminary investigation the court finds that the conditions for the institution of document cancellation proceedings are not fulfilled, it shall dismiss the petition by a ruling.

(2) The examination shall be carried out on the basis of allegations stated in the petition and the facts known to the court.

Article 199

If the petition is not dismissed, the court shall direct the document issuer and creditor to declare themselves within a specified time limit as to whether the document whose cancellation is requested was issued and which, if any, impediments exist with regard to the conduct of the proceedings.

Article 200

(1) Upon the receipt of the declarations of the persons referred to in Article 199 of the present Law, the court shall publish notice to the effect that the document cancellation proceedings have been instituted.

(2) The notice shall contain, in particular: material elements necessary for the identification thereof, the time limit for filing reports or objections to the petition (notice period), the invitation to present the document to the court or notify the court of the person holding the document and his residence, caution that the document will be cancelled by court unless it is reported together with the document in question or the challenge the petition for cancellation of document is submitted to the court within the time limit, the caution that the debtor cannot validly discharge his obligation under this document, nor renew or replace the document, nor issue new coupons or talons, and that the holder may not transfer the rights from this document.

(3) If the proceedings are instituted for the cancellation of the document referred to in Article 195 paragraph 2 of the present Law, the published notice referred to in paragraph 2 of this Article shall contain in particular: the name of the document issuer, type of document and its relevant content, time limit for challenging the petition, caution that the document will be cancelled by the court unless the petition for cancellation of document is challenged within the notice period and the court establishes that it has been issued.

Article 201

(1) The notice shall be served to all the participants, displayed on the court's bulletin board, and published once in the *Official Gazette of the Socialist Republic of Serbia* at

the petitioner's cost, and in the *Official Journal of the SFRY* or in another manner, as needed.

(2) The time limit shall run from the date the notice is published in the *Official Gazette of the Socialist Republic of Serbia* and/or *Official Journal of the SFRY*.

(3) If the notice is published in both official publications, the notice period shall run from the later publication date.

Article 202

(1) The court shall maintain a register of documents subject to the cancellation proceedings, which can be accessed and copied by any person.

(2) The manner of maintain the register shall be specifically regulated in the Court Rules of Procedure.

Article 203

(1) The borrower may not discharge any liability from the document whose cancellation is requested, nor modify, renew or transfer the document to another person, or issue new coupons or talons from the moment the notice was served on him, or he otherwise learned about the institution of proceedings for document cancellation.

(2) The prohibition referred to in paragraph 1 of this Article shall last until the ruling on cancellation or discontinuation of proceedings becomes enforceable.

(3) The debtor may be released of his liability on the basis of such document only if he pays the amount of debt into the court deposit account.

Article 204

(1) If a coupon that got detached from the main document is missing or destroyed, the person in whose name the coupon was issued may, upon the expiry of three years of the due date of the coupon request the debtor to pay against it, unless prior to expiry of such time limit he reports to the court that the coupon is missing or destroyed, and unless the missing coupon is submitted to the court and a request filed for its payment.

(2) The debtor shall not be obligated to pay the claim against such coupon prior to the expiry of the time limit provided in paragraph 1 of this Article.

Article 205

The debtor under the document whose cancellation is requested shall be authorised to retain the document if it is submitted to him for the purposes of discharging his liability or if it came into its possession in another manner. He shall immediately hand over the retained document to the court before which the cancellation proceedings are pending, indicating the name and address of the person who handed over the document to him.

Article 206

(1) The court shall discontinue the cancellation proceedings if the petitioner withdraws the petition, or if the petitioner does not place in court deposit the required amount in cash needed for the publication of the notice, or if a third party submits the document to the court or proves before the court the existence of the document whose cancellation is requested.

(2) The court shall examine late third party reports if the cancellation ruling has not been rendered until the receipt thereof.

(3) The court shall inform the petitioner of any third party report prior to the issuing of the ruling.

Article 207

If the court finds that the conditions for resuming the procedure are fulfilled, having made the required inquiries, and after the expiry of the notice period, the court shall schedule a hearing to which it will summon the petitioner, the document issuer, the debtor under the document, and all persons who have reported to court or who have submitted the objection to the petition for the cancellation of document.

Article 208

(1) After the hearing and on the basis of the outcome of the proceedings, the court shall render a ruling on the cancellation of document, or dismissal of the petition.

(2) The ruling on the cancellation of document shall contain the information on the issuer of the document and petitioner, as well as relevant elements of the document with the indication of the amount of liability if it involves a pecuniary liability.

(3) The ruling shall be notified to all participants and entered in the register referred to in Article 202 of the present Law.

Article 209

(1) The ruling by which the petition to institute proceedings for the cancellation of document is dismissed, or proceedings discontinued may be appealed only by the petitioner.

(2) The ruling on the cancellation of document may be appealed by the document issuer and debtor under such document, as well as the person authorised under such document, if different from the petitioner.

Article 210

(1) The enforceable ruling by which the document is cancelled shall replace the cancelled document until the new one is issued.

(2) On the basis of the enforceable ruling on document cancellation, the petitioner may exercise all his rights against the debtor arising from such document or belonging to him thereunder, and may also request that he be issued a new document at his expense and hand over the ruling on cancellation

Chapter Thirteen

COURT DEPOSIT

Article 211

(1) Cash, securities and other encashable instruments, precious metals, valuables and other objects made of precious metals may be placed in court deposit when provided by law or another regulation.

(2) The court shall accept other objects on deposit when so specified by law that the debtor may deposit in court for the creditor the object owed.

Article 212

(1) The objects referred to in Article 211, paragraph 1 of the present Law may be handed over to any ordinary court with territorial jurisdiction.

(2) The objects referred to in Article 211, paragraph 2 of the present Law shall be handed over to the ordinary court in the place of the performance of obligation, unless the reasons of economy or the nature of the transaction require that they be deposited in court in the place where the object is located, and they may be handed over to another ordinary court when so provided by law.

Article 213

In the petition, the petitioner shall particularly state the reasons for depositing objects, describe the objects and indicate their value, state the person in whose favour they are handed over, conditions under which the objects will be handed over, and enclose relevant evidence as needed.

Article 214

The court shall reject the petition by a ruling if it assesses that the conditions for the acceptance of the object in deposit are not fulfilled, or if the petitioner within a specified time limit does not pay an advance towards the costs of storage.

Article 215

If the court does not reject the petition, it shall issue a ruling on the acceptance of object or money in court deposit and specify the manner of storage.

Article 216

If the deposit is placed in favour of a particular person, the court shall invite such person to receive the deposited object if the conditions for handing it over are fulfilled.

Article 217

(1) If the subject matter of the deposit is an amount in cash or foreign currency, the court shall pay the amount in cash or foreign currency into the special account with the Payment and Settlement Service, or authorised bank within three days, unless otherwise provided by special regulations.

(2) Precious metals, objects made of precious metals and other valuables, as well as securities shall be handed over to the authorised bank, unless otherwise provided by special regulations.

(3) For other objects that cannot be kept in court deposit, the court shall determine, upon the proposal of the petitioner, that they be handed over for safe custody to a public warehouse or another organisation of associated labour that engages in the activity of storage, or to a natural person only if in the place where the objects are located there is no social legal entity that engages in storage activities.

(4) Prior to the issuance of ruling under paragraph 2 of this Article, the court shall order the petitioner to deposit a necessary advance towards the costs of storage and handling of such objects.

(5) Before it entrusts the subject matter of deposit for safe custody to the person referred to in paragraph 3 of this Article, the court shall make an inventory and valuation of objects and compile a written record in the necessary number of copies.

Article 218

(1) If the person in whose favour the object is handed over declares that he does not accept the same, the court shall notify the petitioner thereof and request that he declare himself within a specified time limit.

(2) If the person in whose favour the object was accepted in court deposit does not take it, the court shall, by virtue of a ruling, invite the petitioner (depositor) to take over the object.

(3) The objects accepted in deposit shall be released on the basis of the ruling of the court that determined they be accepted.

Article 219

(1) Where objects placed in deposit are such that the depositor does not know to which person they shall be handed over or that he does not know which of the several objects should be handed over to which of the several persons, the court shall schedule a hearing and summon the petitioner and all interested parties to agree to which persons deposited objects belong.

(2) If the persons duly summoned do not appear at the hearing, or do not reach mutual agreement, the court shall instruct them in the ruling to enforce their rights on objects received in deposit in a civil action. The ruling shall specify the time limit for instituting civil action, of which the depositor shall be notified.

(3) If the civil action is instituted, the court shall discontinue these proceedings by a ruling.

(4) If the civil action is not instituted, the court shall proceed in accordance with the provision of Article 218 paragraph 2 of the present Law.

Article 220

(1) The ruling determining that the object shall be released from deposit shall contain, in particular: which person is authorised to take over the object in deposit, manner, time limit and conditions to be met for the take-over, as well as the caution regarding legal consequences if the object is not taken over within the time limit for releasing the object shall lapse under the law.

(2) The ruling ordering the issuance of the object shall determine the costs that were incurred with regard to the storing and handling of the objects and the person who shall be obliged to cover them.

Article 221

The custodian who was by virtue of the court ruling entrusted with safe custody of deposited objects may release the object to a specified authorised person only on the basis of a court ruling and in the manner specified in such ruling.

Article 222

If the person in whose favour the object was accepted in court deposit, or the depositor, who has been duly summoned to take over the object, does not take it within three years of the date of receipt due summons, the court shall determine in a ruling that the object has become social property, or that the right to dispose thereof belongs to the socio-political community in whose territory the object is located.

Article 223

The object which, by virtue of the enforceable ruling referred to in Article 222 of the present Law, has become social property, or the right to disposal whereof has been transferred to the socio-political community shall be handed over by the court to the body of the socio-political community in whose territory the object is located, or in whose territory the seat of the court is located, and make a written record thereof.

Article 223

The acceptance on deposit, custody and handing over of the object shall be specifically regulated by the court's rules of procedure.

Part Three

TRANSITIONAL AND FINAL PROVISIONS

Article 225

(1) If prior to the effective date of the present Law a first instance ruling was rendered completing the first instance proceedings, further proceedings shall be conducted in accordance with the current legislation and legal rules of the non-contentious proceedings.

(2) If after the effective date of the present Law the first instance ruling referred to in paragraph 1 of this Article is set aside, further proceedings shall be conducted in accordance with this Law.

Article 226

On the effective date of the present Law, the following shall cease to apply:

1) The provisions of Article 1, paragraph 1, sub-paragraph 24 of the Amending Law on the application of provisions of federal laws in the field of socio-political system and other areas for which Articles 16 and 17 of the Constitutional Law for the implementation of constitutional amendment XX-XL provides that they shall cease to apply not later than 31 December 1971) (*Official Gazette of the Socialist Republic of Serbia*, No 52/73).

2) Provisions of Part II of the Law on Inheritance, Articles 149 through 225 (*Official Gazette of the Socialist Republic of Serbia*, No 52/74).

3) Provisions of Article 67 paragraph 2 of the Law on Expropriation (*Official Gazette of the Socialist Republic of Serbia*, No 74/77).

Article 227

This law shall come into effect on the eighth day of publication in the *Official Gazette of the Socialist Republic of Serbia*, and shall apply as from 1 January 1983.