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Civil Procedure Law

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LR 0.277.12 Recognition of foreign arbitral awards (convention)
LR 274.0 Non-Contentious Proceedings Act (AussStrG)
LR 0.276.910.21 Recognition and enforcement (FL - AT) LR 0.276.910.11 Recognition and enforcement (FL - CH)
LR281.001 Execution Code(EO)
LR281.011 of amounts exempt from garnishment (ordinance) LR 271.011Court holiday ordinance.
LR173.301.1 Rules of Procedure forthe Princely District Court
LR173.31 Court Fees Act (GGG)
LR 173.30 Judicial Organization Act (GOG)
LR271.1 Time Limitation Act(FAHG) LR282.0 Insolvency Code(IO)
LR284.0 Probate Contract Act (NVG)
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LR173.511.1 Rates for Attorneys (RATV) LR283.0 Legal Security Order(RSO)
LR 172.023 Service of Documents Act (ZustG)
LR 172.023. 1Delivery Ordinance (ZustV)
LR 173.01 Judges Appointment Act (RBG)
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from 10 December 1912

on the Exercise of Jurisdiction and the Jurisdiction of Courts in Civil Cases

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1. Part

From jurisdiction in general

1. Section

Courts and judicial bodies

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deliberation and vote

§ 8

1) The Chairman shall preside over the vote and any deliberations preceding the vote.

2) The rapporteur, if one has been appointed, shall cast his vote first, and the chairman, who shall participate in the vote as any other member of the Senate, shall cast his vote last. In addition, the senior judges shall vote before the junior judges.

3) The deliberation and voting of the judges is not public.

§ 9

1) No judge may refuse to vote on a question submitted for resolution; this shall apply in particular even if he or she remained in the minority when voting on a preliminary question.

2) The jurisdiction of the court, the necessity of additions to the proceedings and other preliminary questions must always be voted on first. If several claims are to be adjudicated when deciding the merits of the case, a special vote must be taken on each individual claim.

§ 10

1) An absolute majority of votes, i.e. more than half of all votes, is required for each decision of the court.

2) If difficulties arise in this connection which cannot be resolved by dividing the questions and repeating the survey, the chairman shall break down the question on which a resolution is to be passed into the individual points relevant to the decision and, by initiating special votes on the same, shall bring about in a suitable manner the unification of the votes into a majority decision on the matter under discussion.

3) If, in relation to sums on which a resolution is to be passed, more than two opinions are formed, neither of which has a majority, the votes cast for the largest sum shall be added to those cast for the initially smaller sum until an absolute majority of votes is obtained.

§ 11

In case of disagreement on the correctness of the result of a vote announced by the chairman, the chairman shall decide.

§ 12

The records of the court's deliberation and voting shall be recorded in special minutes.

Secretary

§ 13

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§ 14

Retrieved

2. Section

Rejection of judges and other judicial bodies

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3. Competence section

§ 22a

The procedure in which a case is to be dealt with and settled shall not depend on the designation by the party, but on the content of the request and the submissions of the party. If there is doubt as to which procedure is to be used, the court shall decide; this decision may be appealed against independently.

Jurisdiction check

§ 23

1) As soon as a case of contentious or voluntary jurisdiction is pending before the regional court, the latter shall examine its jurisdiction ex officio.

2) This examination is carried out in civil disputes on the basis of the information provided by the plaintiff, unless this information is already known to the court to be incorrect.

3) In non-contentious civil cases, however, as well as in execution proceedings and when issuing temporary injunctions and opening insolvency proceedings, the court shall, without being bound by the information provided by the parties, investigate the circumstances relevant to jurisdiction ex officio. For this purpose, it may demand all necessary clarifications from the parties.

§ 24

1) If the case that has become pending is not subject to domestic jurisdiction, the Regional Court that has been seized shall, at any stage of the proceedings, rule on its inappropriateness.

The court of first instance shall immediately pronounce the nullity of the preceding proceedings by a decision. The same shall be done by the courts of higher instance if the defect becomes apparent only here.

2) If the defect becomes apparent only after the final conclusion of the proceedings, the Supreme Court shall, upon application of the Provincial Administrator, declare the nullity of the judicial proceedings conducted. This application shall be made by the State Administrator through the Court of Appeal.

3) A pronouncement within the meaning of paras. 1 and 2 may not be made if, with regard to the ground of nullity, a decision rendered by the same or another court and still binding is opposed thereto.

4) The provisions of paras. 1 and 3 shall also apply if a matter which is not a subject of voluntary jurisdiction has been brought before the court in non-contentious proceedings.

§ 25

1) If the Regional Court seized does not have jurisdiction over a case falling under non-contentious jurisdiction, also in execution proceedings, in proceedings for the issuance of temporary injunctions and in insolvency proceedings, the latter shall declare its lack of jurisdiction in every stage of the proceedings ex officio or upon application by order.

2) The district court may make all orders necessary to protect the public interests or to safeguard the parties or the purpose of the proceedings until that decision becomes final.

Disputes over jurisdiction with foreign authorities

§ 26

1) Disputes of jurisdiction between domestic courts and foreign courts or authorities shall be referred to the Princely Court Chancellery by the Provincial Administrator. Pending their declaration on the conduct of the domestic courts corresponding to the relations with other territories, the latter shall confine themselves to making such orders in the case as appear urgently necessary to safeguard public interests or to protect the parties or the purpose of the proceedings.

2) The declaration of the Court Registry shall be binding on the domestic court. Legal assistance at the request of foreign courts

§ 27

1) The regional court shall provide legal assistance to foreign courts upon request, unless special orders to that effect (treaties, declarations of government, ministerial decrees) provide otherwise.

2) Legal assistance shall be denied:

1. if the act requested by the requesting court is not within the jurisdiction of the courts according to the provisions applicable in Germany; if the act requested is within the jurisdiction of other domestic authorities, the requested Regional Court may forward the request to the competent authority;

2. if the performance of an act is sought which is prohibited by the laws binding on the district court; or

3. if the observation of reciprocity is lacking. If the requested regional court doubts the existence of reciprocity, it must obtain a binding declaration from the court of appeal.

§ 28

1) The requested legal assistance shall be granted in accordance with the provisions of the laws binding on the requested national court. As far as it is possible according to

these laws, the requested district court shall make all arrangements and orders necessary to comply with the request on its own motion.

2) In granting legal assistance, deviation from the provisions of the laws in force in the home country shall be permitted only if it has been expressly requested that, in the acts to be performed, a particular procedure required by the foreign law be observed, and this procedure does not appear to be prohibited by any provision of the domestic legislation.

§ 29

If the requested court refuses to grant assistance, or if, on the occasion of the granting of assistance, differences of opinion arise between the requesting and the requested courts with respect to the execution thereof or in other respects, the Court of Appeal shall, at the request of the requesting foreign court or of another foreign public body appointed for that purpose, decide, without prior oral hearings, on the lawfulness of the refusal or on the other subject of the difference of opinion.

Part 2

From jurisdiction in disputes

1. Section General Jurisdiction

§ 30

The Regional Court shall have jurisdiction over all actions if the defendant has his general place of jurisdiction in the Principality.

§ 31

The general place of jurisdiction of a person is determined by his domicile. A person's domicile is established at the place where he or she has settled with the demonstrable intention or the intention evident from the circumstances to take up permanent residence there.

§ 32

For persons who have no domicile either in the Principality or elsewhere, the general place of jurisdiction is established by their residence in the Principality. In the absence of such a place of residence, these persons may be sued at the Regional Court in Vaduz for all liabilities incurred or to be incurred during their stay in the Principality.

§ 33

Retrieved

§ 34

1) A minor child shall share the general jurisdiction of its parents or, if the parents do not have the same general jurisdiction, the general jurisdiction of that parent who has custody (section 144 of the Austrian Civil Code).

2) If the minor child is under guardianship, the seat of the guardianship court shall be deemed to be its general place of jurisdiction.

§ 35

Retrieved

§ 36

Unless otherwise determined in a generally binding manner, the general jurisdiction of general partnerships, limited partnerships, joint-stock companies, cooperatives, trade unions, public funds and corporations, churches, foundations, institutions existing for public purposes, estates, associations, European Economic Interest Groupings and other non-physical persons shall be determined by the courts of the Member States of the European Union.

legal entities according to their registered office. In case of doubt, the registered office is the place where the administration is conducted.

2. Section Special Jurisdictions

Probate matters

§ 37

1) The Regional Court shall have jurisdiction for actions in which claims arising from legacies or other dispositions upon death are asserted, as well as for actions of the creditors of the estate arising from claims against the decedent or against the heir as such, if the probate proceedings are pending before it and the inheritance of the estate has not yet taken place.

2) The regional court shall have jurisdiction for actions which have as their object the division of the estate, if the probate proceedings are pending or were pending before it.

Disputes over immovable property

§ 38

1) The regional court has jurisdiction over actions in which a right in rem to immovable property, freedom from such a right or the cancellation thereof is asserted, and over actions for partition and boundary adjustment, if the immovable property is situated within the country.

2) If the action relates to an easement or a real estate charge, the location of the servient or encumbered property is decisive.

Possession Disputes

§ 39

The district court has jurisdiction over disputes over interference with possession if the interference occurred domestically.

Inventory disputes

§ 40

1) The Regional Court has jurisdiction over disputes concerning the existence of a property if the subject matter of the dispute is located in Germany.

2) The jurisdiction of this court shall also include the issuance of orders for the judicial termination of tenancy agreements and the issuance of orders for the transfer or takeover of the objects of tenancy.

Jurisdiction of the place of employment

§ 41

1) Persons who are staying in the country under circumstances which, by their nature, indicate a longer stay, in particular as servants, manual or factory workers, industrial assistants or apprentices, as students or pupils, and who are capable of being sued, may be sued in the regional court for property claims.

2) The Regional Court is competent for disputes concerning the terms and conditions of employment in the context of the posting of employees to Liechtenstein.

Jurisdiction of the branch

§ 42

1) If the owners of mines, factories, commercial or industrial undertakings have special branches in the country outside the seat of the undertaking, they may be sued in the district court in disputes relating to these branches.

2) Persons who manage an estate with residential and farm buildings as owners, usufructuaries or tenants, or have them managed by persons appointed by them, may be sued in the regional court for all legal relationships relating to the management of the estate, if the estate is located in Germany.

Jurisdiction of the place of performance

§ 43

Actions for a declaration of the existence or non-existence of a contract, for its performance or cancellation, as well as for compensation for non-performance or improper performance, may be brought before the district court if the contract was concluded after written notification.

agreement of the parties is to be performed by the defendant in the home country; the same must contain that the establishment of the place of performance also establishes the justification of the action in the home country.

§ 44

Persons liable under a bill of exchange may be sued by the holder of the bill of exchange before the regional court if the place of payment is within the country.

Jurisdiction of the encumbered thing

§ 45

1) At the regional court, the action to enforce the lien may be combined with the action for payment of the claim insured by the lien, and the action to cancel (extinguish) the lien may be combined with the action to establish the non-existence of the claim insured by the lien, if both actions are directed against the same defendant and the immovable property is located in Germany.

2) Actions for payments in arrears under a land charge may be brought against the owner of the encumbered property before the regional court if the encumbered property is located in Germany.

Jurisdiction of the cooperative dispute

§ 46

1) Several persons may be sued as joint litigants before the regional court, unless a joint special place of jurisdiction has been established for the legal dispute, if one of the joint litigants or, if there are principal and secondary obligors among them, one of the principal obligors has his general place of jurisdiction in Germany.

2) Persons obligated under a bill of exchange may be sued as joint litigants before the regional court if the place of payment is located in Germany.

Jurisdiction of the main proceedings

§ 47

1) Actions asserting a claim to an object or a right in respect of which a lawsuit between other persons is pending before the district court (main intervention) may be brought before the same court until the final decision of this lawsuit.

2) Actions for fees and disbursements may be brought before the Regional Court by the agents for service of process and service of process if the main proceedings were pending before the Regional Court.

Jurisdiction of the counterclaim

§ 48

1) A counterclaim may be filed with the regional court if the claim asserted by the latter is related to the claim of the action filed with the regional court or would otherwise be suitable for compensation, furthermore, if the counterclaim is directed to the determination of a legal relationship or right which has become disputed in the course of the proceedings and on the existence or non-existence of which the decision on the claim depends wholly or in part.

to the part.

2) The venue of the counterclaim shall not arise if, at the time of filing the counterclaim, the hearing on the action in the first instance has already been closed.

Jurisdiction of the former place of residence

§ 49

1) Craftsmen, small tradesmen, innkeepers, boatmen, carters and other tradesmen, as well as journeymen, assistants, servants and other workers for wages may file a suit with the district court on account of their claims for products and goods delivered, for services rendered and work performed within ninety days from the time of the last delivery or service if the customer or employer has in the meantime transferred his domicile from Germany to a foreign country.

2) The same shall apply to private tutors in respect of their claim to remuneration.

Jurisdiction of the property

§ 50

1) An action may be brought before the regional court against persons who do not have a domicile in Germany on the grounds of pecuniary claims if the property of these persons or the object claimed in the action is located in Germany.

2) In the case of claims, the domicile of the third-party debtor shall be deemed to be the place where the property is located. If the third-party debtor does not have a domicile in Germany, but an object which is liable as security for this claim is located in Germany, the claim shall be regarded as an asset located in Germany.

3) Foreign institutions, estates, companies, cooperatives and other associations of persons may also be sued in the regional court if their permanent representation or an organ entrusted with the management of the affairs of such institutions and companies is located in Germany.

Subsidiary jurisdiction for proceedings arising from marital, parental and registered partnership relationship

§ 51

1) Proceedings for marriage annulment, divorce, separation or marriage annulment, as well as other proceedings for disputes arising from the marital or parental relationship that are not purely property disputes, as well as for disputes arising from the marriage relationship.

The court may hear cases concerning extra-marital parental relationships if only one of the spouses is a Liechtenstein citizen, irrespective of where they are domiciled.

2) Domestic jurisdiction over the disputes referred to in paragraph 1 shall also apply if

1. the defendant, in the case of an action to prohibit the conclusion of a marriage or to invalidate a marriage against both spouses, at least one of them, is domiciled or resident in the country, or

2. the claimant is domiciled or resident in Liechtenstein and either both spouses had their last common residence in Liechtenstein or the claimant is stateless or was a Liechtenstein citizen at the time of the marriage.

3) The Regional Court shall have jurisdiction for parentage proceedings under Section A. of Part II of the Non-Contentious Matters Act, including any related statutory claims, if the child, the father or the mother of the child who has been identified or is to be identified is a Liechtenstein citizen or if the child or the father who has been identified or is to be identified has his habitual residence in Liechtenstein.

4) Paragraphs 1 and 2 apply mutatis mutandis to the registered partnership.

5) The domestic jurisdiction in matters of dissolution or annulment as well as the determination of the existence or non-existence of a registered partnership is in any case given for partnerships registered in Liechtenstein.

Jurisdiction of reciprocity for actions against foreigners

§ 52

If, in another territory, civil actions against Liechtenstein citizens are admitted before courts which, according to the present law, would have no or only limited jurisdiction over such cases, the same jurisdiction over the citizens of that territory shall also be established at the regional court.

Agreement on the jurisdiction of the courts

§ 53

1) The parties may submit to the regional court, which is not competent in itself, by express agreement. The agreement must be evidenced to the court in the complaint.

2) The agreement shall have legal effect only if it relates to a specific legal dispute or to legal disputes arising from a specific legal relationship. However, matters which are not subject to the jurisdiction of the courts may not be brought before the courts by such an agreement.

3) The Regional Court, which has no jurisdiction per se, shall have jurisdiction to the extent that it can be given jurisdiction by agreement of the parties, even if the defendant, without having raised the objection of lack of jurisdiction in due time, has heard the case on the merits.

§ 53a

1) Retrieved

2) Retrieved

3) For legal matters arising from insurance contracts, if the policyholder resides in Switzerland or if the insured interest is located in Switzerland, any reference to a foreign court is null and void. The place of jurisdiction for legal matters arising from the aforementioned contracts is Vaduz.

4) The court shall, ex officio and even in foreclosure or insolvency proceedings, supervise the observation of this provision.

§ 53b

1) For actions arising from a reservation of title to goods located in the Principality as well as from instalment transactions of any kind relating to goods located in Germany, the Regional Court shall have jurisdiction even if this place of jurisdiction has been expressly excluded by agreement between the parties.

2) The lack of jurisdiction of the foreign court may still be asserted in compulsory enforcement proceedings.

3. Part

From the jurisdiction in matters out of dispute Probate proceedings

§ 54

1) The domestic jurisdiction for the settlement of an estate and for proceedings replacing it (Art. 153 et seq. AussStrG) is given

1. over the immovable assets located within the country;

2. over the movable property located in the country, if

a) the deceased was last a Liechtenstein citizen or

b) the deceased had his or her last habitual residence in Germany, or

c) the enforcement of rights derived from the law of succession, the right to a compulsory portion or a testamentary declaration is impossible abroad;

3. on movable property situated abroad under the conditions of Art. 143 (2) AussStrG if the deceased was last a Liechtenstein citizen and

a) had his last habitual residence in Germany or

b) the enforcement of rights derived from the law of succession, the right to a compulsory portion or a testamentary declaration is impossible abroad;

4. on the movable property of a foreigner located abroad under the conditions of Art. 143 (2) AussStrG, if the deceased had his last domicile in Liechtenstein and has made his succession subject to Liechtenstein inheritance law by will.

2) Domestic jurisdiction under subsection (1) shall also extend to a substitution hearing.

§ 55

The domestic jurisdiction for the proceedings on the expulsion and the respective related precautionary measures is always given.

§ 56

If the proceedings are conducted before a foreign court, the jurisdiction of the Regional Court shall be limited to securing the estate, the claims of heirs, legatees and creditors residing in Liechtenstein and the probate fees.

§ 56a

If the regional court has jurisdiction, it shall, subject to immovable property located abroad, deal with the entire estate to which the regional court has access.

§ 56bRepealed

Guardianship, guardianship and curatorship

§ 57

1) For the purpose of appointing a guardian, custodian or curator and for the transaction of business required under the provisions relating to the rights between parents and

minors, as well as on guardianship, custodianship and curatorship, the Regional Court shall have jurisdiction if the minor or other person in care has his or her general place of jurisdiction in disputes in Germany. If a guardian, custodian or curator is to be appointed for a foreigner for whom a general place of jurisdiction is not established in Germany, the Regional Court shall have jurisdiction if the foreigner is domiciled or resident in Germany.

2) If the minor or other Liechtenstein national in care has his general place of jurisdiction in disputes abroad, but the foreign state refuses to provide protection under guardianship law, the Regional Court shall have jurisdiction in this respect.

§ 58

1) If it appears to be in the interest of a ward or other person in need of care, in particular if this is likely to promote the effective administration of protection by the guardianship court, the regional court may, of its own motion or on application, transfer its jurisdiction in whole or in part to another court.

2) Such a decision shall require the prior approval of the Court of Appeal.

Adoption in lieu of child

§ 59

1) If the court is to be involved in the case of adoption in lieu of a child, the regional court shall have jurisdiction if

a) the electing father or the electing mother has the general place of jurisdiction in disputes in Germany, or

b) the adopter, in the case of adoption by spouses one of them, or the elective child is a Liechtenstein citizen, or

c) even one of these persons is stateless and has his or her habitual residence, or in the absence of such residence, in Germany.

2) Retrieved

Maintenance and other claims arising from the relationship between children and parents

§ 59a

1) The regional court appointed to manage the guardianship of the minor child shall also be entitled to decide on legal claims for maintenance and other claims.

The court shall be responsible for the minor child's statutory claims arising from the relationship between children and parents.

2) In the case of statutory maintenance claims by other persons related in a direct line, the Regional Court shall have jurisdiction if the person entitled to maintenance has his general place of jurisdiction in litigation in Liechtenstein, and in the absence of such a place of jurisdiction if the person claimed against has his general place of jurisdiction in litigation in Liechtenstein.

3) The Regional Court shall have jurisdiction to decide on other claims arising from the relationship between children and parents if the child has his or her general place of jurisdiction in litigation in Liechtenstein, and in the absence of such a place of jurisdiction if the person claimed against has his or her general place of jurisdiction in litigation in Liechtenstein.

Non-contentious matrimonial and partnership matters

§ 60

For proceedings concerning compensation for the participation of one spouse in the profession or business of the other (Art. 46a et seq. of the Marriage Act), concerning non-contentious matrimonial matters (Art. 49h of the Marriage Act) and concerning divorce on joint request (Art. 50 of the Marriage Act), the Regional Court is competent if only one of the spouses has his or her general place of jurisdiction in Liechtenstein or is a citizen of Liechtenstein. The same applies mutatis mutandis to the registered partnership.

§ 61

The regional court shall have jurisdiction to recognize a foreign judgment on the existence of a marriage, provided that the applicant

has his or her habitual residence in Germany or the marriage has been recorded in a domestic register.

Vienna, December 10, 1912

II. Introductory Act to the Code of Civil Procedure (EGZPO)

from 10 December 1912

concerning the introduction of the Code of Civil Procedure and the

Jurisdictional Standard Art. I

1) The Act on Judicial Proceedings in Civil Litigation (Civil Procedure Code) and the Act on the Exercise of Jurisdiction and the Jurisdiction of the Courts in Civil Litigation (Jurisdiction Standard) shall take effect as of June 1, 1913.

2) As of the same date, unless this Act, the Code of Civil Procedure or the Jurisdictional Standard contain an exception, all provisions contained in other statutory provisions concerning matters governed by the Code of Civil Procedure or the Jurisdictional Standard shall cease to have effect.

Art. II

Where reference is made in laws and ordinances not affected by the entry into force of the Code of Civil Procedure, or in the articles of association of individual companies, institutions and associations, to legal proceedings in disputes or, albeit with limitations and amendments, to the application of the provisions of the court rules, of ordinary written or oral proceedings, of the provisions of the Act on Summary Proceedings or on Baga- tellver-

If the provisions of the Code of Civil Procedure are mandatory in the case of an infringement of the right of appeal, the provisions of the Code of Civil Procedure shall apply instead.

Art. III

As a result of the provision of Art. 1, in particular, lose their effectiveness:

1. The provisions of the General Court Rules of May 1, 1781, insofar as the same regulate the procedure in civil disputes (Chapters I.-XXVII. and XXXIV.-XXXIX.).

2. The Ordinance on Summary Proceedings in Civil Disputes, introduced by Princely Decree of November 5, 1857.

3. The provisions of the Act of August 15, 1879, LGBl. 1879 No. 2, on the Reciprocation of the Austrian Act of May 16, 1874, amending certain provisions on oral, written and summary proceedings in civil disputes.

4. The provisions of the Act of December 26, 1906, LGBl. 1907 No. 1, whereby

Supplementary Provisions to the General Rules of Court were enacted.

5. The regulations introduced by princely decree of October 16, 1819, on the procedure in contentious matrimonial matters.

6. The provisions of the Act of September 28, 1883, LGBl. 1883 No. 4, concerning the introduction of the small claims procedure in legal disputes.

7. The provision introduced by princely decree of December 10, 1858, on the procedure in disputes over possession.

8. The regulation on the procedure in matters of bills of exchange issued by princely decree of November 20, 1858.

9. The provisions of §§ 1 to 5 of the Law of October 9, 1865, LGBl. 1865 No. 5/1, concerning debt operations in the Principality of Liechtenstein.

Art. IV

Retrieved

Art. V

Retrieved

Art. VI

The provisions of Sections 99, 157 and 158 of the Civil Code shall remain unaffected. The cited impediment to marriage (§ 99 of the General Civil Code) cannot be removed by hearing the spouses according to §§ 371 et seq. of the Code of Civil Procedure.

Art. VII

The provisions of civil law shall remain unaffected:

1. by which certain documents are declared public or are treated as equivalent to domestic public documents;

2. by which the probative value of a private document is made dependent on certain requirements;

3. by which proof of the date of a document is required that is different from the issuer's declaration;

4. which determines the manner of presentation of commercial books and the legal consequences of their non-submission.

Art. VIII

Insofar as the Code of Civil Procedure refers to the provisions of civil law, it includes not only the provisions of the General Civil Code, but also those of commercial law and the Code of Exchange and the norms of private law contained in other laws.

Art. IX

The obligation under civil law of a party who wishes to make use of the warranty to request representation is to be regarded as an obligation to give notice of the dispute. The omission of the notice of dispute is connected with the legal consequences of the omitted request for representation according to civil law.

Art. X

The provisions of the Bankruptcy Act of January 1, 1809 and the Act of April 15, 1884, LGBl. 1884 No. 2 shall remain unaffected.

Art. XI

The provisions of the Act of August 23, 1887, LGBl. 1887 No. 4, on the procedure in expropriation cases shall remain unaffected.

Art. XII

The determination of the surcharges and the delivery fees as well as the regulation of the procedure for the imposition and collection of the same shall be effected by way of ordinance; until new regulations are issued, the existing ordinances in this respect shall remain in force.

Art. XIII

For the communication of the courts with the authorities and parties located abroad, the more detailed provisions contained in the existing orders and those to be issued in the future shall be authoritative.

Art. XIV

Repealed

Art. XV

1) Anyone who is obliged to declare assets or debts in accordance with the provisions of civil law, or who is presumed to have knowledge of the concealment or concealment of assets, may be ordered by means of a judgment to declare, if necessary by submitting a list of the assets or debts, what he has received from these assets, debts or debts.

The person who has been informed of the concealment or concealment of property shall take an oath that the information he or she has provided is accurate and complete.

2) Any person having a private law interest in the determination of assets or debts shall be entitled to bring an action.

3) If the action for a sworn statement of assets is accompanied by an action for the surrender of what the defendant owes under the underlying legal relationship, the specific statement of the benefits which the plaintiff claims may be reserved until the sworn statement of assets has been made.

Art. XVI

The production of a joint document (Section 303 of the Code of Civil Procedure) may also be demanded by way of action outside of pending litigation.

Art. XVII

With regard to the statute of limitations under the law on bills of exchange (Art. 80 of the Code of Bills of Exchange), the assertion of the claim in the oral proceedings (Sec. 240 (2) of the Code of Civil Procedure) shall be equivalent to the handing over of the claim.

Art. XVIII

A substitution or limitation of a right which has occurred during the proceedings or only after their termination may not be asserted to the disadvantage of the party who is subsequently granted the resumption of the proceedings concerning this right.

Art. XIX

1) Unless otherwise specified below, the Code of Civil Procedure shall not apply to the settlement of disputes in which, on the day of the entry into force of the Code of Civil Procedure, the plea has already been submitted or the hearing of the main action has already commenced; such disputes shall be heard and decided in accordance with the previously applicable procedural rules.

2) All other disputes that have already been brought before the court before the date of entry into force of the Code of Civil Procedure shall be governed from that date by the provisions of the Code of Civil Procedure, provided that:

1. a hearing on objections to proceedings, which was in progress when the Code of Civil Procedure came into force, shall be completed in accordance with the procedural rules previously in force and the effect of the decision rendered thereon shall also be determined in accordance with these procedural rules, and

2. the withdrawal of the action pursuant to Section 245 of the Code of Civil Procedure in the case specified under No. 1 may be made until the beginning of the first hearing of the main case.

3) In the cases referred to in para. 2 of this Article, as of the date of entry into force of the Code of Civil Procedure, the decisions issued prior to that date ordering the defendant to raise the plea shall cease to have effect and the period of time for raising the plea shall expire at the same time.

the time limit granted for the plea. The trial court shall, ex officio, schedule a hearing on the claim.

4) These provisions shall also apply, in particular, insofar as the provisions of the Code of Civil Procedure are to be substituted for other types of proceedings previously prescribed pursuant to Article 2 of this Act.

Art. XX

If, in the proceedings on a mandate, bill of exchange or inventory, the action, notice of termination or application for transfer or takeover of the inventory object was filed before the entry into force of the Code of Civil Procedure, but the objections to the order for payment or provision of security were raised only after the entry into force of the Code of Civil Procedure, If objections to the order to pay or to provide security, to the notice of termination or to the order to hand over or take over the real property are raised in time, or if the hearing on the objections raised in time earlier has not yet commenced on the day of the entry into force of the Code of Civil Procedure, the provisions of the Code of Civil Procedure shall apply in the proceedings initiated by such objections.

Art. XXI

1) In disputes in which, on the day of the entry into force of the Code of Civil Procedure, the plea has already been submitted or the hearing of the main case has already commenced, the parties shall be free to request, by mutual agreement, that the case be heard and decided in accordance with the provisions of the Code of Civil Procedure, waiving the previous proceedings.

2) The interruption of the limitation period established by the bringing of the action shall not be cancelled by such an agreement.

Art. XXII

Repealed

Art. XXIII

Legal deadlines or deadlines set by the judge for bringing an action, in particular for actions for interference with possession and for actions for justification of an entry in the land register or a provisional means of security or for raising objections.

against an order for payment or freezing, against the termination of a lease or against the order to hand over or take over the property shall not be affected in their course and duration by the entry into force of the Code of Civil Procedure.

Art. XXIV

The admissibility of challenges to arbitral awards rendered prior to the commencement of the Code of Civil Procedure shall be governed by the existing statutory provisions.

Art. XXV

The Provincial Administrator shall be in charge of the execution of this Act.

Vienna, December 10, 1912

III. Code of Civil Procedure (ZPO)

from 10 December 1912

on the judicial procedure in civil disputes

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1. Part General provisions

1. Section Parties

1. Title Process Capability

§ 1

A person is capable of acting independently before the court as a party (capacity to stand trial) to the extent that he or she can independently enter into valid obligations. The existence of this capacity to enter into obligations, the necessity of representing parties who lack the capacity to act, as well as the requirement of a special authorization to conduct proceedings or to perform individual procedural acts shall be assessed in accordance with the existing statutory provisions, unless this Act contains provisions to the contrary.

§ 2

In particular, the minor does not require the cooperation of his legal representative in legal disputes which have only as their subject matter that which he may freely dispose of pursuant to §§ 151, 246 and 247 ABGB.

§ 3

A foreigner who is deemed to have legal capacity under the law of his country shall be treated as having legal capacity before the domestic courts if he has legal capacity under the legal provisions in force in the country.

§ 4

1) The legal representatives of such parties who are deemed to have the capacity to sue shall provide documentary evidence of their power of representation and of the special authorization to sue which may still be necessary in the individual case, insofar as both are not already evident before the court, at the first procedural act which they perform before the court.

2) The special authorization required for an individual procedural act must be proven in the same way when this procedural act is performed.

§ 5

Insofar as this Act does not distinguish, its provisions on parties shall also apply to their legal representatives.

§ 6

1) The lack of legal capacity, of legal representation, and of any special authorization required to conduct the proceedings shall be taken into account ex officio at every stage of the litigation.

2) If this defect can be remedied, the court shall issue the orders required for this purpose and set a reasonable period of its own motion for its performance, until the fruitless expiry of which the decision on the legal consequences of the defect shall be postponed. If, however, the delay entails danger for the party incapable of proceeding, he or the person acting as his representative may be admitted to perform the necessary procedural acts before the expiry of this period, subject to the removal of the defect.

3) The court orders referred to in para. 2 may not be challenged by a separate appeal. An extension of the time limit granted for remedying the defect shall be admissible only if the remedying of the defect is hindered by circumstances which the party or its representative is unable to influence.

§ 7

1) If the defect in the capacity to institute proceedings, in the legal representation or in the power to institute proceedings cannot be remedied or if the period granted for this purpose has expired without result, the court of first instance or higher instance before which the case is pending shall pronounce the nullity of the proceedings affected by the defect by order.

2) This pronouncement may not be made if the same in respect of the ground

The court of first instance shall have the right to revoke the decision of the court of first instance if the invalidity is opposed by a decision of the same or another domestic court which is still binding.

§ 8

1) If a procedural act is to be performed against a party who is incapable of proceeding and lacks a legal representative, and if the delay would entail danger for the opponent of the party who is incapable of proceeding, the trial court shall appoint a curator for the party who is incapable of proceeding at the latter's request.

2) The curator shall participate in the judicial proceedings on behalf of such party until the legal representative has entered into office and, if necessary, arrange for the appointment of the legal representative by filing appropriate motions.

§ 9

1) The decision on an application filed within the meaning of Section 8 (1) shall be made by resolution and, if the application was not filed at a hearing, without a prior hearing. However, all investigations necessary for clarification may be initiated prior to the decision.

2) The same shall apply in all other cases in which a curator is to be appointed by the trial court for a party in civil disputes in accordance with the provisions of civil law or this Act.

3) Appeals against decisions of the Regional Court pursuant to the preceding paragraphs shall be finally decided by the Higher Court to the exclusion of all further legal proceedings.

§ 10

1) The costs associated with the appointment of a curator as well as the costs incurred by the curator's activities shall be borne by the party whose procedural act gave rise to the appointment, without prejudice to any claim for compensation to which it may be entitled.

2) Appeals against decisions of the Regional Court pursuant to subsection 1 shall be finally decided by the Higher Court to the exclusion of any further appeal.

2. Title Cooperative litigation and main intervention

§ 11

Except in cases specifically provided for in other laws, several persons may sue or be sued jointly (joint litigants):

1. if they are in legal community with regard to the subject matter of the dispute

or for the same factual and legal reason entitled or ver-
are obligated;

2. if similar claims or obligations based on essentially similar factual and legal grounds form the subject matter of the legal dispute and, at the same time, the jurisdiction of the court with regard to

of each individual defendant is justified.

§ 12

Unless the nature of the guarantee entered into is an obstacle, the principal debtor and the guarantor may be sued jointly.

§ 13

Each of the disputants shall be so independent vis-à-vis the opponent in the proceedings that the acts or omissions of one of the disputants shall not be to the advantage or disadvantage of the other.

§ 14

1) If the effect of the judgment to be rendered extends to all the parties to the dispute by virtue of the nature of the legal relationship in dispute or by virtue of statutory provision, they shall form a single party to the dispute. If individual parties to the dispute are in default, the effect of the procedural acts shall extend to the other parties.

of the active disputants on them as well.

2) The contradiction between the procedural acts of the active litigants shall be eliminated with the help of the conduct of the proceedings and the evidentiary procedure.

§ 15

1) The right to institute proceedings may be exercised by each of the parties to the dispute.

2) Under the conditions specified in § 14, all parties to a dispute shall be summoned to any hearing convened at the request of the parties to the dispute or of the opposing party, in addition to the persons otherwise present, even if they missed an earlier hearing in the same case.

§ 16

A person who claims for himself the whole or part of a matter or right in respect of which litigation is pending between other persons may sue both parties jointly (main intervention) until the litigation has been decided in a legally valid manner.

3. Title

Participation of third parties in litigation Intervention

§ 17

1) Anyone who has a legal interest in one party prevailing in a legal dispute pending between other persons may join that party in the legal dispute (intervention).

2) Furthermore, all persons who have been granted the right of secondary intervention by statutory provisions shall be entitled to such accession.

§ 18

1) Intervening parties may intervene in any situation of the legal dispute until its legally valid decision by serving a written statement to both parties. The intervener must state the interest he has in the victory of one of the parties.

2) The application of a party to the proceedings for rejection of the intervener shall be decided by order after prior oral proceedings between the contesting party and the intervener. This shall not suspend the continuation of the main proceedings.

3) As long as the motion to dismiss has not been granted by a final court decision, the intervenor must be brought into the main proceedings and cannot be excluded from the proceedings.

4) The decision declaring the intervention admissible shall not be subject to separate appeal.

§ 19

1) The intervener must accept the lawsuit in the situation in which it is at the time of his intervention. He shall be entitled to support the party in whose victory he has a legal interest (main party), to assert pleas and defenses, to offer evidence and to perform all other procedural acts. His procedural acts shall be legally effective for the main party insofar as they do not conflict with his own procedural acts.

2) With the consent of both parties to the proceedings, the intervener may also enter the legal dispute as a party in place of the party to whom he has intervened.

3) The intervener may, by his procedural actions, avert the legal consequences of the default from the party who did not appear at the hearing and may hear the case in support of the main party instead of the latter. If the case is not settled by the

If the trial has reached a verdict in the absence of the main party, the final judgment shall be rendered as if the trial had been conducted with the main party itself.

4) The intervenor shall have the power to seek all remedies permitted by law without the consent or authorization of the principal party, although the principal party itself shall not avail itself of such remedies.

5) Intervenors who do not have the status of co-defendants may only be heard as witnesses in the proceedings.

§ 20

If the judgment rendered in a lawsuit is legally effective by virtue of the nature of the legal relationship at issue or by virtue of a statutory provision also with respect to the legal relationship of the intervenor with the opponent of the principal party, the intervenor shall have the status of a co-defendant (Article 14).

Notice of dispute

§ 21

1) Whoever has to notify a third party of a legal dispute in order to establish civil law effects (notice of dispute) may do so by serving a written statement in which the reason for the notification is also to be stated and the situation of the legal dispute, if it has already begun, is to be briefly described.

2) Such notification may be accompanied by a request, based on the provisions of civil law, to provide representation in the litigation already pending or to be initiated (secondary intervention).

3) The notice of dispute does not give the notifying party the right to request the interruption of the pending litigation, the extension of time limits, or the rescheduling of a hearing set for trial.

Naming the auctor

§ 22

1) A person who is sued as the owner of a thing or of a right in rem but who does not wish to enter into the legal dispute because he claims to own it in the name of a third party must, immediately after service of the action, request the third party (auctor) to declare his relationship to the subject matter of the dispute or to the claim asserted in the action at the first day's hearing scheduled before the trial court.

2) The summons and summons to the Auctor shall be served by means of a written statement which shall contain the information on the initiated litigation required for the substantiation of this summons. The plaintiff shall be notified of a copy of this pleading before the first hearing.

§ 23

1) If, at the hearing, the auctioneer acknowledges the relationship asserted by the defendant, he may, with the consent of the defendant, enter the lawsuit as a party in his place. The consent of the plaintiff is required only insofar as the plaintiff asserts claims,

which are not affected by the agency relationship existing between the Auctor and the Defendant.

2) As a result of the court taking over the case, the defendant shall be released from the conduct of the case upon his request by a decision of the trial court. If, on the other hand, no agreement is reached at the first hearing due to the fact that the attorney has taken over the case, the defendant may no longer refuse to enter an appearance.

3) Appeals against decisions of the Court of First Instance pursuant to para. 2 shall be finally decided by the Supreme Court to the exclusion of all further legal proceedings.

§ 24

1) If, despite having been duly summoned, the defendant fails to appear at the first hearing, disputes the defendant's claim or fails to appear at all at the hearing, the defendant shall be entitled to discharge himself from the action by satisfying the plaintiff's claim.

2) The extent to which the contractor is entitled to compensation for damages is to be assessed in accordance with civil law.

4. Title Authorized representative

§ 25

Unless otherwise provided in this Act, the parties may perform procedural acts either in person or by proxy.

§ 26

Any person authorized to act on his/her own behalf may be appointed as a proxy.

§ 27

If the declarations of a party appearing in court accompanied by its attorney are inconsistent with the declarations made by the attorney

If there is a contradiction, the party's declarations must be taken into account in the first place.

§ 28

1) At the first procedural act performed by them in a dispute, authorized representatives shall prove their authorization by a document (power of attorney), which shall be presented in original or in certified copy and may be retained by the court.

2) If a lawyer intervenes, invoking the power of attorney granted to him shall replace its documentary evidence.

§ 29

If the authorization was made by means of a private document and doubts arise as to its authenticity, the court may, upon application or ex officio, order the signature to be certified by a court or a notary. This provision shall not apply if a lawyer or notary known to the court intervenes as an authorized representative and confirms the authenticity of the signature by invoking his oath. The order of certification may not be challenged by an appeal.

§ 30

The declaration on the granted power of attorney may also be recorded in court minutes if the party appears in person with the attorney at a hearing scheduled in the dispute.

§ 31

1) The power of attorney granted to a lawyer to conduct a lawsuit (power of attorney) authorizes by operation of law:

1. to bring and receive the action and to perform all procedural acts relating to the legal dispute, including those resulting from a counterclaim, from a reopening of the proceedings, from an application for interim measures, or from an action brought within the meaning of § 16.

The following table shows the

2. to conclude settlements on the subject matter of the litigation, to acknowledge the claims asserted by the opponent

and to waive the claims asserted by the authorizing party;

3. to initiate the execution against the opposing party, to carry out all the

The actions occurring in the execution proceedings on the part of the executor.

and to obtain the safeguarding procedure;

4. to receive the legal costs to be reimbursed by the opposing party.

2) The attorney-at-law may transfer the power of attorney granted to him/her for individual acts or sections of the proceedings to another attorney-at-law or to another deputy.

§ 32

A restriction of the legal scope of the power of attorney, even if expressed in the document, shall have legal effect vis-à-vis the opponent only to the extent that the restriction relates to the powers referred to in section 31 items 2 and 3 and has been specifically communicated to the opponent.

§ 33

1) The party may grant a power of attorney to persons who are not attorneys-at-law, or it may also authorize them only for individual specific procedural acts.

2) The scope, effect and duration of the power of attorney shall be determined in accordance with the provisions of this Act, but the scope, effect and duration of a power of attorney for individual procedural acts shall be determined in accordance with the content of this power of attorney and the provisions of civil law, unless otherwise provided below.

§ 34

The procedural acts performed by the proxy on the basis of a power of attorney shall have the same effect in relation to the other party as if they had been performed by the party himself. However, this shall apply to confessions and other factual statements only insofar as they are not immediately revoked or corrected by the co-appearing party.

§ 35

1) The power of attorney shall not be revoked by the death of the principal or by a change in the principal's legal capacity or legal representation.

2) However, the legal successors of the principal, the legal representative appointed for the party who has become incapable of proceeding and the new legal representative of a party taking the place of the previous legal representative may revoke the power of attorney at any time.

§ 36

1) The revocation of the power of attorney for the conduct of the proceedings or for the performance of individual procedural acts caused by revocation or termination shall only become legally effective vis-à-vis the opposing party if the party notifies him of the revocation of the power of attorney. This notification must be made by delivery of a written statement.

2) After termination of the power of attorney, the authorized representative remains entitled and obliged to act on behalf of the principal for a period of 14 days, insofar as this is necessary to protect the latter from legal disadvantages.

§ 37

The court shall consider the lack of power of attorney ex officio at any stage of the litigation.

§ 38

1) Whoever wishes to intervene on behalf of a party, without being able to prove that he has been authorized, in order to perform individual urgent procedural acts, may, at the discretion of the court, be temporarily admitted as an authorized representative either against prior provision of security for costs and damages, or without such provision of security.

2) The court shall at the same time order the subsequent production of a power of attorney entitling the party to such proceedings or the production of the party's authorization and shall hold up the decision or order to be issued until the expiry of the time limit fixed for this purpose. If the time limit expires without effect, action shall be taken without regard to such intervention; the opponent shall be entitled to compensation for the costs and damage caused by the temporary admission.

3) With the exception of the decision on the compensation of costs and damages, the decisions issued in terms of the preceding paragraphs may be

The court's decisions may not be challenged by a separate appeal. An appeal against a decision of the Regional Court on compensation for costs and damages shall be finally decided by the Higher Court, excluding any further legal action.

§ 39

Insofar as this Act does not make a distinction, its provisions concerning the parties shall also apply to their authorized representatives.

5. Title Legal costs

§ 40

1) Each party shall initially bear the costs incurred by its own legal actions. The costs of judicial acts jointly initiated by the parties or undertaken by the court in the interests of both parties at the request of the parties or ex officio shall be borne jointly by both parties.

2) The extent to which the parties are entitled to compensation for the costs disputed by them shall be assessed in accordance with the provisions of this title, unless this Act contains special provisions.

§ 41

1) The party completely losing the legal dispute shall reimburse its opponent as well as the intervening party who joined it for all costs incurred in the conduct of the proceedings and necessary for the appropriate prosecution or legal defense. Which costs are to be regarded as necessary shall be determined by the court in its discretion, guided by a careful assessment of all circumstances, when determining the amount of the costs without allowing a trial of evidence.

2) If the amount of the attorney's remuneration or the amount of the costs is regulated by tariffs, the amount of the costs shall be determined according to these tariffs.

3) The provisions of the first paragraph shall apply in particular to the costs incurred by the use of a lawyer not residing at the seat of the trial court or of the requested judge. The costs which were caused by the fact that for

the same party, shall be reimbursed only to the extent that they do not exceed the costs of retaining one lawyer, or if there has been a change in the person of the lawyer.

§ 42

1) For their personal efforts, the party as well as the intervening party may not claim compensation when the costs of the proceedings are determined. If their personal appearance in court was necessary and in particular if the party appears in the first instance without an authorized representative, compensation shall be paid for any damage caused by missing time and for travel expenses.

2) If a party is represented by an agent who is not a professional party representative, the losing party shall only be obliged to reimburse the stamp duty and other state fees and the necessary cash expenses caused by the conduct of the proceedings.

§ 43

1) If each party succeeds in part and fails in part, the costs shall be set off against each other or shared proportionately. The part to be indemnified may be determined numerically or in proportion to the whole. The court fees borne by the party and other state fees regulated by law, costs of official acts outside the court, fees of witnesses, experts, interpreters and translators, costs of the necessary announcements as well as costs of a curator, which the party had to dispute in accordance with § 10, shall be awarded to the party in proportion to the extent of its victory.

2) The court may, however, order the reimbursement of all costs incurred by the opposing party and his intervening party even in such a case, if the opposing party has been unsuccessful only with a relatively minor part of his claim, the assertion of which, moreover, has not caused special costs, or if the amount of the claim raised by him was dependent on the determination by judicial discretion, on the evaluation by experts or on a mutual settlement.

§ 44

1) If factual allegations or evidence are raised under circumstances from which the court is convinced that the party was able to raise them earlier, and if the admission of such an allegation delays the settlement of the case, the court may, upon application or of its own motion, order the party who has raised such an allegation to pay all or part of the costs of the proceedings, even if the party prevails.

2) This shall apply in particular to statements and offers of evidence which should already have been made in a preparatory pleading submitted by the prevailing party and the subsequent submission of which has caused a delay in the hearing or in the settlement of the legal dispute.

§ 45

If the defendant's conduct did not give rise to the filing of the action and if he immediately acknowledged the claim raised in the action at the first hearing, the plaintiff shall bear the costs of the proceedings. The plaintiff shall also bear the costs incurred by the defendant as a result of the legal proceedings initiated.

§ 46

1) If the party liable to pay costs consists of several persons who are not jointly and severally liable in the main action, the costs shall be awarded to them on a pro rata basis. If there is a considerable difference in the participation in the legal dispute, the court shall, however, determine the shares of compensation according to the proportion of this participation.

2) If the persons obliged to reimburse costs are jointly and severally liable in the main action in accordance with the provisions of civil law, this liability shall also extend to the legal costs awarded to the opponent. The other parties shall not be liable for costs incurred as a result of special procedural acts performed by individual parties.

§ 47

1) The costs of a concluded settlement shall be deemed to be mutually waived, unless otherwise agreed. The same

shall apply to the costs of the legal dispute resolved by settlement, insofar as their reimbursement has not already been imposed on one of the parties by a final court decision.

2) If settlement negotiations are unsuccessful, the obligation to reimburse the costs incurred in connection therewith shall depend on the decision on the merits of the case.

§ 48

1) If, in the course of the proceedings, incidents occur which cause costs to one of the parties, either through the fault of the other party or through a fortuitous circumstance affecting the other party, the court may, on application or of its own motion, award compensation for such costs, irrespective of the outcome of the proceedings.

2) A party who has already been awarded compensation for such costs during the legal proceedings shall not be obliged to reimburse them even if he is ordered to pay the court costs on the merits.

§ 49

1) Legal representatives, attorneys-at-law and other agents may be ordered by the court, upon application or ex officio, to bear or reimburse those costs which they have caused by their gross negligence.

2) This also applies in particular to additional costs caused by gross negligence, either by the inclusion in the pleadings of citations not pertinent to the case or by superfluous verbosity in the pleadings.

3) If the decision is not included in the judgment on the merits, it shall be made by means of a resolution. The representative or authorized representative involved shall be heard before the decision is made. The decision shall be enforceable against the assets of such persons after it has become final.

§ 50

1) The provisions of Sections 40 to 49 shall also apply to the appeal proceedings and to the decisions to be rendered by the courts of second and third instance on the costs of the appeal proceedings and, in the event of an amendment of a lower court decision, on the costs of the entire preceding proceedings. The

The fact that a party has the decisions of the lower courts in its favor is not decisive for the question of reimbursement of costs.

2) If, in the case of an appeal, the interest in legal protection subsequently ceases to exist, this shall not be taken into account in the decision on the costs of the appeal proceedings; if the clarification of facts would require a disproportionate procedural effort, the decision on the reimbursement of costs shall be made on a discretionary basis (Section 273).

§ 51

1) If the proceedings are annulled or declared null and void as a result of an appeal or ex officio, and if at the same time one of the parties can be held responsible for the fact that the proceedings were initiated or continued despite the existence of the grounds for annulment or nullity, or if the grounds for annulment are due to the fault of one of the parties, that party may, upon application or ex officio, be ordered to pay the costs of the annulled proceedings and of any appeal proceedings.

2) Retrieved

3) Except for these cases, the costs shall be mutually offset.

§ 52

1) In every judgment and in the orders which completely settle a dispute for the instance, the obligation to pay costs shall also be decided, unless the court reserves the decision on costs until the dispute is finally settled. Such a reservation may not be challenged. In other decisions, the reimbursement of costs may be decided only to the extent that the obligation to reimburse costs is independent of the outcome of the main action.

2) A reservation of the decision on costs pursuant to para. 1 is only admissible if the decision can be contested by an appeal and if this is expedient for reasons of procedural economy due to the complexity of the decision on costs to be made. If a payment order, a bill of exchange or a judgment by default, waiver or acknowledgement is issued, a reservation of the decision on costs is inadmissible in any case.

3) If a court has reserved the decision on costs, no decision on costs shall be made in further proceedings. The court shall decide on the

The Court of First Instance shall decide on the reimbursement of costs for the entire proceedings after the case has been finally disposed of.

4) If the court, when rendering a partial judgment, is not in a position to decide on the costs with regard to the claim or partial claim that has been adjudicated, it shall state in the judgment to what extent such a decision is reserved for a further judgment.

5) The obligation to reimburse costs shall be decided ex officio if a list of costs has been submitted in due time.

§ 53

1) Simultaneously with the decision on the obligation to reimburse costs, the court shall, unless the costs are set off against each other, determine the amount of the costs to be reimbursed.

2) However, in the case of an oral pronouncement of a judgment or an order imposing an obligation to pay costs, the amount of the costs may be reserved for the written copy in all cases in which the judgment or the order is still to be executed in writing.

§ 54

1) The party claiming reimbursement of costs shall, if the claim for compensation is otherwise lost, hand over to the court the list of costs together with any supporting documents required to certify the amounts and details of this list before the conclusion of the hearing immediately preceding the decision on the claim for reimbursement of costs (section 52), but if the decision is to be taken without a prior hearing, at the time of its agreement or at the same time as the application to be submitted to the court for decision.

2) If a party incurs further costs after the date by which the list of costs is to be submitted in accordance with para. 1, the party may request the other party to supplement the decision on the amount of the costs to be reimbursed. If the costs consist of an obligation to pay, then

they shall be deemed to have arisen at the time of their establishment; however, if the party entitled to reimbursement of costs is also jointly and severally liable with his opponent, the costs shall be deemed to have arisen only upon payment. The application for supplementation of the decision on costs shall be filed within an emergency period of four weeks from the date on which the costs arose; however, if the costs consist of an obligation to pay and if the creditor is liable for the costs, the costs shall be deemed to have arisen only upon payment of the costs.

not the party's authorized representative, the time limit shall not begin to run until the party is notified of its liability in terms of payment and when it becomes due or when it is paid in advance. The court shall decide by order without oral proceedings.

§ 54a

1) If the awarded amount of costs is not paid before the decision on the obligation to pay compensation becomes enforceable, the party liable to pay compensation shall be obliged to pay statutory default interest on the amount of costs from the date of the decision on costs. This does not need to be stated in the decision on costs.

2) At the request of the party entitled to compensation, the order granting execution on the basis of the decision on costs shall also grant execution to recover the interest.

§ 55

1) The decision on the point of costs contained in a judgment of the Regional Court may be challenged only by means of an appeal without a simultaneous challenge of the decision rendered on the merits of the case.

2) Appeals against decisions of the Regional Court on the question of costs shall be finally decided by the Higher Court to the exclusion of any further appeal. An appeal against the decisions of the Higher Court on the question of costs shall not be admissible except in this case.

6. TitleSafety performance

Type of security

§ 56

1) Unless otherwise agreed by the parties, the provision of security under the provisions of this law shall be effected by the judicial deposit of cash or securities which, in the opinion of the court, offer sufficient cover. The securities must not be out of price and must bear the current interest or dividend coupons and talons. They are to be calculated according to the price on the day of deposit.

2) At the discretion of the court, in particular, unlimited, irrevocable, unconditional bank guarantees payable on first demand may also be admitted for the purpose of obtaining security. The judge may permit the provision of security by means of a mortgage providing legal security over real property if a court decision ordering the plaintiff or appellant to compensate the defendant or respondent for the costs of the proceedings can be enforced in the state in which the real property is located. The judge may allow the provision of security by solvent guarantors if a court decision ordering the plaintiff or appellant to compensate the defendant or respondent for legal costs can be enforced in the state where the guarantor is domiciled. The latter two options are available only if another type of security cannot be obtained by the guarantor or can be obtained only with difficulty.

3) The judicial deposit shall create a lien on the object of the same for the claim in respect of which the security is provided.

Security for legal costs

§ 57

1) If persons who are not domiciled in Liechtenstein act as plaintiffs or appellants, they shall provide security for the costs of the proceedings to the defendant or appellant at the latter's request, unless otherwise stipulated by State treaties.

2) However, no such obligation to provide security shall arise:

1. if a court decision ordering the plaintiff or appellant to reimburse the defendant or respondent for legal costs may be enforced in the state of the plaintiff's or appellant's domicile;

2. if the plaintiff or appellant owns immovable property sufficient to cover the costs of the proceedings or claims secured by book entries on such property and a court decision ordering the plaintiff or appellant to reimburse the defendant or respondent for the costs of the proceedings can be enforced in the State in which the immovable property is located;

3. in the case of actions in matrimonial disputes or disputes concerning registered partnerships, for the entire proceedings;

4. in the case of actions for adverse possession, mandate and bill of exchange proceedings, in the case of counterclaims

and, in the case of actions brought as a result of a public court order, for the entire proceedings.

3) If any doubt arises as to the application of an international treaty or as to the enforceability of a decision on legal costs, the Government's explanation shall be obtained.

§ 57a

If a legal entity acts as a plaintiff or appellant, the defendant or respondent may demand security for legal costs if such legal entity cannot show assets in the amount of the presumed legal costs that are subject to enforcement by a court decision ordering the plaintiff or appellant to pay legal costs to the defendant or respondent.

§ 58

The defendant or respondent may also demand the provision of security if the plaintiff or appellant loses his domicile in Austria during the legal proceedings or if the condition under which he was exempt from the provision of security ceases to apply and if a part of the claim raised which is sufficient to cover it is not disputed.

§ 59

1) The application for the provision of security by the plaintiff shall be made at the first day's hearing before the main action is commenced, and in appeal proceedings before or with the notice of appeal or the response to the appeal. In the case of Section 58, the application may be made at any stage of the proceedings. The application shall always state the amount of the security.

2) The Regional Court shall decide on the application by way of an order. An appeal against this decision of the Regional Court shall be decided by the Higher Court in a final valid decision excluding any further appeal. In the appeal proceedings, the presiding judge shall also decide by means of an order, against which the right of appeal to the College of the

appellate authority is given. The decision of the College is final.

§ 60

1) If the application is granted, the amount of the security to be provided and the period within which this amount is to be paid by the court shall be determined at the same time.

2) In determining the amount of the security, the costs which the defendant or respondent will probably have to incur for his defense shall be estimated in accordance with the free opinion of the court (section 273), but the costs arising from a possible counterclaim shall not be taken into account.

3) The written copy of the order to be served on the plaintiff or appellant shall state that, in the event of fruitless expiry of the time limit referred to in paragraph 1, the court shall declare the action withdrawn at the request of the defendant or the appeal lodged by the appellant at the request of the respondent. Both shall be done by order.

§ 61

1) If an application for security for legal costs is filed in due time, the defendant or respondent shall not be obliged to continue the proceedings on the merits until a decision on the same has been rendered.

2) If the application is dismissed, the court may order the continuation of these proceedings without waiting for the dismissing decision to become final. There shall be no appeal against this order.

§ 62

1) After the deposit of the security amount in due time, the proceedings in the main case shall be continued at the request of a party or ex officio. After the deposit of the security amount in due time, the court may order the defendant to file a response or the respondent to file a statement of defence or a response on appeal.

2) If the obligation to furnish security for legal costs is disputed only as to the amount but not as to the merits, the trial judge or the presiding judge may, upon application or ex officio, order the continuation of the proceedings without having to wait for the decision granting the application for security for legal costs in whole or in part to become final if the plaintiff or appellant at the same time furnishes the amount not in dispute and this amount is expected to cover the legal costs incurred by the opposing party until the final decision on the obligation to furnish security is available. There shall be no appeal against such an order.

3) If it becomes apparent in the course of the legal proceedings that the security provided is insufficient, the defendant or respondent may request that it be supplemented, unless a sufficient part of the claim is undisputed. § Section 60 and para. 2 shall apply mutatis mutandis.

4) With regard to the contestability of the ruling on an application pursuant to para. 3

Section 59 (2) shall apply mutatis mutandis.

7. Title Procedural aid

§ 63

1) Legal aid shall be granted to a party in whole or in part to the extent that he or she is unable to meet the costs of the proceedings without prejudice to his or her necessary maintenance, and the intended prosecution and legal defense does not appear to be obviously wilful or futile. Necessary maintenance shall be deemed to be that maintenance which the party requires for himself and his family, for whose maintenance he has to provide, in order to lead a simple life. The prosecution shall be deemed to be particularly wanton if a party not claiming legal aid would refrain from conducting the proceedings or would assert only a part of the claim if all the circumstances of the case, in particular the prospects for the recovery of his claim, were taken into account.

2) Legal aid shall be granted to a legal person or any other entity capable of being a party to the proceedings if the funds required for the conduct of the proceedings cannot be raised either by it or by the parties economically involved in the conduct of the proceedings, if the intended prosecution or defense is not considered to be manifestly courageous, or if the legal aid is not granted to a legal person or any other entity capable of being a party to the proceedings.

or futile and the failure to prosecute or defend would be contrary to general interests; the same shall apply to an officially appointed body or a legal representative acting on behalf of an estate if the funds required to conduct the proceedings cannot be raised either from the estate or from the economic participants in the conduct of the proceedings.

3) The provisions on legal aid shall also apply to the ancillary intervener.

4) The granting of legal aid may be subject to a condition regarding the scope of the proceedings.

§ 64

1) Legal aid may only be granted for a specific lawsuit and enforcement proceedings initiated no later than one year after the conclusion of the lawsuit and may include the following benefits:

1. the temporary exemption from payment:

a) of court fees and other fees regulated by law;

b) the costs of official acts outside the court;

c) the fees of witnesses, experts, interpreters, translators and assessors;

d) of the costs of the necessary announcements;

e) of the costs of a curator which would have to be borne by the party pursuant to § 10;

f) of the necessary cash expenses of the appointed procedural assistant;

2. exemption from the provision of security for legal costs;

3. the appointment of a procedural assistant for representation before the court in difficult factual or legal situations. The trial court of first instance shall appoint a lawyer as a procedural assistant or, if the specific circumstances so permit, a trainee. The procedural assistant does not need a power of attorney. By virtue of his appointment, he shall be authorized to perform the legal and procedural acts specified in § 31, with the proviso that he shall be authorized to conclude settlements on the subject matter of the legal dispute, to acknowledge the claims asserted by the opposing party and to waive the claims asserted by the opposing party.

own party requires the consent of the own party.

2) When granting legal aid, it shall be stated which of the benefits listed in para. 1 and to what extent they are granted. The benefit under para. 1 item 3 may only be granted in full and only together with a full benefit under para. 1 item 1 subpara. a.

3) Insofar as legal aid is granted, the exemptions and rights under the preceding paragraphs shall take effect on the date on which they are requested.

4) Legal aid does not exempt from the reimbursement of legal costs to the other party.

§ 65

1) The application for legal aid shall be filed with the trial court of first instance in writing or on pro- tokoll. The application for legal aid may be filed or recorded with the trial court of first instance at the earliest in connection with the pleading initiating the proceedings, in cases of a compulsory demand also with the demand. In the case of legal defense, the party may apply for legal aid at the earliest with the first procedural act.

2) The trial court of first instance shall always decide on the application for the granting of legal aid, even if the necessity for this arises only in the proceedings before a higher instance. If, in this way, a collegial court of first instance has

court to decide on the application, the decision shall be incumbent upon the presiding judge of the senate as the delegated judge of the college.

3) The decision on the motion may be served on the opposing party at the earliest with the first written statement following the decision.

§ 66

1) The application shall specify the case for which the assistance is requested. At the same time, a statement by the party or his legal representative, not more than four weeks old, on the financial, income and family circumstances of the party (statement of assets and liabilities) and, if necessary, appropriate supporting documents shall be submitted. The statement of assets and liabilities shall in particular also include the encumbrances, the maintenance obligations and their extent, as well as the all-

if there is an obligation to support other persons. For the declaration of assets, a form to be issued by the government by decree and specified in more detail shall be used.

2) If the application is not accompanied by such a statement of assets and liabilities, the court shall attempt to remedy the deficiency within the meaning of sections 84 and 85, setting a time limit and giving appropriate instructions.

3) A decision on the application shall be made on the basis of the status of the proceedings and the statement of assets. If the court has doubts about the correctness or completeness of the statement of assets, it shall review the documents. In doing so, it may also request the party, setting a reasonable time limit, to supplement the statement of assets and, if necessary, to provide further evidence. § Section 381 shall apply mutatis mutandis.

4) If the assets or income situation of the party improves significantly, also due to a change in the family situation, the party shall inform the trial court of first instance thereof without delay by means of a declaration of assets.

§ 66bis

If, in order to obtain legal aid or a corresponding benefit abroad, a party requires an official certificate concerning his income and financial circumstances, the head of the place where such party has his habitual residence or, in the absence of such residence, his domicile, shall confirm the accuracy of the facts specified in section 66 subs. 1.

§ 67

If the court has decided to appoint a lawyer, it shall notify the Liechtenstein Bar Association so that it may appoint a lawyer as representative.

§ 68

1) Legal aid shall expire upon the death of the party. The trial court of first instance shall, ex officio or at the request of the appointed guardian ad litem, declare the procedural assistance to be extinguished in whole or in part to the extent that changes in the party's financial, income or family circumstances so require or if the further prosecution or defense of the case is deemed to be manifestly wilful.

or appears futile. Likewise, the appointment of a procedural aide shall be declared to have lapsed if the requirements of section 64 subs. 1 No. 3 have ceased to apply.

2) The trial court of first instance shall at any time, ex officio or upon request of the appointed legal counsel, withdraw the procedural assistance in whole or in part to the extent that it turns out that the preconditions assumed at the time were not met. In this case, the party shall pay or reimburse the amounts referred to in § 64 para. 1, from which it has been temporarily exempted, and shall, upon request, pay the remaining remuneration of the lawyer assisting it according to the tariff. The court shall decide on this claim for remuneration by way of an order.

3) In the course of proceedings provided for in paras. 1 and 2, the court may request the parties to provide a new list of assets and, to the extent reasonable, supporting documents, setting a reasonable time limit. § Section 381 shall apply mutatis mutandis.

4) If the court declares the assistance to be extinguished or withdraws it, the appointed procedural assistant shall remain entitled and obliged to act on behalf of the party until the decision becomes final, insofar as this is necessary to protect the party from legal disadvantages. The service of the order by which the court declares the procedural assistance to be extinguished or withdraws it on the procedural assistant shall interrupt the period for answering the complaint or filing an appeal against the respective decision of the court until the said order becomes final. When the decision becomes final, the full time limit shall begin to run anew.

§ 69

The trial court of first instance shall impose on any person who, by providing incorrect or incomplete information in the declaration of assets (sections 66, 70a, 70b), fraudulently obtains benefits under this title a penalty of wantonness of up to five times the amount stated in the declaration of assets.
§ Section 220(1) of the Code of Civil Procedure. The party against whom such a penalty of willfulness has been imposed by a final decision shall also owe the court fees in duplicate, subject to the party's obligation to make additional payments (section 68(2)).

§ 70

The amounts referred to in section 64(1)(1), which the party is once exempted from contesting, shall be collected directly from the opposing party if the costs of the legal proceedings have been imposed on him or if he has accepted them in a settlement. Even if the party prevails but does not claim reimbursement of costs, the court shall decide whether and to what extent the opposing party is obliged to reimburse the amounts specified in section 64(1)(1). If the party's opponent is obliged to reimburse costs, the costs shall be determined as if the party's procedural aide had not been provisionally admitted free of charge.

§ 70a

1) During the proceedings, the party enjoying the procedural assistance shall, insofar as the necessary maintenance (section 63) is not affected, be obliged to pay in installments to cover the amounts under section 71. When granting legal aid, the trial court of first instance shall fix the instalments to be paid during the proceedings.

2) The trial court of first instance shall ex officio withdraw the procedural assistance in its entirety if the party is more than three months in arrears with the payment of an installment.

3) The trial court of first instance shall adjust the instalments to be paid if the assets and liabilities relevant for the procedural assistance change.

income or family circumstances of the party have changed significantly. Installment payments may be waived if they are no longer necessary to cover the amounts under § 71 or for other reasons.

§ 70b

After the conclusion of the proceedings, the party benefiting from legal aid shall be informed of the amounts from the correction of which it has been temporarily exempted,

including the remuneration of the legal counsel, have not been corrected. Upon delivery of this notification, the party enjoying legal aid shall be obliged to submit to the trial court of first instance a statement of assets and liabilities pursuant to § 66 para. 1 annually for ten years without being requested to do so, failing which it shall be irrefutably presumed that the party enjoying legal aid is capable of making the additional payment (§ 71) without prejudice to the necessary maintenance. This consequence of default shall be pointed out to the party enjoying legal aid.

§ 71

1) The party enjoying legal aid shall be obliged by order to pay in arrears, in whole or in part, the amounts from which it has been temporarily exempted and which have not yet been corrected, and also, upon request, to pay the remaining remuneration of the lawyer assisting it according to the tariff, insofar and as soon as it is able to do so without prejudice to the necessary maintenance. After the expiry of ten years after the conclusion of the proceedings, the obligation to make additional payments can no longer be imposed.

2) In the decision on the additional payment, the party shall first be ordered to reimburse those amounts from which it has been temporarily exempted from correction, and then to pay the remaining remuneration of the attorney who assisted it in the proceedings and to determine its amount at the same time. This order shall not be enforceable until it has become final and absolute.

3) The President of the Regional Court may declare the amounts to be paid in arrears under subsection 1 to be irrecoverable if the expenditure required for the payment of the arrears is not in economic proportion to the amounts or if there are other disproportionate obstacles.

4) Within four weeks of the conclusion of the proceedings, the party enjoying legal aid shall inform the trial court of first instance of the outcome of the proceedings, in particular whether and to what extent it has succeeded with its claim and whether compensation for legal costs has been paid.

§ 72

1) Orders issued under this title shall be made without an oral hearing, unless the trial court deems it necessary to hold such a hearing in order to discuss facts it deems relevant.

1a) In the case of a collegiate court, decisions under this title shall be taken by the presiding judge.

2) Against the decisions issued under this title is also entitled to the opponent and

the appointed procedural assistant is entitled to appeal.

3) Such appeals, even if they are directed against decisions of the chairman of a senate, shall be finally decided by the Supreme Court, excluding any further appeal. This shall apply in all proceedings to which this Act applies.

§ 73

1) Neither the application for legal aid nor any other application admissible under this title shall entitle the parties to refuse to enter an appearance or to continue the proceedings, or to request the extension of time limits or the rescheduling of hearings.

2) If the party has applied for the granting of procedural assistance, including the appointment of a procedural assistant, before the expiry of the period within which it would have had to file an appeal against a decision suitable as an execution title within the meaning of Art. 1 of the Execution Code, the period for filing the appeal or the defence shall commence at the earliest with the service of the order appointing the procedural assistant or with the entry into force of the final decision refusing the appointment of a procedural assistant, as the case may be. with the entry into force of the decision refusing the appointment of a procedural assistant. The court shall serve the order appointing the procedural assistant.

8. Title process support

§ 73a

1) If a victim has been granted legal assistance in criminal proceedings, this shall also apply, at the victim's request, to civil proceedings conducted between the victim and the accused in the criminal proceedings if the subject matter of the civil proceedings is factually related to the subject matter of the criminal proceedings and if this is necessary to safeguard the procedural rights of the victim with the greatest possible consideration for the victim's personal involvement. This is to be assessed by the victim assistance office. The same applies if the victim is to be heard as a witness on the subject of the criminal proceedings.

2) The guardian ad litem has the position of a person of trust in the proceedings. He or she may accompany the victim to all hearings and interrogations at the victim's request. The court shall inform him/her of these appointments. After a final decision on the case, the court shall oblige the opposing party to reimburse the state for the amounts spent on the legal assistance, insofar as the costs of the legal dispute have been imposed on the opposing party or he has assumed them in a settlement.

Section 2 Procedure

1. Title pleadings

§ 74

Motions, requests or communications relating to a case which are to be presented outside the oral proceedings shall be made by means of pleadings or submissions for the record.

§ 75

Each pleading shall contain:

1. the name of the court, then of the parties by name (first name and surname), occupation, place of residence and party status, the indication of the representatives acting for the parties and the designation of the subject matter of the dispute;

2. the designation of the enclosures and their number as well as whether the enclosures are attached in original or copy;

3. the signature of the party itself or its legal representative or proxy.

§ 75a

1) A party may refrain from stating its place of residence in pleadings if it demonstrates a confidentiality interest worthy of protection and names a person authorized to receive service of process; the place of residence must be disclosed to the court in a separate pleading.

2) The information of the party on the place of residence shall be kept under lock and key by the court and suitably stored. Documents containing information on the place of residence of the party shall also be submitted anonymously by the party. The court shall make an anonymous copy of all other documents containing such information. The originals shall also be kept under lock and key and suitably stored. These parts of the file are excluded from inspection.

3) The court shall, at the request of the opposing party, disclose to the opposing party the information on the place of residence that has been kept under seal if

the legitimate interest of the opposing party in the disclosure outweighs the interest in confidentiality.

4) The court shall decide on the applications pursuant to paras. 1 and 3 with an unappealable decision.

§ 76

1) Each pleading shall also set forth the factual circumstances by which the

The court shall set forth in a concise and clear manner the grounds for the motions set forth in the pleading and, if evidence or prima facie evidence is required, shall also describe in detail the evidence to be used in order to provide such evidence or prima facie evidence.

2) The person giving evidence may refrain from disclosing the place of residence of a witness if he/she demonstrates a confidentiality interest worthy of protection on the part of the witness; the place of residence shall be disclosed to the court in a separate written statement. § Section 75a subs. 2 to 4 shall apply mutatis mutandis.

§ 77

1) If the application made in the pleading is to be heard orally, only copies of the documents referred to in the pleading shall be attached to the pleading; if only individual parts of a document are in question, it shall be sufficient to attach an extract containing the entry, the passage pertaining to the matter, the conclusion, the date and the signatures.

2) If the documents are already known to the opposing party or are of significant importance, it is sufficient if the pleading precisely describes the documents and offers to allow the opposing party to inspect them or to submit them to the court upon request.

3) If the documents are not in the hands of the party, the party shall indicate how the procurement of these documents is to be arranged.

§ 78

1) Written pleadings intended for the preparation of oral proceedings (preparatory pleadings) shall contain, in addition to the other requirements of a written pleading:

1. the requests that the party intends to make at the hearing;

2. a statement, in accordance with the provisions of Section 76, of the factual circumstances on which the party intends to rely at the hearing in support of its claims or in opposition to the opponent's claims, as well as a statement of the evidence which the party intends to use at the hearing to substantiate its own claims or to refute the opponent's factual assertions;

3. according to the situation of the case, the declarations concerning the truth, correctness and completeness of the factual arguments contained in a previous pleading of the opponent and concerning the admissibility of the arguments referred to by the opponent.

Evidence.

2) Legal arguments and statements on the probability or credibility of individual factual assertions or on the presumed relevance of evidence offered are not to be included in a preparatory pleading.

§ 79

A minute appendix providing the place of the pleading shall be furnished in accordance with the provisions relating to pleadings.

§ 80

1) If an application is filed by means of a written pleading or if a communication to the court is made by means of a written pleading, the same shall apply to all preparatory pleadings, unless otherwise provided for in this Act, so many identical copies of the pleading shall be submitted that each of the opposing parties may be served with one copy and, moreover, one may be retained for the court files. The pleadings shall also be accompanied by the headings necessary for the notification of other parties.

2) The headings shall contain the names of the court, the parties and the subject matter of the dispute in the manner specified in section 75.

§ 81

1) If according to the provisions of this Act a copy of the submitted pleading is to be served on the opponent, copies of the annexes to the pleading shall also be attached thereto.

2) The originals of enclosures retained by the court shall be made available for inspection by the opposing party at any time upon request.

§ 82

1) If a party has referred in a pleading to documents in his hands, he shall be obliged, at the request of the opponent, to deposit the original of these documents with the court within three days and to notify the opponent thereof. The opposing party may then inspect the documents within three days of receipt of the notification and take a copy thereof. An appeal against a decision by which the Regional Court orders the party to produce documents shall be finally decided by the Higher Court to the exclusion of any further legal proceedings.

2) The time limit for inspection may be shortened accordingly by the court upon request if the party demonstrably needs the document urgently. Against

There shall be no right of appeal against the decision taken on such a request.

§ 83

1) Lawyers are free to carry out the communication of the originals of documents from hand to hand against receipt.

2) If a Rechtsanwalt does not return the document handed over to him within the agreed period or, in the absence of an agreement, within three days of receipt, he shall, upon request and after prior oral or written agreement, be required by order to return it without delay. The provisions of § 82 para. 2 shall apply with regard to this resolution. The order shall be immediately enforceable.

§ 84

1) Unless otherwise provided for in this Act, the court shall ex officio order the correction of irregularities of form which are likely to impede the proper conduct of the business of a pleading submitted. Such an order may not be challenged by a separate appeal.

2) Such a formal defect shall be deemed to exist, in particular, if the provisions of sections 75 and 77 have not been observed, or if there is a lack of

of the required number of copies of the pleading or of headings is missing. The incorrect designation of a remedy, an appeal or grounds is irrelevant if the request is clearly identifiable.

3) If a time limit had to be observed when the pleading was submitted, as well as in the case of pleadings initiating proceedings which are not subject to a time limit, subsection (1) shall also apply if statements or other submissions are missing from the pleading which are prescribed for the procedural act undertaken with the pleading. However, such improvements and other additions to the pleading to be improved may not change the arguments contained therein in such a way as to interfere with the legal effect of a decision already rendered; if it was not clear from the deferred pleading that the decision is contested only in part or to what extent, it shall be deemed to be contested in its entirety.

§ 85

1) For the purpose of eliminating formal defects, the party shall be summoned if he or his representative resides within the area of application of this Act. The court shall issue the necessary orders and instructions to the party who has appeared.

The court may also make the necessary improvements in the presence of the party itself. If the elimination of irregularities of form has not been effected in this way within eight days after the submission of the pleading, it shall be subsequently returned to the party with the necessary instructions.

2) If a time limit had to be observed when the pleading was submitted, in the latter case a new time limit shall be fixed for the re-submission, upon observance of which the pleading shall be deemed to have been submitted on the day of its first receipt. An extension of this time limit is not admissible.

3) No separate appeal shall be allowed against the decisions issued on the basis of the above provisions; the extent to which the supervisory right of the higher judicial authorities may therefore be invoked shall be assessed in accordance with the provisions issued on the internal organization and rules of procedure of the courts.

§ 86

1) Against a party who violates the respect owed to the court in a pleading by offensive language or who in

insults the opponent, a representative, an authorized agent, a witness or an expert in a written pleading, the court may impose an administrative penalty, without prejudice to any criminal prosecution that may ensue as a result.

2) For the same reasons, it is permissible to impose an administrative penalty on the attorney who signed the pleading.

2. title deliveries

§ 87

1) Unless otherwise provided by this Act, service shall be effected ex officio in accordance with the Zu- stellgesetz (ZustG).

2) No separate appeal shall lie from orders under this title.

3) In proceedings before a senate, such orders shall be vested in the chairman.

1. Domestically

§§ 88 to 90Revoked

§ 91

If the conduct of one of the persons entrusted with the execution of service (service bodies) gives rise to a complaint, the judge shall, as soon as he has

The competent authority, upon becoming aware of the complaint, shall take the appropriate steps to remedy the situation. The reason for complaint may be indicated orally.

§ 92

If a party has granted power of attorney for a legal dispute, all notifications relating to this legal dispute shall be made to the named authorized representative until the power of attorney is revoked (section 36).

§ 93

Repealed Agent for service of process

§ 94

Retrieved

§ 95

1) If a procedural act is to be performed by or against several persons who do not have a common representative or agent for service, the court may, at the request of the opposing party or ex officio, order them to name a common agent for service (Art. 9 ZustG).

2) If this order is not complied with, the court shall, at the request of the opposing party or ex officio, appoint a joint representative for service of process (Art. 9 ZustG) at their risk and expense.

3) The court shall make such an order if it can be expected to simplify or expedite the proceedings. It shall refrain from making, modifying or revoking such an order if it is apparent or if these persons can credibly demonstrate that they have a legal interest in not being represented jointly.

4) Art. 10 para. 3 ZustG does not apply.

§§ Sections 96 to 105Repealed

Service of process

§ 106

Actions and documents to be served like actions may only be served in the court's own hands (Art. 23 ZustG).

§§ 107 to 111Revoked

Service between lawyers

§ 112

1) If both parties are represented by lawyers, each of these lawyers who submits a pleading may directly transmit the copy intended for the opponent to his lawyer by messenger, delivery service, fax or electronic mail; this transmission shall be noted on the part of the pleading transmitted to the court. This shall not apply to pleadings which are to be delivered to the addressee at his own hand or the delivery of which starts an emergency period.

2) The written acknowledgement of receipt by the transferee, dated and signed, or any other proof of delivery shall be sufficient to prove that delivery has been effected.

3) All notices and communications to the court otherwise incumbent on the service bodies in matters of service shall be effected by the serving lawyer in the case of service between lawyers. Art. 6, 7 and 16 para. 4 ZustG are applicable mutatis mutandis.

§ 113

Retrieved

§ 114

Retrieved

Service by public notice

§ 115

Service shall be effected by public notice (Art. 28 ZustG) if the existence of the prerequisites required for this is shown to be credible.

Delivery to the curator

§ 116

In the case of persons to whom service could be effected only by public notice due to the fact that their whereabouts are unknown, the

The court shall appoint a curator upon request or ex officio (§ 9) if these persons would have to perform a procedural act as a result of the service to be effected on them in order to safeguard their rights and in particular if the document to be served contains a summons to them.

§ 117

1) The appointment of the curator, his name and place of residence, and a brief statement of the contents of the document to be served, together with the designation of the trial court and the matter in dispute, shall be published by edict. The edict shall have the

The court shall make a note that the person for whom the trustee has been appointed shall be represented by the trustee at his risk and expense until his own appearance or the appointment of a proxy.

2) The edict shall be published in the Official Gazette. The publication of the edict shall be effected ex officio.

3) Retrieved

§ 118

1) Service shall be deemed to have been effected upon publication in the Official Gazette and subsequent delivery of the document to be served to the curator.

2) The costs of the notice and of the appointment of the curator shall be borne, without prejudice to any claim for compensation, by the party by whose action both were caused.

2. Abroad

§§ 119 to 122Revoked

3. Title

Time limits and hearings Time limits

§ 123

Insofar as the duration of the time limits for the performance of procedural acts is not directly determined by law (statutory time limits), the judge shall set them with regard to the requirements and the nature of the individual case (judicial time limits).

§ 124

The running of a judicial term shall commence, unless otherwise provided at the time of fixing the term, with the service of the order imposing the term on the party benefiting from the term; however, if service of the order is not required, with the pronouncement of the order.

§ 125

1) If the term is calculated on the basis of days, the day in which the date or event on which the term is to begin falls shall not be counted.

2) Time limits determined by weeks, months or years shall end with the expiry of the day of the last week or the last month which is marked by its

designation or number corresponds to the day on which the period began. If this day is missing in the last month, the period ends with the expiry of the last day of this month.

3) The end of a term may also be designated by specifying a particular calendar day.

§ 126

1) The commencement and running of legal and judicial deadlines are not impeded by Sundays and days treated as such (Art. 1 FAHG).

2) If the end of a time limit falls on a Sunday or a day equivalent thereto (Art. 1 FAHG), the next working day shall be considered the last day of the time limit.

3) The days of the post run are not included in the deadline.

§ 127

If the statutory or judicial time limits to which the individual litigants are entitled to perform the same procedural act expire at different times, the procedural act in question may be performed by all of them.

The parties to the dispute may take such action as long as one of the parties to the dispute still has time to take such action.

§ 128

1) Statutory time limits, with the exception of those whose extension is expressly prohibited by law (emergency time limits), as well as judicial time limits in respect of which nothing to the contrary is provided in this Act, may be extended by the court. An extension of time limits by agreement of the parties is inadmissible.

2) The court may grant such an extension upon request if the party benefiting from the time limit is prevented from performing the limited procedural act in due time for unavoidable or very substantial reasons and, in particular, would suffer irreparable damage without the extension of the time limit.

3) The application must be filed with the court before the expiry of the period to be extended. The application may be decided without prior oral proceedings; however, if the application is not filed by both parties by mutual agreement, the opposing party shall be heard before the repeated extension of the time limit is granted.

4) The circumstances cited to justify the application shall be made credible to the court upon request. In the absence of sufficient justification, the

Motion to Dismiss.

5) In case of extension of the term, the day on which the extended term ends shall always be determined at the same time.

§ 129

1) All time limits may be shortened by agreement of the parties. In order to be effective for the court, the agreement must be evidenced by a document.

2) The court may shorten judicial and statutory time limits at the request of only one of the parties if circumstances are substantiated which make such shortening appear necessary to avert imminent substantial disadvantages and if at the same time the party for whose action the time limit is intended is able to perform the relevant procedural act during the shortened time limit without difficulty. The opposing party must be consulted before the abbreviation is granted.

Tagsatzungen

§ 130

1) Unless otherwise provided by law, a hearing shall be convened at the request of one of the parties. Subject to any special provisions contained in this Act, the scheduling of the hearing, including the fixing of the place, day and hour of the hearing, shall be the responsibility of the court.

2) The scheduling of a hearing and any summons to a hearing may not be challenged by a separate appeal.

§ 131

1) Notification of the convening of the hearing and summons to appear at the same (summons) shall be given to the party requesting the hearing by means of a rubric, and to the other party by delivery of a copy of the pleading or of the copy of the minutes accompanied by the copy of the summons. In the case of an ex officio hearing, both parties shall be summoned by delivery of rubrics.

2) The parties shall be specially summoned to hearings scheduled in judicial decisions pronounced orally only to the extent that neither they nor their representatives or agents were present at the pronouncement.

§ 132

1) Unless otherwise provided by law, the sessions shall be held in the court house.

2) Sessions for oral proceedings may be held at a place outside the court house if the proceedings can be held more easily at that place or if greater expense can be avoided thereby.

§ 133

1) The session begins with the call of the case.

2) A party shall be deemed to have failed to appear at a hearing if the party fails to appear at the time scheduled for the hearing or, if the party appears, fails to appear at the time scheduled for the hearing,

fails to appear at the hearing, notwithstanding the court's request, or departs after the case has been called.

§ 134

1) Sessions may be postponed only by judicial decision (extension). Such extension may take place upon request or ex officio:

1. if the timely appearance of one or both parties or the commencement or continuation of the hearing between them is prevented by an insurmountable or very considerable obstacle and, in particular, without the extension of one party, irreparable damage is caused to the other party.

would suffer;

2. if the court is prevented by other official duties that cannot be postponed or for other important reasons from commencing or continuing the

Negotiation is disabled;

3. if a taking of evidence is ordered which cannot be immediately executed before the trial court, but which is essential for the continuation of the trial, or if the procurement of documents, information or objects of inspection is necessary for the continuation and conduct of the trial.

points;

4. if the hearing cannot be concluded at the hearing convened by the court for this purpose, even without the intervening obstacles mentioned above.

can be brought.

2) An extension of the hearing must take place if a party or its representative is prevented from appearing due to temporary activity in an official capacity in the service of the state or as a head of a municipal office.

§ 135

1) In the case referred to in section 134 subs. 1, the application for an extension of a hearing shall be justified by stating the circumstances preventing the appearance or the commencement or continuation of the hearing, even if it is made by both parties by mutual consent. The circumstances invoked to justify the request shall be made credible to the court upon request.

2) In the absence of sufficient grounds, the application must be dismissed.

§ 136

1) The request for extension of a hearing may be made at the hearing itself or before the beginning of the same.

2) In the former case, after hearing the opposing party present, a decision shall be taken on the application without delay and, if the extension is refused, the hearing shall be commenced or continued without further interruption. The legal consequences of missing the hearing shall apply to the party who has absconded before the decision or who, after the motion has been rejected, refuses to hear the case on the merits.

3) The provisions of section 128 (3) shall apply mutatis mutandis to applications for extension received before the hearing.

§ 137

1) If a hearing is extended, the court shall immediately notify the parties orally of the date and hour of the new hearing, if possible. Otherwise, the notification shall be made by means of a rubric.

2) This provision shall also apply in particular if the hearing is extended for the purpose of taking evidence.

§ 138

Unless a new hearing has to be held due to a change in the composition of the court, in case of an extension of a hearing the judge before whom the hearing is held shall present orally at the later hearing the essential results of the earlier hearing on the basis of the minutes of the hearing and the other records of the proceedings to be taken into account and shall link the continuation of the interrupted hearing thereto.

§ 139

If the service of a preparatory pleading or of a minute on which a subpoena has been issued is delayed in such a way that the period between the service of the subpoena and the scheduled hearing is not extended, the subpoena shall be served.

time limit no longer allows the opponent sufficient preparation for the oral proceedings, and if at the same time the

If the opposing party is not responsible for the delay in service, the court shall, upon request or ex officio, extend the scheduled hearing before it is held. All persons summoned to the hearing shall be notified thereof without delay.

Common provisions

§ 140

1) If the determination of time limits or the scheduling of hearings is not made in a decision of the court or at an oral hearing, it shall be incumbent on the chairman of the senate to which the case is assigned in second and third instance proceedings.

2) The same shall apply to a decision on a motion to extend or shorten a time limit or to extend a hearing, unless the motion is filed during oral proceedings.

§ 141

1) The first extension of a time limit and the first extension of a hearing may not be challenged by an appeal, provided that the granted extension of the time limit does not exceed the duration of the original time limit and the granted extension of the hearing does not exceed the duration of four weeks. An appeal against the refusal to shorten a time limit is excluded.

2) Appeals against decisions of the Regional Court in respect of which a challenge is not excluded under subsection 1 shall be finally decided by the Higher Court to the exclusion of all further legal proceedings.

§ 142

1) The party who has given cause for the extension of a time limit or for the extension of a session shall, upon application of the opposing party, be ordered to reimburse the costs incurred by him in the amount to be determined by the court. Reimbursement of these costs may not be claimed even if the opponent is ordered to pay the court costs on the merits.

2) If such an application for reimbursement of costs is made at a hearing, a decision on it shall be taken immediately after hearing the opposing party present.

§ 143

If a hearing is frustrated due to the non-appearance of both parties, the following

shall apply

each party half of the costs caused thereby.

4. title

Consequences of default, restitutio in integrum Consequences of default

§ 144

Failure to perform a procedural act shall, without prejudice to the other effects specified in this Act for individual cases, result in the party being excluded from the procedural act to be performed.

§ 145

1) A threat of the legal consequences of default is required only in the cases specifically described in the law. These consequences shall come into effect automatically unless the provisions of this Act make their occurrence dependent on a request for the legal disadvantages of the default to be remedied.
is made.

2) In the latter case, the omitted procedural act may, if a time limit was fixed for it, be made up until the day on which the application was filed with the court, but if the omitted procedural act was to be performed at a hearing, until the end of the hearing held on the application for realization of the consequences of default.

Restitutio in integrum

§ 146

1) If a party was prevented by an unforeseen or unavoidable event from appearing in due time at a hearing or from performing a temporary procedural act in due time, and if the resulting failure to appear caused the party the legal disadvantage of being excluded from the procedural act to be performed, that party shall, unless otherwise provided by law, be granted reinstatement upon application. That

The fact that the party is at fault for the delay does not prevent the granting of reinstatement if it is only a minor degree of negligence.

2) The application for reinstatement cannot be based on circumstances which the court has already found to be insufficient to allow the same party thereupon the

to grant an extension of the then missed deadline or the extension of the missed hearing.

§ 147

1) The application for reinstatement shall be dismissed without further proceedings as long as the party can immediately make up for the missed procedural act within the meaning of section 145(2). An appeal against the order of the Regional Court rejecting the application for reinstatement shall be finally decided by the Higher Court to the exclusion of any further legal action.

2) If the same party applies for reinstatement against a judgment rendered by default and for reinstatement against the expiry of the time limit for appeal against this judgment, the proceedings on the latter application for reinstatement shall be postponed until after a final decision has been rendered on the former application for reinstatement.

3) The application for reinstatement shall not be granted if the party could have requested an extension of the time limit or postponement of the hearing due to the impediments cited to justify the application for reinstatement, or if these impediments have already ceased to exist at a time when the party could still have performed the procedural act itself in accordance with Section 145(2).

§ 148

1) The application for reinstatement shall be filed with the court at which the missed procedural act was to be performed.

2) Unless otherwise provided by law, the application must be filed within 14 days. This period shall commence on the day on which the obstacle that caused the failure to comply ceases to exist; it may not be extended.

3) Applications which are obviously filed late shall be rejected without further proceedings. Section 147 (1), second sentence, shall apply with regard to the contestability of such a decision.

§ 149

1) The party applying for reinstatement shall state in the relevant pleading or in the substitute submission for the record all the circumstances justifying the application for reinstatement and indicate the means of substantiating them. At the same time as the application, the missed procedural act itself or, in the case of a missed hearing, that part of the proceedings which is to be considered as a procedural act must be stated.

to make up for what the adverse party had to submit in preparation for the oral proceedings.

2) The court shall decide on the application for restitutio in integrum by way of an order, after an oral hearing if it deems such to be necessary. If the court does not consider oral proceedings necessary, the application for reinstatement shall be served on the other party within a reasonable period of time.

§ 150

1) If reinstatement is granted, the legal proceedings shall revert to the situation in which they were before the default occurred. A judgment already rendered as a result of the default shall be set aside if reinstatement is granted.

2) If a hearing has been missed, the proceedings on the application for reinstatement may be combined with the hearing for which the missed hearing was scheduled already at the hearing scheduled for the application for reinstatement or, if the application for reinstatement is granted, this hearing may be held immediately.

§ 151

Retrieved

§ 152

1) The application for reinstatement shall not suspend the progress of the legal proceedings. However, the court may, upon request, order a temporary interruption of the proceedings if this appears to be indispensable in order to ensure the full success of the reinstatement to be granted and if, at the same time, the interruption of the proceedings does not cause a considerable disadvantage to the opponent of the applicant for reinstatement.

2) If the legal dispute is being heard by a higher instance at this time, the higher instance shall be notified immediately of the ordered temporary interruption of the appeal proceedings.

3) After the application for reinstatement has been settled, the interrupted proceedings shall be resumed upon request or ex officio.

§ 153

An appeal against the decision granting reinstatement shall not be admissible.

§ 154

The party who has applied for reinstatement shall, irrespective of whether the application has been granted or not, be ordered to pay all costs incurred by the opposing party as a result of the failure to appear and of the hearing on the application for reinstatement, as well as the costs of the proceedings which have become ineffective as a result of the reinstatement.

5. title

Interruption and suspension of proceedings Death of a party

§ 155

1) The death of a party shall interrupt the proceedings only if the deceased party was neither represented by a lawyer nor by any other person authorized by him to represent him in legal proceedings.

2) The interruption shall last until the commencement of the proceedings by the legal successors of the deceased party, or if the opposing party has earlier

applies for the appointment of a curator (§ 811 ABGB) in order to continue the proceedings against the curator until the curator takes up the proceedings.

3) In order to bring about the commencement of the proceedings by the legal successors of the deceased party, the opponent may also apply to the court before which the case was pending at the time of the death of the deceased party for the summons of these legal successors. Following such a request, they shall be summoned to the commencement of the proceedings and, at the same time, to the hearing of the main action or to the continuation of this hearing.

4) Service of such summons shall be made in accordance with the provisions of sections 106 and 107.

§ 156

1) If none of the summoned legal successors appears, the court shall, upon request of the opposing party, declare the proceedings to be commenced by the legal successors of the deceased party if the alleged legal succession is sufficiently certified.

2) At the hearing at which the decision concerning the commencement of the proceedings was pronounced, the proceedings on the merits may be commenced immediately.

§ 157

If the summoned legal successors or individual ones of them appear at the hearing and dispute the obligation to enter into the proceedings, the court shall decide thereon after oral proceedings. If the court decides in favor of an obligation to commence proceedings, the proceedings on the merits may be commenced or continued after announcement of this decision at the same hearing according to the situation of the case. This shall apply in particular if an appeal against the announced decision is likely to be unsuccessful.

Loss of legal capacity, change in the person of the legal representative

§ 158

1) If a party loses the capacity to litigate or if the legal representative of a party dies or ceases to be authorized to represent the party without the party having become capable of litigation, the proceedings shall be interrupted only if the party affected by these changes is represented neither by a lawyer nor by any other person endowed with power of attorney to litigate.

2) In such cases, the interruption shall last until the legal representative or the new legal representative notifies the opposing party of his appointment and commences the proceedings.

3) In order to effect such admission, the opponent may also request the summons of the legal representative of the party who has become incapable of proceeding or of the new legal representative.

Opening of insolvency proceedings

§ 159

The Insolvency Code determines the extent to which proceedings are interrupted when insolvency proceedings are opened against a party's assets.

Change in the person of the lawyer

§ 160

If a party's attorney dies or becomes unable to continue representing the party, no interruption of the proceedings shall occur.

Discontinuation of the official activity of the court

§ 161

1) If, as a result of a war or other event, the activity of a ge-

If the court suspends the proceedings, the proceedings in all cases pending before this court shall be suspended for the duration of that state of affairs.

2) After the obstacle has been removed, either party may obtain the commencement of the proceedings.

Accidental prevention of a party

§ 162

1) If a party is in military service in time of war or if he is in a place which is cut off from communication with the court in which the case is pending by order of the authorities, by war or by other events, and if at the same time there is the apprehension that these circumstances might influence the conduct of the case to the disadvantage of the absent party, If, at the same time, there is a concern that these circumstances may affect the conduct of the case to the disadvantage of the absent party, the proceedings may be suspended until the obstacle is removed, even if the absent party is represented by a person with power of attorney.

2) An application for such a decision shall be filed with the court before which the case is pending; it may also be filed for the record. The decision shall be rendered without prior oral proceedings; however, the court may initiate the investigations necessary for clarification prior to the decision.

3) The commencement of the interrupted proceedings may be requested by any of the parties.

Effect of the interruption

§ 163

1) The interruption of the proceedings shall have the effect that during the interruption summonses to the hearing of the case cannot be issued, any summonses issued earlier for the period after the occurrence of the interruption shall lose their effectiveness and finally the running of any time limit for the performance of a procedural act shall cease. With the commencement of the proceedings the full period shall start anew.

2) The procedural acts performed during the interruption by one party with regard to the pending litigation shall have no legal effect on the other party.

3) An interruption occurring after the conclusion of oral proceedings shall not prevent the pronouncement of the decision to be rendered on the basis of such proceedings.

Start of the interrupted procedure

§ 164

Unless otherwise provided for in the foregoing provisions, the commencement of interrupted proceedings shall be initiated by the request for the scheduling of a hearing or for the continuation of the hearing, but if the interruption occurred during the term for the performance of a procedural act, by the request for the setting of a new term for such procedural act. The expiry of the reason for interruption shall be substantiated. These provisions shall also apply in particular if a curator has been appointed for the estate of a party on account of his death within the meaning of Section 811 of the Austrian Civil Code or for other reasons; the request for inclusion in the proceedings may be filed not only by the curator but also by the opponent of the deceased party.

§ 165

1) The application required under section 164 for the commencement of proceedings shall be filed with the court before which the case was pending at the time of the occurrence of the ground for interruption.

2) The decision on the applications referred to in Section 164 shall be made without prior oral proceedings; however, the court may hear the opposing party prior to such decision if the expiry of the ground for interruption appears doubtful.

3) When a session is convened for the hearing on the application for admission (section 155), as well as in the resolutions by which an application for admission is submitted in accordance with

§§ If the request for admission filed under sections 158, 159, 161, 162 and 164 is granted or the proceedings are commenced ex officio, the parties shall be notified of the consequences in the event of failure to do so.

§ 166

1) In the cases provided for in Sections 156, 157 and 158 (3), the date on which the proceedings shall be deemed to be commenced shall be stated in the decision on the obligation to commence the proceedings, unless the proceedings on the merits were commenced immediately at the hearing on the request for commencement.

2) In all other cases, this date shall be determined by the court in the decision on the application for admission or in the resolution by which the proceedings are commenced ex officio.

§ 167

The foregoing provisions shall apply mutatis mutandis if, under the present law, an interruption of the proceedings must take place for reasons other than those specified in this title and nothing to the contrary has been ordered in this respect.

Suspension of the proceedings

§ 168

The parties may agree that the proceedings shall be suspended; such an agreement shall be effective only from the time when it has been notified to the court by both parties. The suspension of the proceedings shall have the legal effects of an interruption of the proceedings, with the exception that the running of emergency deadlines shall not be suspended. The suspension of the proceedings shall also have the consequence that the proceedings may not be commenced before the expiry of three months from the notification of the agreement reached.

§ 169

The proceedings shall be suspended until one of the parties requests that a hearing be convened or, if the proceedings have been discontinued during the period for taking a procedural step, that a new period for taking such procedural step be fixed. If this is done before the expiry of the three-month period (section 168) or of the time agreed between the parties for the suspension of the proceedings, the court shall reject the relevant application of its own motion or at the request of the opposing party without a hearing or declare the invalidity of the appointment of a hearing or the fixing of a time limit.

§ 170

If none of the parties appears at a hearing scheduled for oral proceedings, this shall, unless such absence is required under

the provisions of this Act without affecting the progress of the proceedings shall result in the suspension of the proceedings.

Appeals

§ 170a

Insofar as an appeal is admissible against the orders of the court made under this title (sections 155 et seq.) (section 483(1)), appeals against orders of the Regional Court shall be finally decided by the Higher Court to the exclusion of any further appeal.

Section 3 Oral Hearing

1. Title public

§ 171

1) The hearing before the adjudicating court, including the pronouncement of the court's decision, shall be public.

2) Only adult unarmed persons are admitted as audience. Persons who are obliged to carry a weapon by virtue of their public service may not be refused admission.

3) Minors who have not yet reached the age of 14 may be refused admission as audience members if their presence could endanger their personal development.

§ 172

1) The public shall be excluded if it appears to endanger morality or public order, or if there is a justified concern that the public hearing would be abused for the purpose of disrupting the proceedings or making it more difficult to establish the facts.

2) Furthermore, the court may exclude the public at the request of only one of the parties if facts of family life must be discussed and proven for the purpose of deciding the legal dispute.

3) The exclusion of the public may take place for the entire hearing or for individual parts thereof; it may in no case extend to the pronouncement of the judgment. Insofar as the public is excluded from a hearing, the public announcement of the content of the hearing shall be prohibited.

§ 173

1) The hearing on a motion to exclude the public shall be held in closed session.

2) The decision to exclude the public must be announced publicly. An appeal against such a decision of the Regional Court shall be finally decided by the Higher Court to the exclusion of any further appeal. If a request for exclusion of the public is clearly unfounded, the Regional Court may order the continuation of the proceedings without having to wait for its decision on this request to become final. There shall be no right of appeal against this order.

§ 174

1) If the public is excluded, each party may request that three persons of its confidence be permitted to be present at the hearing, in addition to its authorized representative.

2) The Provincial Administrator, the concept officials of the Principality and lawyers shall be allowed to enter despite the exclusion of the public, unless the public has been excluded for the reason stated in § 172, para. 2.

§ 175

1) The requirement that the hearing be open to the public shall not apply to the hearing or hearing of one or both parties required by the provisions of this Act prior to the adoption of a resolution on an application.

2) The hearing of parties, witnesses, experts and other persons outside of a hearing before the court hearing the case shall also be conducted in camera.

2. Title

Presentations of the parties and conduct of proceedings Presentations of the parties

§ 176

The parties shall hear the case orally before the court. The submission of preparatory pleadings shall be necessary only in the cases specifically referred to in this Act.

§ 177

1) After the case has been called, the parties shall be heard with their motions, with the factual submissions intended to substantiate them or to counter the opposing motions, as well as with their evidence and offers of evidence and with the legal submissions concerning the dispute (submissions of the parties). The reading of written submissions instead of oral submissions is inadmissible. § Section 76(2) shall apply mutatis mutandis.

2) Documents referred to in the presentations shall be read out only to the extent that the documents are not yet known to the court or to the opponent or to the extent that the literal content is relevant.

§ 178

1) In its submissions, each party shall fully and truthfully disclose all factual circumstances necessary in the individual case to substantiate its claims.

to state in a definite manner, to offer the evidence necessary to establish their statements, to declare with certainty the factual statements and evidence offered by their opponent, to state the results of the evidence taken and also to declare with certainty the relevant statements made by their opponent.

2) Each party shall make its submissions in a timely and complete manner so that the proceedings can be conducted as expeditiously as possible (duty to facilitate proceedings).

§ 179

1) The parties may submit new factual allegations and evidence relating to the subject matter of the hearing until the end of the hearing. However, such submissions may be rejected by the court upon application or ex officio if the new information and evidence were not submitted earlier due to gross negligence, in particular with regard to the discussion of the factual and legal submissions (Section 182a), and their admission would significantly delay the conclusion of the proceedings.

2) If the party's lawyer is also guilty of gross negligence in this respect, an administrative penalty may also be imposed on him. An appeal against such a decision of the Regional Court shall be finally decided by the Higher Court to the exclusion of any further legal action.

Process management

§ 180

1) The judge shall open, conduct and close the oral proceedings; he shall give the floor and may withdraw it from anyone who does not comply with his orders; he shall hear the persons who are required to testify for the purpose of giving evidence and shall announce the decisions of the court.

2) The judge shall ensure that the matter is discussed exhaustively, but that the hearing is not extended by prolixity and insignificant sidebars and, as far as possible, is brought to a conclusion without interruption.

§ 181

1) If the continuation of a hearing that has already begun must be postponed to a later hearing, the judge shall not only set the new hearing immediately, if this is possible, but at the same time make all orders ex officio that are necessary to be able to settle the dispute at the next hearing.

2) In particular, the parties may be ordered, within a period of time

The party shall, within a period of time to be determined at the same time, make submissions, deposit with the court the documents and objects to be used as evidence for inspection by the opposing party, and disclose the names and places of residence of witnesses to be heard. If the party agrees to such a

If a party grossly negligently fails to comply with this order and does not present the requested evidence until the continued oral proceedings, this presentation may be rejected by the court on application or ex officio if the continuation of the proceedings would be delayed by it; the omission may also be assessed within the meaning of Section 381.

§ 182

1) At the oral hearing, the judge shall, by means of questions or in another manner, endeavor to ensure that the factual information relevant for the decision is provided or that insufficient information on the circumstances asserted in support of or in opposition to the claim is completed, that the evidence for this information is designated or that the evidence offered is supplemented, and that in general all information is provided which appears necessary for the truthful determination of the facts of the rights and claims asserted by the parties.

2) If a party's submission differs from the contents of a preparatory pleading submitted by him or if the parties' submissions are inconsistent with other procedural documents to be considered ex officio, the judge shall draw attention to this. Likewise, he shall point out the doubts that exist with regard to the points to be taken into account ex officio.

§ 182a

The court shall discuss the factual and legal arguments of the parties with them. With the exception of ancillary claims, the court may base its decision on points of law which a party has recognizably overlooked or considered irrelevant only if it has discussed them with the parties (section 182) and given them the opportunity to comment.

§ 183

1) In order to fulfill the obligations incumbent upon the judge under section 182, the judge may, in particular:

1. require the parties to appear in person at the hearing;

2. order that the parties shall not disclose any documents in their possession on which one or other of them has relied, files, information

The court may also require the applicant to submit documents or eye-witness evidence, as well as family trees, plans, sketches and other drawings and compilations, and to leave them with the court for a certain period of time;

3. arrange for the production of documents deposited with a public authority or a notary public to which one of the parties has referred, information documents and objects of inspection;

4. order an inspection to be carried out with the participation of the parties and the examination by experts, and summon persons as witnesses from whom, according to the complaint or the course of the proceedings, clarification of material facts is to be expected.

2) However, such orders may not be made by the judge in respect of documents and witnesses if both parties declare themselves against them.

3) Such investigations may be ordered even before the beginning of the oral proceedings if it is to be feared that otherwise circumstances important for the decision could no longer be established or that evidence could no longer be used later or could only be used under considerably more difficult conditions.

§ 184

In order to clarify the facts of the case, each party may have questions put to the other party present or its representative by the judge or, with the judge's consent, may put questions directly to the other party himself/herself concerning all circumstances relevant to the subject matter of the legal dispute or the oral proceedings and, in particular, concerning the existence and nature of the documents, information items and objects of inspection useful for the conduct of the proceedings.

§ 185

1) If a party appearing at the hearing without a proxy is not capable of making a comprehensible statement on the subject matter of the dispute or the hearing, the judge shall extend the hearing for as short a time as possible and instruct the party concerned to appear at the new hearing with a suitable proxy, otherwise it shall be deemed to have failed to appear. A repeated extension of the hearing cannot take place for this reason.

2) The above provisions shall also apply mutatis mutandis if the representative of a party is incapable of making a comprehensible statement about the subject matter of the legal dispute or the oral proceedings.

and the party himself is not present. If such an obstacle arises with respect to the legal representative of a party, the judge shall at the same time give the necessary orders for the appointment of a suitable proxy.

§ 186

No separate appeal shall lie from decisions of the court made in accordance with sections 179(1) and 181(2).

§ 187

1) If several lawsuits are pending before a court, which are conducted between the same persons or in which the same person faces different plaintiffs or different defendants as opponents, these lawsuits may be combined for joint hearing by order of the court if their settlement is likely to be simplified or accelerated or if the costs of the conduct of the lawsuit are likely to be reduced.

2) However, only disputes between the same parties may be decided by a joint judgment.

§ 188

The court may order that several claims raised in the same action be heard separately. Likewise, a separate hearing may be ordered on the counterclaims asserted by the defendant.

§ 189

1) If several independent points of dispute arise in connection with the substantiation of or opposition to one and the same claim, or if several independent means of attack or defense are asserted in respect of the same claim, the court or tribunal may order that the hearing be limited initially to one or some of these points of dispute.

2) In particular, if the plea of lack of jurisdiction of the court, the pendency of the dispute or the final decision of a

If a plea is raised in a court case, the court may order that these pleas be heard separately first.

§ 190

1) If the decision of a lawsuit depends in whole or in part on the existence or non-existence of a legal relationship which is the subject of another pending lawsuit or which is to be determined in a pending administrative proceeding, the court may order that the

proceedings shall be suspended until a final decision has been rendered in respect of this legal relationship.

2) Such an interruption may be ordered by the court upon request also in the case of a dispute on the admissibility of a subsidiary intervention as well as if both parties are jointly sued for the claim raised by a third party on the subject matter of the litigation (section 16).

3) After the relevant lawsuit or administrative proceeding has been finally disposed of, the proceedings on the merits shall be commenced upon request or ex officio.

§ 191

1) If, in the course of a lawsuit, there is suspicion of a criminal act, the investigation and adjudication of which is likely to have a decisive influence on the decision of the lawsuit, the court may order that the lawsuit be suspended until the criminal proceedings have been completed.

2) Such an interruption may take place, in particular, if there are grounds for suspecting that a document important for the decision of the proceedings has been falsely prepared or falsified, or that a party examined on material facts or a witness or expert whose testimony the court would otherwise be likely to take into account in its decision has been guilty of making a false statement.

3) After the criminal proceedings have been finally disposed of, the interrupted proceedings on the merits shall be resumed upon application or ex officio.

§ 192

1) The court may, on application or of its own motion, set aside any order it has made concerning the separation, consolidation or interruption of the hearing or proceedings. The order may no longer be set aside if the court is bound by a judgment rendered by it or if the order has become the subject of a decision of a higher instance.

2) The orders issued under sections 187 to 191 may not be challenged by an appeal unless they order an interruption of the proceedings.

Conclusion of the hearing

§ 193

1) The judge shall declare the hearing closed if he/she considers the matter in dispute or the motion to be settled separately, on which the hearing is taking place, to be fully discussed and ready for decision on the basis of the evidence taken.

2) The hearing shall be considered as a whole until the announcement of its conclusion.

3) The hearing may also be declared closed prior to the taking of all admissible evidence if only the taking of individual items of evidence to be acted upon by a requested judge is still outstanding and either both parties waive the hearing on the result of this taking of evidence or the court considers such a hearing to be unnecessary. In this case, the court shall render its decision after receiving the files on the taking of evidence without ordering a new oral hearing.

§ 194

The court may order the reopening of a hearing which has already been closed if, for the purpose of reaching a decision, it appears necessary to clarify or supplement the submissions or to discuss the evidence of a fact which the court has not recognized as requiring evidence until after the conclusion of the hearing, or if, in the case referred to in Section 193 (3), the court considers a further hearing to be necessary after having examined the files on the taking of evidence in view of the results of the taking of evidence or of the statements made by the parties during the taking of evidence.

§ 195

The powers vested in the judge by sections 180 to 194 shall, in the proceedings at second and third instance, be vested in the presiding judge of the senate before which the hearing is held.

Notice of defects

§ 196

1) The violation of a provision regulating the procedure and in particular the form of a procedural act can no longer be asserted by the party entitled to file an appeal if the latter has entered into the further hearing of the case without objecting to this violation, although it was aware of it or should have been aware of it.

2) This provision shall not apply if a provision has been violated, compliance with which cannot be validly waived by a party.

3) If the complaint is made during an oral hearing and is submitted to the same

If the alleged violation is not remedied at the hearing, it shall be noted in the minutes.

3. Title Session Police

§ 197

The judge shall ensure that order is maintained during the oral proceedings. He is entitled to admonish persons who disturb the hearing by inappropriate behavior and to make the necessary orders to maintain order.

§ 198

1) Expressions of applause or disapproval are prohibited.

2) Any person who is guilty of disrupting the hearing despite being admonished may be removed from the hearing. The removal of a person taking part in the hearing may only take place after previous

The court shall issue a warning and a reminder of the legal consequences of such a measure.

3) In particular, the party must be made aware of the possibility that, as a result of his removal, a judgment by default may be rendered against him or that the judgment may be rendered in accordance with section 399.

4) If a person participating in the hearing has been removed, he or she may, upon request, be proceeded against in the same manner as if he or she had removed himself or herself voluntarily.

§ 199

1) A person who is guilty of gross impropriety during the hearing, in particular of insulting the court, a party, a representative, a witness or an expert, may, subject to criminal or disciplinary prosecution, be imposed an administrative fine of up to 50 francs.

2) A person who resists the orders of the court for the preservation of order and tranquility may be imprisoned for up to three days.

§ 200

1) If an attorney of record is guilty of disrupting the proceedings (§ 198) or of impropriety or insult (§ 199), he may be reprimanded or fined up to 100 francs by the court.

2) If the proxy continues his improper conduct or opposes the orders of the court made for the preservation of order and tranquility, he may be deprived of his right to speak by order of the court and, if necessary, the party may be requested to appoint another proxy; if this cannot be done immediately, the hearing shall be extended ex officio. The costs of the thwarted hearing and of the extension shall be borne by the party at fault.

3) Moreover, in case of aggravating circumstances, if the authorized representative is a lawyer or a candidate lawyer, the court may refer the matter to the competent disciplinary authority of the same.

§ 201

Resolutions adopted in accordance with the above provisions are immediately enforceable.

4. Title comparison

§ 202

At the hearing, the court may, in any situation of the case, upon request or ex officio, attempt an amicable settlement of the legal dispute or a settlement of individual points in dispute. If necessary, reference shall also be made to suitable institutions for the amicable resolution of conflicts.

§ 203

If a settlement is reached, its content shall be entered in the minutes of the hearing upon request.

§ 204

The extent to which the commencement or continuation of the hearing may be postponed due to settlement proposals or pending settlement negotiations shall be assessed in accordance with the provisions of Sections 128 and 134.

§ 205

1) In a court settlement, the recognition of a legal relationship or the assumption of the obligation to perform, tolerate or refrain from performing may be made dependent on the taking of an agreed oath. The oath may only relate to disputed facts.

2) The settlement must specify the hearing at which the oath is to be administered or the period within which the party subject to the oath must intervene to have this hearing determined. The taking of the oath shall take place before

the judge.

§ 206

At their request and at their expense, the parties shall be provided with copies of the minutes of the settlement or of the negotiation containing the settlement.

The court shall issue a copy of the record of the taking of the oath. Likewise, if an oath agreed by settlement has been taken, the party requesting it shall be given a copy of the record of the taking of the oath.

5. Title protocols

Negotiation protocols

§ 207

Minutes shall be taken of every oral hearing before the court. In addition to the records and information required by law, the minutes shall contain the following information:

1. the name of the court, the names of the judges, the secretary, and if an interpreter is consulted, the name of the interpreter; the time and place of the hearing and whether the hearing was held in public or the public was excluded;

2. the names of the parties and their representatives and a brief description of the subject matter of the dispute;

3. the designation of the persons who appeared at the hearing as parties or as their representatives or agents.

§ 208

1) By inclusion in the minutes of the hearing shall be established:

1. party declarations containing a limitation or amendment of the claim, an express acknowledgement of a debt or a part thereof or a waiver of the asserted claim or a part thereof or of legal remedies, as well as declarations on the requested examination of a party under oath;

2. motions made by the parties during the hearing which have not been granted by the court or which have not been withdrawn by the parties by the end of the hearing, insofar as they relate to the merits of the case or are relevant to the course or decision of the proceedings;

3. the judicial decisions rendered and announced at the hearing, as well as the orders and decrees of the judge against which an appeal is admissible.

2) The declarations and motions mentioned under items 1 and 2 may also be attached to the minutes as annexes in special documents. In this case, they shall not be recorded in the minutes.

3) The same shall apply with regard to the announced court decisions if they are attached to the minutes in written form at the same time as they are announced.

§ 209

1) In every record of oral proceedings, in addition to the information which generally indicates the course of the proceedings, the content of the arguments of both parties relating to the facts shall be recorded in a concise summary.

2) In addition, the minutes shall indicate the evidence offered by the parties in respect of disputed annexes.

3) The court may, upon request or ex officio, order that individual parts of the factual submissions or offers of evidence be recorded in greater detail in the minutes.

4) If a hearing cannot be completed in a single day, the matters raised during the hearing shall be specially recorded at each individual hearing.

§ 210

1) When stating the contents of the factual submissions and the offers of evidence, reference shall be made, as far as possible, to the preparatory pleadings as well as to the presentation of the facts in a copy of the decision on the taking of evidence; if preparatory pleadings are available, it shall be sufficient if all significant deviations from the oral submissions are recorded.

2) It is not permitted to record the individual party presentations. Draft minutes of the proceedings may not be accepted.

3) The refusal of the parties to participate in the act of recording shall not prevent the execution of the notarization.

§ 211

1) The recordkeeping required by section 209 may also be done in the manner,

that the judge, without undue delay after the conclusion of the party hearing, in counter-art to the parties (Section 210(3)), shall set out the facts resulting from their submissions in a clear summary and that this presentation shall be recorded, as far as possible, with reference to the contents of the case files (resumé record).

2) If the scope of the subject matter of the hearing or other circumstances make earlier recording appear necessary or expedient, such recording may also take place during the oral proceedings in such a way that the contents of individual sections of the hearing (sections 188, 189) are summarized and recorded.

§ 212

1) The recorded minutes shall be submitted to the parties for review or read out and signed by them. The parties shall be permitted, after the inspection or reading of the minutes, to draw attention to those points in which the statement of the contents of the proceedings contained in the minutes does not correspond to the actual course of the proceedings. Any correction of the contents of the minutes which appears necessary to the court shall be made by an appendix to the minutes. If, on the other hand, the statements of the parties are not taken into account, an objection may be lodged against the relevant statements in the minutes.

2) If, for this or any other reason, a party objects to individual statements in the minutes, it shall be noted in an appendix to the minutes that and which objections were raised against the minutes.

3) In the case of representation by a lawyer, the court may order that the objection be established by the submission of a short transcript to be attached to the minutes.

§ 213

1) If a party is unable to sign at all or can only sign by a show of hands, its name shall be appended to the minutes by the secretary.

2) If a party departs before the minutes have been taken or if he refuses to sign the minutes, these events as well as the reasons asserted by the party shall be stated in an annex to the minutes.

3) The minutes shall be signed by the judge, the secretary and any interpreter present at the hearing.

§ 214

No separate appeal shall be allowed against the decisions and orders of the judge concerning the recording of the minutes.

§ 215

1) In the absence of an express objection by a party, the minutes drawn up in accordance with the above provisions shall provide full evidence of the course and content of the hearing.

2) The observation of the formalities prescribed for the oral proceedings can only be proved by the minutes.

3) The probative value of the recorded certification shall not be affected by a change in the person of the judge.

Minutes taken outside a hearing

§ 216

1) The minutes, which are taken outside oral proceedings, shall contain, in addition to the information mentioned in § 207 and any findings to be made in accordance with § 208, a brief account of the official proceedings and a concise statement of the content of the factual submissions of the parties to the dispute or of third persons consulted.

2) The provisions of §§ 209 to 215 shall also apply to these Protocols. Protocol

content

§ 217

1) The content of the minutes of the hearing and its annexes, then the record taken in the course of a litigation by a requested judge-

The court shall, of its own motion, observe the minutes of the proceedings and their annexes that are available to the court hearing the case.

2) If the parties were not present at the official proceedings conducted by a requested judge, they shall, unless the provisions of Section 193 (3) apply, be given the opportunity before the decision to comment in oral proceedings on the results of the relevant official proceedings and the information contained in the files submitted.

6. Title files

§ 218

In support of its claims, each party may also refer to the documents submitted to it

at the instigation of

documents served on the opposing party. If these documents have been lost and there is no copy of them in the court, it may request the opponent to allow it to take copies of the relevant documents in its hands at its expense.

§ 219

1) The parties may inspect all files (case files) in the court relating to their case, with the exception of draft judgments and orders, minutes of deliberations and votes of the court and documents containing disciplinary orders, and may have copies and excerpts thereof provided at their expense. For the purpose of preparing their presentations, they shall in particular also be granted access to the minutes and files of preparatory proceedings.

2) With the consent of both parties, third parties may also inspect the documents in the same way and obtain copies and excerpts at their own expense, unless this conflicts with the overriding legitimate interests of another party or overriding public interests. In the absence of such consent, a third party may be permitted to inspect and make copies of the documents, provided that it can credibly demonstrate a legal interest. The court shall decide on appeals against the decision of the Regional Court regarding the inspection and copying permitted to a third party.

The Supreme Court shall make the final decision on all resolutions passed, excluding any further legal action.

3) Documents handed over to the court by a party shall be returned to that party upon its request if the purpose of their retention has ceased to exist.

7. Title penalties

§ 220

1) An administrative penalty may not exceed the amount of 1,000 Swiss francs, and a penalty for wantonness may not exceed the amount of 5,000 Swiss francs.

2) If a penalty of misdemeanor or willful misconduct imposed under this Act proves to be wholly or partially uncollectible, the court shall reassess it in cases worthy of consideration.

3) All penalties for disorder and wantonness shall flow to the country.

4) Appeals against decisions of the Regional Court imposing a penalty of misdemeanor or wanton punishment shall be finally decided by the Supreme Court to the exclusion of any further appeal.

8. Title Sunday rest and court vacations

§ 221

1) Sessions may not be held on Sundays or on Christmas Day. The scheduling of a hearing on another holiday is only permissible in case of imminent danger.

2) The days to be considered as holidays for the purposes of this Act shall be determined by ordinance.

§ 222

The judicial vacations last eight weeks. The beginning and end of the same shall be determined by decree, with six weeks to be scheduled during the summer and two weeks over the Christmas and New Year holidays.

§ 223

1) During the court vacations, sessions are held and decisions are rendered only in holiday cases.

2) The court vacations have no influence on the debt collection proceedings, the legal bidding proceedings and the executive proceedings including the hearing on the distribution of the highest bid.

§ 224

1) Holiday things are:

1. Bill of exchange disputes;

2. Lawsuits in which the continuation of a construction in progress is disputed;

3. disputes concerning the disturbance of the status of property and rights, if the claim is directed only to the protection and restoration of the last status of the property;

4. Disputes concerning termination, handover and takeover of leased or rented property, apartments or other premises;

5. Disputes arising from service and wage contracts between employers and servants or other persons under service contracts, between farmers and foresters and their agricultural and forestry laborers and day laborers, between mine owners and all other employers and the foremen, assistants, workers or apprentices employed by them, as well as disputes arising from the service relationship of the ship's crew;

6. Disputes between landlords, boatmen, raftsmen or wagoners on the one hand and

their guests, travelers or clients, on the other hand, about the obligations arising from their mutual relations;

7. all other disputes concerning pecuniary claims whose countervalue in money or monetary value does not exceed the amount of 5,000 Swiss francs;

8. Proceedings on motions for granting, limiting, or revoking temporary restraining orders;

9. Legal proceedings pursuant to Art. 49 et seq. of the Legal Security Ordinance;

10. the disputes referred to in Articles 18 to 20 of the Execution Code;

11. Proceedings in procedural assistance matters;

12. Procedures for preserving evidence;

13. Proceedings on reinstatement in the previous state;

14. Proceedings on the recusal of judges and other judicial orga- nies;

15. Proceedings on applications for the imposition or supplementation of a security for legal costs;

16. Proceedings in matrimonial and partnership cases (sections 516 et seq.);

17. Proceedings on actions under sections 628 and 629.

2) The court may also, from case to case, declare other matters to be in the nature of a temporary matter, provided they require prompt settlement. Such an order, as well as the rejection of the application to declare a matter as a temporary matter, may not be challenged by an appeal.

§ 225

1) The court vacations suspend the running of a time limit; the remaining part of the time limit starts to run at the end of the court vacations.

2) If the beginning of a term falls during the court vacations, the term shall begin to run at the end of the court vacations. The commencement and expiry of emergency periods in vacation periods is not affected by the commencement of court vacations.

2. Part

Proceedings before the court of first instance

1. Section Procedure until judgment

1. Title

Attempted settlement, lawsuit, first hearing and trial Legal advice by the judge

§ 226

1) The judge shall, if necessary, give the parties who are legally unacquainted and not represented by lawyers the necessary instructions for performing their procedural acts and shall inform them of the legal consequences associated with their acts or omissions.

2) In particular, when pronouncing his decisions, the judge shall draw the attention of such parties to the time limit within which a decision may be appealed and to the possibility that appeals may be made to the court.

Comparison test

§ 227

1) Any person intending to bring an action shall be entitled, before bringing the action, to apply to the Regional Court for the summons of the opposing party for a hearing and for the purpose of an attempted settlement if the opposing party is domiciled in Germany.

2) There shall be no right of appeal against the decision on such application.

§ 228

The service of the summons to the settlement trial does not have to be made to one's own hands.

§ 229

The party not appearing for the settlement attempt shall not be liable for any consequences of default; it cannot be compelled to appear by means of administrative penalties.

§ 230

1) If a settlement is reached, only this settlement shall be recorded, not also the submission which served to substantiate the claimant's original claim.

2) If a settlement cannot be reached at the hearing, the other party must consent to the immediate commencement of the hearing.

case must be entered into. If the opponent refuses to give his consent, an action must be brought in accordance with the rules.

§ 231

If the settlement negotiations are fruitless, the opposing party summoned to a settlement attempt shall not be entitled to immediate reimbursement of the costs incurred by him as a result of the summons. However, these costs shall be taken into account when deciding on the costs of the subsequently initiated proceedings.

Lawsuit

§ 232

1) The claim to be filed by means of a preparatory pleading shall contain a specific request, briefly and completely state the facts on which the claimant's claim is based in the main and in the ancillary matters, and also specify in detail the evidence which the claimant intends to use to prove his factual assertion at the hearing.

2) In all other respects, the general provisions on preliminary pleadings shall apply to the statement of claim.

§ 233

Several claims of the plaintiff against the same defendant may be asserted in the same action, even if they are not related in fact or in law, if the trial court is competent for all claims and the same type of proceedings is admissible.

§ 234

1) An action may be brought for a declaration of the existence or non-existence of a legal relationship or right, for recognition of the authenticity of a document or for a declaration of the falsity of the same, if the plaintiff has a legal interest in having that legal relationship or right or the falsity of the document established by a court decision as soon as possible.

2) Whoever has a right to obtain from another a remission of an unlawful conduct, refraining from a future unlawful

The customer may, unless otherwise provided, bring an action to enforce his or her rights in the event of a breach of contract, in particular in the case of contracts and unlawful acts.

§ 235

1) Already in the lawsuit, the request can be made:

1. That the defendant, at the time of the summons to the first hearing or at the subpoena

The court may order the plaintiff to bring to the hearing certain documents, information or objects in the possession of the defendant, which must be precisely specified and which appear to the plaintiff to be necessary for the presentation of evidence;

2. that the necessary measures are taken to ensure that the documents, information or objects of inspection, which are presumably necessary for the presentation of evidence and which are deposited with a public authority or with a notary public, and which are also to be specified precisely, are brought to the first hearing or to the oral proceedings in due time;

3. that the witnesses named to substantiate factual allegations in the complaint are summoned to the first hearing or to the oral hearing.

2) The application mentioned under No. 2 shall only be granted if the party is not able to obtain the relevant documents, information or objects of inspection according to the existing legal provisions without the cooperation of the court, or if their delivery has been unjustifiably refused by the authority or the notary.

3) With respect to evidence relating to matters other than those reserved for the first hearing, no ruling may be made at the time of the first hearing.

§ 236

The action as well as all requests, motions and communications to be made outside the oral proceedings may be made on the record by the parties if they are not represented by lawyers (Section 79).

§ 237

1) If, in the opinion of the judge, the complaint submitted in writing requires supplementation or clarification in any respect, or if there are doubts about the conduct of the proceedings, the judge shall, if the plaintiff is not represented by a lawyer, give the plaintiff the necessary instructions for such supplementation or clarification before disposing of the complaint.

2) If the action orally recorded appears to be inadmissible due to inadmissibility of the legal action, lack of jurisdiction of the court, lack of personal capacity to bring the action or lack of capacity of the defendant to bring the action, the plaintiff shall be informed thereof orally or, upon request, in writing. Likewise, if the action appears to be obviously unfounded, the plaintiff shall be given appropriate oral instructions. The commencement of the action may not

however, cannot be denied if the plaintiff insists on pro- tocolization despite being instructed to do so.

§ 238

If the court has no jurisdiction or the legal proceedings are inadmissible, the judge shall dismiss the action ex officio as unsuitable for the determination of the hearing.

§ 239

1) On certain court days, to be fixed in advance and announced by publication in the Official Gazette, the plaintiff and the opposing party may appear before the court without a summons in order to file and hear a lawsuit.

2) In this case, the claim shall be recorded in the minutes of the hearing.

Pendency of the dispute

§ 240

1) The pendency of the case (pendency of the action) is established by the delivery of the statement of claim to the defendant. Unless otherwise stipulated, the submission of the action to the court shall be sufficient to comply with a time limit and to interrupt the expiry of a time limit.

2) If a party raises a claim only in the course of the proceedings, the pendency of the dispute in respect of this claim shall arise at the time when the claim was raised at the oral proceedings.

§ 241

1) The pendency of an action shall have the effect that during its duration no new legal action may be brought in respect of the claim asserted. An action brought on the same claim during the pendency of the action shall be dismissed upon application or ex officio.

2) After the pendency of the dispute, the defendant may, if the other legal conditions of the venue of the counterclaim exist, file a counterclaim with the district court as long as the hearing in the first instance has not been closed.

§ 242

The alienation of a thing or claim caught in dispute shall have no effect on the pro-

The acquirer has no influence on the process. The acquirer is not entitled to enter the proceedings as the main party without the consent of the opposing party.

Complaint amendment

§ 243

1) The plaintiff shall always be entitled to amend the complaint submitted to the court and, in particular, to expand the claim before the pendency of the dispute.

2) After the commencement of the pendency of the claim, he shall require the consent of the opposing party for this purpose; such consent shall be assumed to exist if the defendant, without objecting to the amendment, negotiates the amended claim.

3) However, the court may allow such an amendment even after the case is pending and notwithstanding the objection of the opposing party, if the amendment is not likely to significantly complicate or delay the proceedings. The court shall decide on appeals against the decisions of the district court on the admission of an amendment of the action.

The Supreme Court shall make the final decision on such resolutions to the exclusion of all other legal proceedings.

4) It shall not be deemed to be an amendment of the claim if, without changing the cause of action, the factual data of the claim and the evidence offered therein are changed, supplemented, explained or corrected, or if, even if without changing the cause of action, the claim is limited as to the substance or as to incidental claims, or if another subject matter or interest is claimed instead of the subject matter originally claimed.

5) It is neither an amendment of the action nor an amendment of the party if the name of the party is corrected to that person by whom or against whom, according to the contents of the action, the claim has been raised in a manner which excludes any doubt, for instance by stating the name of his enterprise. Such correction shall be made at any stage of the proceedings upon request or ex officio, if necessary by applying sections 84 and 85.

Interim request for determination

§ 244

1) The plaintiff may, without the consent of the defendant, up to the end of the hearing on which the judgment is rendered, request that a legal relationship or right which has become disputed in the course of the proceedings and on the existence or non-existence of which the decision on the claim depends in whole or in part, be declared null and void.

The court shall be entitled to determine the extent to which the claim depends in part on the judgment rendered in the action or in a judgment preceding the action.

2) This provision shall not apply if the subject matter of the new application can be heard only in a special procedure exclusively prescribed for matters of this kind.

Withdrawal of the claim

§ 245

1) The action may be withdrawn without the consent of the defendant only until the beginning of the first hearing, but if the defendant does not appear at the first hearing, it may be withdrawn at the first hearing. If

the claim is waived at the same time, the action may be withdrawn without the consent of the defendant until the end of the oral proceedings.

2) The withdrawal of the action shall be effected by a written statement served on the defendant or by a declaration made at the oral proceedings.

3) Withdrawal of the action shall have the effect that the action shall be deemed not to have been brought and, unless the parties agree otherwise, the plaintiff shall reimburse the defendant for all costs of the action which the defendant has not already been finally ordered to pay. If the action is withdrawn at the hearing and the defendant is present, the application for reimbursement of costs shall be filed at the hearing, otherwise within an emergency period of four weeks after the court has notified the defendant of the withdrawal of the action. The application for the award of costs shall be served on the plaintiff within the emergency period of 14 days. The court shall decide on the application for the award of costs by an order.

4) The withdrawn action may be re-filed if the claim was not waived at the time of its withdrawal.

5) The aforementioned legal consequences shall also apply if an action is deemed to be withdrawn in accordance with the provisions of this Act.

First session

§ 246

1) As a rule, in all cases the first hearing shall be combined with the oral argument; however, the court may hold a separate first hearing.

Order session.

2) If the court combines the first hearing with the oral hearing of the dispute, the parties and their representatives shall ensure that the facts of the case and possible settlement options can be fully discussed at the first hearing designated for the hearing of the dispute. For this purpose, the party or, if the party cannot contribute to the clarification of the facts, an informed person shall be made available to assist the representative.

§ 247

1) The first hearing shall be scheduled with regard to the time expected to be required for service of the action so that there is a period of approximately 14 days between the service and the hearing.

2) If the defendant's whereabouts are unknown, the first hearing may, depending on the circumstances, be set at a more distant time, but in urgent cases, if the defendant is at the place of trial or can easily reach that place within a short time, the first hearing may, upon request, be set at a closer time and, if necessary, even at such a time that there is only a period of 24 hours between service and the hearing.

§ 248

The plaintiff shall be summoned by delivery of a copy of the decision on the action. In the summons, the plaintiff shall be informed of the disadvantages that the law associates with the failure to attend the hearing.

§ 249

The summons of the defendant shall be effected by delivery of a written copy of the decision on the action, together with a copy of the written action or a copy of the record of the action. If the written complaint is supplemented or corrected in the minutes, the defendant shall also be served with a copy of the minutes. In the summons, the defendant shall be informed of the disadvantages that the law attaches to the failure to attend the hearing.

§ 250

1) The first hearing shall be held for the purpose of attempting to reach a settlement, raising the objections of inadmissibility of legal proceedings, lack of jurisdiction of the court, pendency of the dispute and final decision of the court, as well as receiving the statement of the appointed attorney. In the

In addition, the application for security for the costs of the proceedings shall be filed at the first hearing; also, at the first hearing, the case may be settled by judgment on the basis of an acknowledgement or waiver or as a result of default, or it may be dismissed by the court.

Plaintiff's motion for leave to amend the complaint be attached.

2) The application for security for the costs of the proceedings or for permission to amend the claim, as well as the application for dismissal of the action filed by a party at the first hearing due to the incapacity of one of the parties to the proceedings or due to the lack of authorization of the person acting as representative, shall be heard and decided immediately at the first hearing. A discussion on the latter points or on a lack of jurisdiction of the court which cannot be eliminated by an express agreement of the parties may also be initiated ex officio at the first hearing and on the basis of this a decision on the termination of the proceedings may be made.

3) Everything else is excluded from the first session.

§ 251

1) The plea of lack of jurisdiction of the court must be filed at the first hearing.

2) The inadmissibility of the legal action, the pendency of the dispute and the res judicata of a judgment concerning the dispute shall be taken into account ex officio at any time.

§ 252

If at the first hearing, as a result of the declaration made by the appointed attorney, the parties agree on the attorney's taking over the case, the court shall, upon request, release the defendant from the conduct of the case by order at the same hearing.

§ 253

If the first hearing is extended because of a circumstance that prevents the defendant from appearing on time or from raising the defenses and filing the motions at the first hearing that the first hearing is designated to hear, the provisions governing the first hearing shall also apply to the extended hearing.

Oral dispute hearing

§ 254

If the case is not settled at the first hearing, the court shall schedule a hearing.

§ 255

1) The hearing shall be scheduled in such a way that the parties have at least 14 days from the service of the summons to prepare for the hearing.

2) In urgent cases, the court may order the hearing to be held earlier.

§ 256

Retrieved

§ 257

1) The parties may notify the court of the motions, pleas and defenses, allegations and evidence that they wish to submit at the hearing by means of a special preparatory statement in the period between the date of the hearing and its commencement.

2) During this period, the parties may also file motions within the meaning of the

§ Section 235 by pleading or on the court record.

3) The court shall issue such orders in this regard as it deems necessary without delay.

4) In legal disputes concerning the correctness of an invoice, a property settlement or similar circumstances in which a considerable number of disputed claims and counterclaims are to be heard, the court may order the parties, if both are represented by lawyers, to exchange preparatory pleadings, or a hearing of the parties may take place for the purpose of preparing the oral hearing.

5) An appeal against this decision is inadmissible.

6) If the parties fail to comply with the court's order to exchange preparatory pleadings or fail to appear at the scheduled court hearing, the judge shall immediately schedule a hearing.

7) The preparatory pleadings admissible under the preceding paragraphs must reach the court and the opposing party not later than one week before the next hearing scheduled for the oral argument.

§ 258

1) The hearing shall be conducted in accordance with the general rules governing oral proceedings; it shall also include the taking of evidence and the discussion of its results.

2) During the hearing, the defendant may, without the consent of the plaintiff, file a motion for declaratory judgment within the meaning of section 244.

§ 259

Even if the first day of the hearing is set, the defendant shall raise a plea of lack of jurisdiction of the court and a request for security for the costs of the proceedings before the court before entering into the hearing on the merits of the case.

§ 260

1) A party raising one of the defences referred to in section 250(1) shall not be entitled to refuse to enter a plea in the main proceedings on that ground. The court may order a separate hearing on such pleas even before the commencement of the oral proceedings.

2) The provisions of section 192 shall apply with respect to such orders.

3) If a party asserts the inadmissibility of the legal proceedings, the pendency of the dispute or the existence of a final decision on the claim only during the oral hearing, the court may order a separate hearing on such objections. Therefore, the party may not refuse further participation in the hearing on the merits of the case.

§ 261

1) Pleas and motions raised on the grounds of inadmissibility of the legal action, lack of jurisdiction of the court, lis pendens or res judicata shall be decided upon after an oral hearing. The decision shall be made by means of an order; however, if these pleas and applications were heard in connection with the merits of the case, the decision rejecting them shall not be issued separately but shall be included in the decision on the merits of the case.

2) If the objection or application is rejected at the hearing but on the basis of a separate hearing, the court may, after pronouncing its decision, on application or of its own motion, order that the hearing on the merits of the case be commenced immediately. In this

In such a case, the decision pronounced on the admissibility of the legal action, jurisdiction, pendency of the action or res judicata shall not be made out separately, but shall also be included in the decision rendered on the merits of the case. An appeal shall not be admissible against the order issued on the basis of the commencement of the hearing on the merits of the case.

3) If the decision on the admissibility of the legal action, jurisdiction, pendency of the dispute or res judicata is included in the decision on the merits of the case, it may be appealed only by means of an appeal against the decision on the merits of the case.

4) If one of the above-mentioned defenses or motions is rejected by a separate decision without immediately proceeding to the hearing of the main matter, either party may request that a hearing on the main matter be scheduled after the decision has become final.

5) The foregoing provisions shall also apply if the court, of its own motion, raises the question of the admissibility of the legal action, the pendency of the dispute or the res judicata effect of a decision rendered on the claim and makes it the subject of the oral proceedings.

§ 262

The oral proceedings may have to be concluded without extension.

Findings on record

§ 263

1) The judge may, upon request or ex officio, order that motions and statements to be included in the minutes of the hearing pursuant to sections 208 and 209 be written down and handed over to the judge by the party who filed the motion or made the statement if the party is represented by a lawyer at the hearing.

2) The minutes shall be taken immediately at the hearing. The documents submitted to the judge shall be attached to the minutes of the hearing as annexes.

3) The ordered written findings shall be read out; the court shall decide on their correctness.

4) The decision ordering such a written determination, as well as the decision on the correctness of a written determination, may not be appealed.

§ 264

1) If at a hearing it becomes necessary to issue a decision on evidence within the meaning of section 277 (3) and the hearing is not declared closed at the same hearing, the parties' submissions relating to the facts may not be recorded and their presentation may be reserved for the execution of the decision on evidence.

2) The parties shall be served with copies of the decision on evidence. Any incorrect information contained therein concerning the factual and evidentiary submissions of the parties may be objected to at the next oral hearing. The objection shall be recorded in the minutes of the hearing or in short minutes (section 212 subs. 2 and 3).

§ 265

1) If the oral proceedings are held and concluded at a hearing, it is possible to dispense with the recording of the party's submissions relating to the facts of the case and to record them in the minutes.

The court may reserve the right to make such statements in the record of the judgment. Only the circumstances and statements referred to in sections 207 and 208 shall then be recorded in the trial proceedings.

2) In this case, the copy of the judgment must be deposited in the court registry for inspection by the parties within three days after the conclusion of the hearing. Within three days after notification of the deposit, the parties may raise an objection against incorrect statements of the facts of the judgment or the evidence. The objection may be stated in the court record or by means of short minutes (§ 212 paras. 2 and 3).

3) As a result of an objection raised, the judge may amend the facts of the judgment accordingly.

2. Title

General provisions on evidence and the taking of evidence Evidence

§ 266

1) The facts alleged by a party do not require proof insofar as they are expressly admitted by the opponent in a preparatory pleading, in the course of the legal proceedings at an oral hearing or in the minutes of a requested judge. The acceptance of a confession of facts by the opposing party is not required for it to be effective.

2) The extent to which such a confession is invalidated or impaired in its effectiveness by additions and qualifications attached to it by the party, and what influence a revocation has on the effectiveness of the confession, shall be judged by the court in its discretion guided by careful consideration of all the circumstances.

3) In the same way, the court must assess the extent to which an extrajudicial confession eliminates the need for evidence.

§ 267

1) Whether factual assertions of a party are to be regarded as admitted in the absence of an express confession by the opponent, the

court to assess with careful consideration of the entire content of the opponent's submissions.

2) In the same way, the court has to assess in particular whether the declaration with ignorance or non-recollection is to be regarded as a declaration excluding the acceptance of a concession or as a declaration including a concession.

§ 268

If the decision depends on the evidence and imputation of a criminal act, the judge shall be bound by the content of a legally valid convicting decision of the criminal court.

§ 269

Facts which are obvious to the court do not require proof.

§ 270

Facts, the existence of which is presumed by law, do not require proof. Proof to the contrary is admissible unless the law excludes it. Such evidence to the contrary may also be adduced by questioning the parties in accordance with §§ 371 ff.

§ 271

1) The law, customary laws, privileges and statutes in force in another state require proof only insofar as they are unknown to the court.

2) In determining these legal norms, the court is not limited to the evidence offered by the parties; it may initiate all investigations it deems necessary for this purpose of its own motion.

§ 272

1) Unless otherwise provided for in this Act, the court shall, with careful consideration of the results of the entire hearing and taking of evidence, freely judge whether a factual statement is to be considered true or not.

2) In particular, it shall decide in the same manner what influence it has on the assessment of the case if a party refuses to answer questions put to it by the court or with its consent.

3) The circumstances and considerations that were decisive for the court's conviction shall be stated in the reasons for the decision.

§ 273

1) If it is established that a party is entitled to compensation for damage or interest or that he is otherwise entitled to a claim, but proof of the amount of the damage or interest to be compensated or of the claim cannot be furnished or can be furnished only with disproportionate difficulty, the court may, on application or of its own motion, determine the amount in accordance with its own conviction, disregarding any evidence offered by the party. The determination of the amount may also be preceded by the sworn examination of one of the parties on the circumstances relevant to the determination of the amount.

2) If, of several claims asserted in the same action, individual claims which are insignificant in relation to the total amount are in dispute and if the complete clarification of all circumstances relevant to them involves difficulties which are disproportionate to the significance of the claims in dispute, the court may decide on them in the same manner (para. 1) on the basis of its own conviction. The same shall apply to individual claims if the amount sought does not exceed 5,000 francs in each case.

Credibility (certification)

§ 274

1) Whoever has to make a factual assertion credible (certification) may use all means of evidence for this purpose with the exception of the sworn questioning of the parties. A taking of evidence which cannot be carried out immediately is not suitable for the purpose of establishing credibility.

2) The taking of evidence in order to establish the prima facie case shall not be subject to the special rules governing the taking of evidence.

Collection of evidence

§ 275

1) Evidence offered by the parties but which appears irrelevant to the court shall be expressly rejected.

2) The court may refuse to admit offered evidence upon request or ex officio if it is convinced that the evidence was not offered earlier due to gross negligence and that the admission of the evidence would significantly delay the completion of the proceedings.

§ 276

1) Evidence that the court deems relevant shall be taken during the hearing before the adjudicating court, unless the court, in accordance with the provisions of this Act, orders evidence to be taken outside the hearing.

2) If it becomes necessary for a requested judge to take evidence outside the hearing, the trial court shall make the necessary orders.

§ 277

1) The taking of evidence shall be ordered by resolution (evidence resolution). The order shall specify the facts in dispute about which evidence is to be taken and the means of evidence.

2) The court shall not be bound by the opinion on which a decision to take evidence is based in the further course of the legal proceedings.

3) Such decisions shall require a written copy only if the taking of evidence is to take place before a requested judge. In this case, the facts arising from the hearing shall also be included in the copy to the extent that knowledge of these facts is necessary for the judge to direct and fully conduct the taking of evidence.

4) No separate appeal shall lie against orders to take evidence.

§ 278

1) All evidence which cannot be taken immediately at the hearing itself and, in particular, which is to be taken outside the hearing by a requested judge shall, unless circumstances make another procedure necessary or appear expedient to the court, be ordered only after the facts of the case have been fully discussed and by means of one and the same evidence order.

2) For the purpose of discussing the results of such hearings of evidence, the hearing before the adjudicating court shall be resumed ex officio after their completion, unless the requirements of section 193 para. 3 are met. The new factual statements and offers of evidence made at this hearing may, upon application or ex officio, be declared inadmissible by order if the new submission is not prompted by the results of the taking of evidence which has taken place in the meantime and was not made earlier due to gross negligence and if the completion of the proceedings would be considerably delayed by it.

§ 279

1) If there is an obstacle of uncertain duration to the taking of evidence, if the feasibility of taking evidence is doubtful, or if the evidence is to be taken outside the area of application of this Act, the court shall, upon request, set a time limit in the order to take evidence, after the fruitless expiry of which the hearing shall be continued at the request of one of the parties without regard to the outstanding taking of evidence.

2) At the continued oral proceedings, this evidence can only be used if it does not delay the proceedings.

§ 280

1) The trial court may, upon request, permit the taking of evidence to be recorded by one or more sworn stenographers. A stenographer who is not generally qualified for this task shall be a

A court official who is sworn in must take an oath that he or she will faithfully record what is said orally and correctly transcribe what is recorded. The oath is not required if a court official is appointed as stenographer.

2) The appointment of the stenographers shall be made by the judge upon the proposal of the applicant.

3) The transcription of the stenographic record in ordinary writing shall be delivered to the judge within 48 hours of the recording and attached to the ac- tents.

4) If the stenographic record is not requested by both parties in agreement, the requesting party shall bear all costs incurred thereby without being entitled to claim reimbursement of such costs even in the event of its victory.

§ 281

If a hearing must be extended for the purpose of taking evidence before the adjudicating court, the hearing at which the evidence is to be taken shall at the same time be designated for the continuation of the oral proceedings.

§ 281a

If evidence of disputed facts has already been taken in a court proceeding, the record thereof or a written expert opinion may be used as evidence and a new taking of evidence may be refrained from if:

1. the parties were involved in these legal proceedings and

a) not one of the parties expressly requests the opposite or

b) the evidence is no longer available;

2. the parties who have not been involved in these legal proceedings to the expressly agree.

§ 282

If the taking of evidence must be performed by a requested judge and if the time of its completion cannot be determined with certainty, the hearing for the continuation of the oral proceedings before the adjudicating court shall be held after the receipt of the request for evidence.

The judge shall schedule the hearing and the minutes of the hearing ex officio and notify the parties thereof.

Taking of evidence by a requested judge

§ 283

1) Letters of request issued in connection with the taking of evidence which is to take place outside the territory to which this Act applies may, at the request of the person taking the evidence, be handed over to the requested authority for transmission.

2) At the request of the person furnishing evidence, the court may also permit the issuance of a letter of request to be dispensed with and authorize the person furnishing evidence to produce a public document on the taking of evidence in accordance with the laws of the territory in which the taking of evidence is to take place. The person furnishing evidence shall, if possible, notify the opponent of the time and place of the taking of evidence in sufficient time to enable the latter to exercise his rights at the taking of evidence in an appropriate manner. If no such notice is given, the court hearing the evidence shall, after careful consideration of all the facts, take the necessary steps to

circumstances to decide whether and to what extent the evidence provider was entitled to use the recorded evidence at the oral hearing.

3) In both cases, a time limit for the submission of the files on the taking of evidence shall be specified in the decision on the taking of evidence, the fruitless expiry of which shall entail the legal consequences specified in section 279.

4) Instead of hearing a witness, a party or an expert by way of a requested judge, the court may, to the extent technically possible, hold a hearing of evidence using technical equipment for the transmission of words and images.

§ 284

If the judge takes evidence in response to a request, he shall have the powers exercised by the judge in the course of taking evidence before the court.

§ 285

If, during the taking of evidence before the requested judge, a dispute arises on the resolution of which the continuation of the taking of evidence depends, but which the judge entrusted with the taking of evidence is not entitled to decide, he shall report to the trial court.

§ 286

1) The court shall examine the minutes and other files on the taking of evidence submitted by a requested judge and, if it finds any deficiencies, shall make the necessary improvements or completions. The files on the taking of evidence shall then be kept open for inspection by the parties, with simultaneous notification of the parties, until the next hearing scheduled for oral proceedings.

2) In the meantime, the party may request that individual deficiencies in the taking of evidence be remedied or that the taking of evidence be supplemented. The court shall issue any orders that may become necessary as a result without delay.

3) If it becomes necessary to supplement or repeat the taking of evidence only during the oral proceedings, the court shall make the appropriate orders. The court may also order that the supplement or repetition of the taking of evidence take place during the oral proceedings themselves.

§ 287

1) The judge shall present the result of the taking of evidence not before the adjudicating court at the appropriate time at the oral proceedings on the basis of the records and other files relating to this taking of evidence.

2) If, in the opinion of one of the parties, this presentation deviates in significant points from the content of the files, the evidence-taking protocols and the other files relating to the evidence-taking shall be read out in full at the request of the party.

3) The parties are at liberty to refer to the contents of the files on the taking of evidence in their submissions even before this presentation by the judge.

Procedure during the taking of evidence

§ 288

1) If the taking of evidence takes place before the court hearing the case, the judge who is responsible for taking the evidence shall, ex officio, take care of the summonses required for the purpose of taking evidence and of all other arrangements required for taking evidence. The latter shall also set the hearing for the taking of evidence ex officio.

2) The parties may bring the witnesses named by them or the persons whom they wish to name as witnesses to the court at the hearing or who they wish to propose as experts to the hearing before the adjudicating court even without prior court summons.

§ 289

1) The parties may be present at the taking of evidence; they may have the judge ask the witnesses and experts such questions or, with the judge's consent, ask them themselves as they consider useful for clarifying or completing the testimony and for clarifying the relationship in dispute or the circumstances essential to the probative value of the statements. Questions which appear inappropriate to the judge shall be rejected.

2) The taking of evidence shall proceed as far as this can be done according to the situation of the case, even if none of the notified parties has appeared. However, the court may allow the taking of evidence to be supplemented if the party can show that its non-appearance due to an unforeseen event resulted in a substantial incompleteness of the taking of evidence and if, at the same time, the supplementation of the taking of evidence can take place without a substantial delay of the legal proceedings.

§ 289a

Separate interrogation

1) If the subject matter of the civil proceedings has a factual connection with criminal proceedings, the participation of the parties to the proceedings and their representatives shall be required at the hearing of a person who is a victim within the meaning of Article 1 of the Victim Assistance Act.

The victim's right to participate in the questioning must be restricted to the victim's representative in such a way that the representative can follow the questioning using technical equipment for the transmission of words and images and can exercise his or her right to ask questions without being present during the questioning. If the victim is a minor, a suitable expert shall be entrusted with the questioning on the subject of the criminal proceedings.

2) The court may, upon request, hear a person in the manner described in par. 1 if the person to be heard cannot reasonably be expected to testify in the presence of the parties to the proceedings and their representatives in view of the subject matter of the evidence and the personal involvement.

3) No appeal shall be allowed against decisions under paragraphs 1 and 2.

§ 289b

Interrogation of minors

1) If the person to be questioned is a minor, the court may, upon application or ex officio, refrain from questioning him or her in its entirety or on individual subjects if the questioning would endanger the welfare of the minor, taking into account his or her mental maturity, the subject matter of the questioning and his or her close relationship to the parties to the proceedings.

2) The court may, upon application or ex officio, have the hearing conducted in the manner described in section 289a (1), if necessary also by a suitable expert, if the best interests of the minor would not be endangered by the hearing per se, but would be endangered by the hearing in the presence of the parties or their representatives, taking into account his or her mental maturity, the subject matter of the hearing and his or her close relationship to the parties to the proceedings.

3) If it is in the minor's interest, a person of his or her confidence shall be present at the hearing.

4) A separate appeal shall not be admissible against the decision under paragraph 1. No appeal shall be admissible against the decision under paragraph 2.

§ 290

The fact that the taking of evidence by a foreign authority is defective under the foreign laws shall not give rise to an objection against the same if the taking of evidence complies with the laws applicable to the trial court.

§ 291

1) A separate appeal shall not be admissible against decisions rejecting evidence offered or new factual statements and offers of evidence pursuant to section 278 (2), orders to take evidence or to issue letters of request for the purpose of taking evidence, nor against decisions rejecting questions of the parties during the taking of evidence, nor against decisions granting or excluding the use of evidence pursuant to section 279 (2) or refusing to supplement the taking of evidence requested pursuant to section 286 (2).

2) Decisions permitting the stenographic recording of the taking of evidence, ordering the evidence provider to issue a letter of request in accordance with section 283(1), or setting a time limit for the taking of evidence or for the submission of the files relating to the taking of evidence outside the area of application of this Act, as well as decisions ordering the supplementing or repetition of the taking of evidence, may not be challenged at all by way of an appeal.

3. Title

Evidence by documents Evidential value of documents

§ 292

1) Documents drawn up in the prescribed form within the area of application of this Act by a public authority within the limits of its official powers or by a person in public trust within the scope of business assigned to him (public documents) shall establish full proof of what is officially decreed or declared therein by the authority or witnessed by the authority or the person certifying the document. The same shall apply to documents which are issued outside the area of application of this Act but within the territory of the Federal Republic of Germany.

limits of their official powers have been established by such public bodies exercising official powers for the national territory.

2) Proof of the incorrectness of the testified event or the testified fact or the incorrect certification is admissible.

§ 293

1) Other documents that are declared to be public documents by special statutory provisions also have the same probative force.

2) Documents drawn up outside the area of application of this Act which are regarded as public documents at the place where they are drawn up shall, subject to reciprocity, also enjoy the force of public documents in the area of application of this Act if they are provided with the prescribed authentications.

3) Retrieved

§ 294

Private documents, provided that they are signed by the issuers or bear their signature certified by a court or a notary public, shall constitute full proof that the declarations contained therein originate from the issuers.

§ 295

1) The preconditions, duration and extent of the probative value of commercial books, diaries and contract notes of commercial brokers shall be assessed in accordance with the existing laws. Any necessary supplementation of the evidence may only take place through the means of evidence admissible under this law.

2) Commercial books kept outside the territory covered by this Act in accordance with the regulations in force at the place where the books are kept shall have no greater probative value and no longer duration than is accorded at that place to commercial books kept within the territory covered by this Act.

3) The extent to which a book kept on the operation of a business, trade or other commercial enterprise provides evidence with regard to its contents and the acts and transactions underlying the entries shall be assessed by the court in accordance with section 272.

§ 296

Whether and to what extent cross-outs, erasures and other erasures, inscriptions or other external defects of a document reduce its evidential value or nullify it altogether shall be decided by the court in accordance with Section 272.

Submission of evidence

§ 297

Documents on which a party relies to prove its claims shall be submitted to the court, unless the court itself is required by the provisions of this Act to obtain and produce the documents.

Presentation of the document by the evidence provider

§ 298

1) Documents shall be presented in such a way that the court and the other party may inspect the entire contents of the documents.

2) If only individual parts of a document relating to different legal relationships are in question, the court, after having inspected the entire contents of the document, may, upon application, order that the opponent be shown only those passages which are relevant to the legal relationship forming the subject matter of the dispute, except for the entry, the conclusion, the date and the signature.

3) The opponent of the person giving evidence shall be invited to give an explanation of the document presented.

§ 299

If the party has submitted only a copy of the document, it may be ordered to submit the original at the request of the other party or ex officio.

§ 300

Whether and to what extent, notwithstanding the failure to comply with this request, the copy produced is to be believed because of its certification, its age, its origin or for other reasons, shall be decided by the court at its discretion. In so doing, the reasons asserted for the failure to produce the original and the other circumstances of the individual case shall be carefully considered.

§ 301

1) The application to order the production of a document to be used as evidence which is held by a public authority or in the custody of a no- tary and whose delivery or production the party is unable to obtain by direct intervention may also be filed during the oral proceedings.

2) If this request is granted, the court shall make the appropriate orders for obtaining the document.

§ 302

After a document has been presented, the person providing evidence may waive this means of evidence only with the consent of the opposing party.

Presentation of the document by the opponent

§ 303

1) If a party claims that a document relevant to its evidence is in the hands of the opposing party, the court may, upon its request, order the opposing party to produce the document by order.

2) The party filing the application shall produce a copy of the document to be produced by the opponent or, if he is unable to do so, shall state the contents of the document as precisely and completely as possible as well as the facts which are to be proved by the document to be produced. Likewise, the circumstances which make the possession of the document on the part of the opposing party probable shall be stated.

3) If the application is filed outside the oral proceedings, the decision on the application shall be preceded by an oral or written hearing of the opposing party.

§ 304

1) The presentation of the certificate cannot be refused:

1. if the opponent himself has referred to the document for the purpose of providing evidence in the proceedings;

2. if the opponent is obliged under civil law to surrender or present the document;

3. if the content of the document is common to both parties.

2) A document shall be deemed to be joint in particular for the persons in whose interest it is drawn up or whose mutual legal relationships are recorded therein. Written negotiations on a legal transaction between the parties or between one of them and the joint mediator of the transaction shall also be deemed to be joint.

§ 305

The presentation of other documents may be refused:

1. if the content concerns matters of family life;

2. if the opponent would violate a duty of honor by presenting the document;

3. if the disclosure of the document to the party or third persons to the

would bring disgrace or risk criminal prosecution;

4. if, by presenting the document, the party would violate a state-recognized duty of confidentiality from which it has not been validly released, or an art or trade secret;

5. if there are other equally important reasons justifying the refusal to submit.

§ 306

If one of the grounds specified in § 305 concerns only individual parts of the contents of a document, a certified extract of the document shall be submitted.

§ 307

1) If the opponent denies possession of the document and the court considers the facts to be proved by the document significant and at the same time

the obligation to produce the document is deemed to exist, the examination and sworn hearing of the opposing party may be ordered by court order for the purpose of ascertaining whether the opposing party possesses the document or knows where it can be found, or whether the document has not been removed or rendered unfit for use by him or at his instigation in order to deprive the person giving evidence of it.

2) What influence it has on the assessment of the case if the opponent does not comply with the order to produce the document whose possession he has admitted, or if he refuses to be questioned or to give sworn testimony with respect to a document whose possession he denies, or if his testimony shows that the document has been deliberately removed or rendered unfit for use, shall remain for the court to decide, that the document has been deliberately destroyed or rendered unfit for use, whether in such cases in particular the statements of the person giving evidence as to the contents of the document are to be regarded as proven, shall be left to the discretion of the court, guided by a careful appraisal of all the circumstances.

Presentation of the document by a third party

§ 308

1) If a document required as evidence is in the hands of a third party who is obliged to surrender and produce the document under the provisions of civil law or because its content is common to the person giving evidence and the third party (section 304), the latter may, at the request of the person giving evidence, be ordered by the trial court by way of an order to deposit the document at the expense of the person giving evidence with the trial court within a period to be determined at the same time for use at the oral proceedings.

2) The trial court shall decide on such an application after hearing the opposing party and the alleged third party possessor of the document; if the latter denies possession of the document, the application may be granted only if the party making the application proves to the satisfaction of the court that the document is in the hands of the third party. For the purpose of hearing the parties, a special hearing may be ordered by the trial court. The higher court shall make a final decision on an appeal against the order of the regional court, excluding any further legal action. The order shall be enforceable after it has become final and after the expiry of the period for submission ordered.

3) If the application is rejected, the alleged owner of the document shall be reimbursed at his request for the necessary costs incurred by him as a result of the proceedings.

§ 309

1) If the alleged owner of the document must be required by way of action to surrender and produce the document because it cannot be plausibly shown that the document is in his hands or because the decision on the existence of the obligation to surrender and produce the document requires the prior investigation and establishment of disputed facts, if the trial court considers the facts to be proved by the document to be relevant, it may, on application, order that the continuation of the oral proceedings be postponed until after the expiry of the period to be fixed at the same time for the person furnishing proof to produce the document (Section 279).

2) However, the opposing party may request the continuation of the hearing before the expiry of this period if the action of the party providing evidence against the third party is settled earlier or if the party providing evidence delays the filing of the action or the prosecution of the action or the execution.

3) The presentation of the document shall be at the expense of the person providing the evidence.

Proof of authenticity

§ 310

1) Documents that are public documents in terms of form and content are presumed to be authentic.

2) If the court considers the authenticity to be doubtful, it may, on application or ex officio, cause the authority or the person by whom the document is said to have been drawn up to make a declaration as to its authenticity. If the doubt as to the authenticity of the document cannot be removed in this way, the burden of proving its authenticity shall lie with the person who intends to use the document as evidence.

§ 311

Whether a document which purports to have been issued by a foreign authority or by a person of foreign public trust

The court has to judge according to the circumstances of the case whether a document, which is erected on the basis of a certificate, is to be regarded as genuine without further proof.

§ 312

1) The authenticity of a private document shall be deemed to be undisputed if the opposing party has failed to declare the authenticity of the document, unless the intention to dispute the authenticity is evident from the opposing party's other declarations. If the document bears a signature in the person's name, the opponent of the person giving evidence must also declare the authenticity of the signature with the same legal consequence.

2) The contested authenticity of a private document or of a name signature on it must be proved by the person who wishes to use the document as evidence.

§ 313

A party who has willfully disputed the authenticity of a document shall be subject to a willfulness penalty.

Scripture Comparison

§ 314

1) Proof of the authenticity or falsity of a document can also be provided by written comparison.

2) Only documents whose authenticity is undisputed or can be proven without considerable delay may be used as comparative documents.

3) The provisions of this Act on the presentation of documentary evidence shall also apply with regard to the presentation of settlement documents.

4) If there is a lack of sufficient settlement documents, the party on whose handwriting the proof of authenticity is to be established may be ordered to write down a number of words to be indicated by him in court or before a requested judge.

5) The written record shall be attached to the minutes of the hearing. What influence does it have on the production of the evidence, if the party

If a person does not comply with such a judicial request or writes with obviously distorted handwriting, it is left to the judge's discretion.

§ 315

1) The court may compare the handwritings itself or, if it has doubts, obtain the opinion of experts.

2) The court shall decide on the result of the comparison of the writs on the basis of its own conviction.

Judicial preservation of documents

§ 316

Documents whose authenticity is disputed or whose content is alleged to have been altered may be retained by the court until the case has been finally disposed of, unless their delivery to another authority is required in the interest of public order.

Renewal of certificates

§ 317

1) If a private document becomes illegible or defective, its owner or any other party may request the issuer of the document to renew it in court at the applicant's expense. For this purpose, all persons shall be summoned against whom the document is to serve as evidence according to the situation of the case.

2) In case of refusal, the issuer may be required to renew the certificate only by legal action.

Information matters

§ 318

1) To what extent monuments, boundary signs, markers, calibration and home stakes and similar signs or notched or tensioned timbers, which the parties have demonstrably used for their traffic, provide evidence, is to be assessed by the court after careful consideration of all the circumstances.

2) The provisions of sections 303 to 309 shall also apply mutatis mutandis to the presentation of information matters.

§ 319

1) There shall be no right of appeal against the court decisions, orders and instructions issued pursuant to Sections 298, 299, 301, 309 paras. 1 and 2, 310, 314 and 315.

2) The resolutions adopted pursuant to sections 303, 307 and 316 may not be challenged by a separate appeal.

4. Title Evidence by witnesses

Inadmissibility and refusal of the testimony

§ 320

The following may not be examined as witnesses:

1. Persons who are incapable of communicating their perceptions or who were incapable of perceiving the fact to be proven at the time to which their testimony is to relate;

2. clergy in respect of what has been confided to them in confession or otherwise under the seal of official spiritual secrecy;

3. State officials, if by their testimony they would violate the official secrecy incumbent upon them, insofar as they are not released from the duty of secrecy by their superiors;

4. Mediators under the Civil Law Mediation Act in respect of what has been entrusted or otherwise disclosed to them in the course of mediation.

§ 321

1) A witness may refuse to testify:

1. about questions, the answer to which must be given to the witness, his spouse, his registered partner, his de facto life partner or a person to whom the witness is related in a straight line or in a collateral line up to the second degree or to whom he is related by adoption, furthermore to his foster parents and foster children.

The court shall be informed of any action that would be disgraceful to the person concerned or to his guardian or ward or would entail the risk of criminal prosecution;

2. on questions the answers to which are to be given to the witness or to one of the persons referred to in para.

1 would cause a direct pecuniary disadvantage to the persons designated;

3. with respect to facts about which the witness would not be able to testify without violating a state-recognized duty of confidentiality incumbent upon him, unless he has been validly released from such duty;

4. with regard to what has been entrusted to the witness by his party in his capacity as a lawyer or notary;

5. about questions that the witness would not be able to answer without disclosing an art or trade secret.

2) In the cases specified under items 1 and 2, the testimony may be refused with regard to the relatives specified therein even if the marital relationship on which the relationship is based no longer exists.

§ 322

The witness shall be permitted to testify about the establishment and content of legal transactions in which the witness has been involved as a witness, about facts concerning property matters arising from the marriage, partnership or family relationship, about births, marriages, the establishment of registered partnerships or deaths of the relatives referred to in § 321 No. 1. 1, and finally about acts which the witness has performed in relation to the legal relationship in dispute as predecessor in title or representative of one of the parties, the witness may not be refused to testify on account of a pecuniary disadvantage to be feared.

§ 323

1) A witness who wishes to refuse to testify in whole or in part shall state the reasons for his refusal orally or in writing before the hearing appointed for his examination or at the hearing itself and, if there is an objection, shall establish his credibility.

2) In the former case, such a submission of the witness shall be made known to the parties, if possible, before the hearing.

§ 324

1) The court shall decide on the legitimacy of the refusal by means of an order. Before making the decision, the court may hear the parties.

2) If the witness has explained his or her refusal in writing or on the court record, his or her submission shall be taken into account in the decision even if he or she does not appear at the hearing scheduled for his or her examination.

§ 325

1) If the witness refuses to testify without giving reasons or if the witness persists in his refusal even after it has been recognized as unjustified, or if he refuses to take the required oath, the witness may be compelled to testify ex officio by means of fines or by imprisonment by way of execution permissible to compel an act. Imprisonment may not extend beyond the time of termination of the trial.

of the instance may be extended and in no case exceed the duration of six weeks.

2) The decision to proceed with execution against the witness, as well as the order of the individual means of coercion, shall be incumbent upon the recognizing court, but if the examination is to be conducted by a requested judge, it shall be incumbent upon the latter. The witness shall be heard before the decision is taken.

§ 326

1) The decision as to whether and in what way the progress of the proceedings on the merits is influenced by the unjustified refusal to testify, to take the oath as a witness or by the coercive measures taken against the witness for this reason shall be made by the court hearing the case. The requested judge shall therefore inform the trial court of such incidents at any time without delay. The decision of the recognizing court may be made without a prior oral hearing.

2) In all cases of unjustified refusal, the witness shall be liable to both parties for the damage caused to them by the prevention or delay of the taking of evidence; in particular, he shall also be obliged to reimburse all costs condemned by his refusal.

3) If the refusal of the witness was willful, a penalty for willfulness shall also be imposed on the witness. The decision on the obligation to reimburse costs shall be made by the adjudicating court; the requested judge shall also be entitled to impose a penalty for wantonness.

Appreciation of the testimony

§ 327

All circumstances that have an influence on the impartiality of the witness and the credibility of his testimony shall be carefully assessed by the court in its own discretion.

Taking of evidence by the requested judge

§ 328

1) The taking of the witness evidence may be done by a requested judge:

1. if the examination of the witness on the spot is necessary for the determination of the truth.

tiveness appears to be conducive;

2. if the taking of evidence before the adjudicating court causes considerable difficulties.

would be subject to difficulties;

3. if the examination of the witness before the adjudicating court would cause a disproportionate effort with regard to the compensation to be granted to the witness for loss of time and the costs of travel and stay at the place of examination to be reimbursed to him;

4. if the witness is prevented from appearing before the recognizing court is.

2) A witness who, due to illness, infirmity or other reasons, is unable to leave his home for the purpose of being examined, or who, due to existing orders, is not obliged to appear at the court house to give testimony in civil law matters, shall be examined at his home.

3) Members of the Princely House may not be summoned as witnesses before the court. If their examination is necessary, the court shall demand a written statement from them.

4) Notwithstanding the circumstances referred to in para. 1 subpara. 3, witnesses shall, upon request, be summoned to appear before the recognizing court if a party agrees to bear the expenses involved, to the extent that they exceed the costs of taking evidence by the requested judge, without being entitled to compensation. The judge may order the party making the request to advance an amount to be determined by him within a specified period to cover such expenses (section 332(2)).

Subpoena

§ 329

1) The subpoena of a witness shall be issued by the court.

2) The summons shall contain, in addition to the names of the parties and a brief description of the subject matter of the examination, an invitation to appear for the purpose of giving testimony at the hearing to be fixed at the same time and place. The summons shall state the legal provisions on witness fees and the legal consequences of failure to appear.

§ 330

Summonses to independent commanders of the gendarmerie and the security guard shall be served directly on the commanders. Summonses to other members of these bodies shall be requested from their superiors.

§ 331

1) If the person to be summoned as a witness is in a public office or service and it is likely that a deputy will have to act in order to safeguard safety or other public interests while this person is prevented from attending, his or her immediate superior must be notified of the summons issued at the same time.

2) This provision shall also apply when an employee or servant of a transportation facility operated by mechanical engines, a mining
The following persons are to be summoned to attend the meeting: the employees of the forestry, metallurgical or rolling mills, or a person in private forestry service.

§ 332

1) If a witness is expected to be paid a fee, the judge may order the person providing the evidence to advance an amount within a specified period of time to cover the expenses incurred in examining the witness.

2) If the summons is not issued in time, it may not be issued and the hearing may be continued at the request of the opposing party without regard to the pending taking of evidence (section 279).

Consequences of the absence

§ 333

1) If a witness who has been duly summoned fails to appear at the hearing without sufficient excuse, the judge shall order him to pay all costs incurred by his failure to appear; in addition, the witness shall be summoned again and an administrative penalty shall be imposed. In the case of repeated absence, the administrative penalty shall be doubled within the statutory limits and the compulsory production of the witness shall be ordered.

2) If a sufficient excuse for non-appearance is subsequently given, the administrative penalties imposed on the witness shall be revoked; in addition, the costs imposed on the witness for compensation may be waived in whole or in part.

3) If one of the persons referred to in section 330 does not comply with the summons, the judge conducting the taking of evidence shall apply to his superior for the order of punishment and for the production of the witness.

4) Moreover, the disobedient witness shall be liable for all damages caused to the parties by the

The damage caused by the impediment or delay of the presentation of evidence.

§ 333a

A witness shall be excused by law if he or she is temporarily prevented from performing his or her official duties in the service of the state or as a head of a municipal authority.

§ 334

The determination of the costs to be reimbursed by the witness in the cases under Sections 326 and 333 must be applied for within eight days after the decision by which the witness was obliged to reimburse costs has become final, submitting the list of costs, otherwise the costs shall be excluded.

§ 335

1) If the examination of a witness has been attempted in vain and it is to be concerned that repetitions of the attempt would lead to a new delay of the trial, the recognizing court shall, upon request, set a time limit for this taking of evidence, after the fruitless expiration of which the trial shall be continued at the request of one of the parties without regard to the evidence offered by means of this witness. The determination of the time limit shall also be incumbent upon the recognizing court if the examination of the witness is to be conducted by a requested judge. Before the decision on the application the opponent of the applicant shall be heard.

2) With regard to the subsequent examination of the witness, the provisions of Section 279(2) shall apply.

Interrogation

§ 336

1) Witnesses who have been convicted of false testimony or false oaths, or who have not yet reached the age of fourteen at the time of their examination, or persons who do not have a sufficient understanding of the nature and meaning of the oath due to lack of maturity or weakness of mind, may not be sworn.

2) Similarly, the court may omit the swearing in of a witness if both parties waive the swearing in.

3) Unlawful refusal to take the oath shall entail the same consequences as unjustified refusal to testify.

4) The judge shall remind the witness who is obliged to swear in an appropriate manner of the sacredness of the oath, of the importance of the oath for the legal order, of the penalties for perjury, and shall instruct the witness to take the oath without reservation or ambiguity.

5) Witnesses shall swear a pure oath by God Almighty and Omniscient that they will testify to the pure and full truth and nothing but the truth about everything they are questioned about by the court, so help them God.

6) Christians have to raise the thumb and the first two fingers of the right hand and take the oath in front of a crucifix and two burning candles. Members of the Helvetic confession swear without a crucifix and candles.

7) Jews are required to cover their heads and place their right hands on the Torah, 2nd Book of Moses, 20th chapter, 7th verse, when taking the oath.

§ 337

1) The witness shall be sworn before being interrogated. However, in order to clarify the personal circumstances of the witness, the admissibility of his being heard or sworn and whether he is able to give testimony useful for the investigation of the facts, the witness may be questioned before being sworn.

2) On the basis of this questioning, the court, after hearing the parties, may decide that the hearing of the witness is not to take place, or it may reserve the right to decide on the swearing in of the witness only after the hearing of the witness has taken place. The requested judge must in any case hear the witness; he may, however, postpone the decision on the swearing in of the witness until after the hearing has taken place or reserve the same for the recognizing court.

3) If a witness does not refrain from answering questions in respect of which he or she would be entitled to refuse to testify in accordance with § 321 items 1 and 2, the recognizing court or the requested judge conducting the examination may likewise reserve the right to decide on the taking of the oath only after the witness has been heard.

§ 338

1) In all cases in which a decision on the swearing-in of a witness is to be made only after the witness has been heard, the witness shall be reminded before the hearing of the duty to state the truth, of the sacredness and significance of the reserved oath, and of the penal consequences of false testimony.

2) After the testimony has been given, the recognizing court or the requested judge conducting the hearing may declare that the testimony shall not be sworn, in view of the irrelevance of the testimony or the low degree of credibility accorded to it.

3) If the hearing was conducted by a requested judge, the recognizing court may order the subsequent swearing-in of unsworn testimony after it has been received.

§ 339

1) Witnesses shall be informed prior to their examination about which questions a witness may refuse to testify (Section 321).

2) The witnesses shall be heard individually in the absence of the witnesses to be heard later. The order in which the hearing is to take place shall be determined by the judge.

3) Before the end of the examination of all the witnesses summoned, none of them may leave without the permission of the judge.

4) Witnesses whose statements differ from each other can be contrasted.

§ 340

1) The questioning shall begin with the witness being asked his or her name, age, occupation and place of residence. If the requirements of Section 76(2) are met, the witness shall not be questioned about his place of residence. If necessary, the witness shall also be asked questions about circumstances relating to his credibility in the matter at hand, in particular about his relations with the parties.

2) At the hearing, the judge shall ask the witness appropriate questions about the facts to be proved by the witness's testimony and about the reason for the witness's knowledge.

§ 341

1) The provisions of Section 289 shall apply to the participation of the parties in the examination of witnesses.

2) In respect of those persons who, as a result of existing orders, are not obliged to give testimony in

The right of the parties to appear before the court in civil law matters shall be ensured by timely notification of written questions to the court.

exercise.

§ 342

If the court finds that a question asked during a hearing before a requested judge was inadmissible, it may declare that the answer given to that question shall be disregarded in the further course of the proceedings.

§ 343

1) The testimony of the witness shall be recorded according to its essential content, but if it appears necessary, according to its wording in the minutes kept of the hearing. If the witness was heard in a hearing, this recording shall be made in the minutes of the hearing.

2) The recorded material shall be presented to the witness and the parties present at the hearing for inspection or read out upon request.

3) The minutes shall state whether the witness was sworn before or after his examination, whether he was not sworn or whether his swearing was reserved for the decision of the court hearing the case, whether the parties and which of them were present at the hearing, and finally whether and what objections were raised by the parties or the witness against the minutes.

§ 344

1) The court may, upon request or of its own motion, order the repeated examination of witnesses, in particular, if it deems inadmissible the refusal to testify or to answer individual questions that the requested judge has found justified, if witnesses have not been examined properly or completely, if the testimony suffers from ambiguity, vagueness or ambiguity with respect to essential points, or if the witnesses themselves deem it necessary to supplement or correct their testimony.

2) In the case of repeated or subsequent examination, it may be ordered that, instead of being sworn again, the witness shall confirm the correctness of

to assure his testimony with reference to the oath taken earlier.

§ 345

The party may waive a witness whom he has proposed. However, the opposing party may demand that the witness, if he has already appeared for examination, be examined notwithstanding this waiver, or that his examination be continued if it has already begun.

Witness fees

§ 346

1) Each witness shall be entitled to reimbursement of the necessary expenses incurred in traveling to the place of examination, staying there and returning.

2) Compensation for loss of time can only be claimed from a witness if this loss of time causes him a serious loss of his daily income.

3) The witness shall assert the right to remuneration immediately after his examination in case of loss of such right.

4) At the request of the witness, the judge may order that the witness be paid an advance sufficient to cover the cost of the journey to the court.

§ 347

The court shall decide on the remuneration to be paid to the witnesses. The decision may not be appealed.

Attachment form

§ 348

Notifications, requests and objections of a witness may be made outside the hearing by means of a written statement or orally on the record.

Appeals

§ 349

1) There shall be no separate appeal against the decision on the lawfulness of the refusal to testify, to take the oath or to answer individual questions, against the decision not to hear a witness pursuant to section 337, or against the decisions and orders made pursuant to sections 339 to 342.

2) The decision of the adjudicating court on the progress of the proceedings in case of refusal of a witness to testify or to take an oath, as well as on the continuation of the trial in the cases provided for in sections 332 and 335, the orders by which the summons of a witness or his production is ordered or by which a time limit is fixed for the payment of an advance for the remuneration to be granted to the witness (section 332), the orders by which the performance of the testimony or the taking of an oath by a witness is

(Section 346), as well as the decisions taken on the examination of a witness may not be challenged by an appeal.

3) Insofar as an appeal is admissible under the preceding paragraphs against a decision rendered under this title (§§ 320 et seq.), the Supreme Court shall decide on appeals against decisions of the Regional Court with finality and to the exclusion of any further legal action.

Expert witnesses

§ 350

The provisions on the evidence of witnesses shall also apply insofar as such competent persons are to be examined as evidence of past facts or conditions for the perception of which special expertise was required.

5. Title

Evidence by experts Appointment of

experts

1) If the taking of evidence by experts becomes necessary, the adjudicating court shall appoint one or more experts immediately after the parties have agreed on their identity. In this connection, unless special circumstances make otherwise necessary, consideration shall be given in particular to the experts publicly appointed for expert opinions of the required kind.

2) The court may appoint others in place of the expert or experts first appointed.

§ 352

1) If an object to be inspected by experts cannot be brought before the recognizing court or if the expert evidence must be taken abroad for other reasons, it shall be taken by a requested judge.

2) In this case, the determination of the number of experts as well as the selection of the experts may be left to the judge entrusted with the taking of evidence; furthermore, the selection may be made without prior hearing of the parties if this appears to be expedient in order to avoid delays or disproportionate effort.

§ 353

1) The appointment of an expert shall be obeyed by the person who is required to

The expert must be publicly appointed to provide expert opinions of the required type or who publicly practices the science, art or trade, the knowledge of which is a prerequisite for the required expert opinion, or who is publicly employed or authorized to practice such science, art or trade.

2) For the same reasons that entitle a witness to refuse to testify, removal from appointment as an expert may be requested.

3) Public officials shall also be dismissed if their use as experts is prohibited by their superiors for official reasons or if they are relieved of their duty to be used as experts by special orders.

Consequences of non-appearance and refusal

§ 354

1) If an expert appointed to give an expert opinion refuses to give the opinion without sufficient reason, fails to give the opinion within the time limit fixed without sufficient excuse, or fails to appear at the hearing for the taking of evidence without sufficient excuse in spite of being duly summoned, he shall be ordered by decision to pay the costs incurred by his refusal or his failure to appear; In addition, the expert shall be liable to a fine or, if he wilfully refuses to give his opinion, to a fine for wilful misconduct. With respect to these decisions, the provisions of the

§§ Sections 326, 333 and 334 shall apply mutatis mutandis.

2) Another expert may be appointed in place of the disobedient expert.

3) The disobedient Expert shall be liable, in addition to the reimbursement of costs, for all further damage caused to the parties by the impediment or delay of the presentation of evidence for which he is responsible.

Rejection

§ 355

1) Experts may be challenged on the same grounds as those on which a judge may be challenged; however, the challenge may not be based on the fact that the expert was previously examined as a witness in the same case. A challenge may also be based on the existence of sufficient grounds for doubting the impartiality of the expert.

2) The declaration of refusal shall be filed with the trial court, but if the selection of the expert was left to the requested judge, it shall be filed with the latter.

3) If the taking of evidence by a requested judge has already ended, the objection may be raised only with the trial court.

1) The reasons for the challenge shall be stated at the same time as the challenge. The decision on the challenge shall be incumbent on the recognizing court or the requested judge, as the case may be, depending on whether the challenge was made on the basis of

§ 355 was attached to the former or the latter.

2) If the objection is not raised at a hearing, the decision shall be rendered without prior oral proceedings. At the request of the court, the refusing party shall, prior to the decision, substantiate the reasons given by it for the refusal. If the rejection is upheld, the appointment of another expert shall be made without delay.

Collection of evidence

§ 357

1) The adjudicating court may also order a written expert opinion. In doing so, the court shall set a reasonable time limit for the expert to provide the written expert opinion. If it is not possible for the expert to comply with the time limit set by the court, he shall inform the court within 14 days of the service of the order and state whether it is possible for him to provide the expert opinion at all and within what time limit. The court may extend the time limit for the expert.

2) If the written expert opinion is ordered, the experts are obliged to give oral explanations about the written expert opinion upon request or to explain it at the oral hearing.

§ 358

1) Each expert shall take an oath before the commencement of the taking of evidence that he will give the findings and his expert opinion to the best of his knowledge and belief. The expert may not be sworn in if both parties waive the right to be sworn in.

2) If the expert is generally sworn for rendering expert opinions of the required type, the recollection and invocation of the oath taken shall be sufficient.

3) The provisions of § 336 shall apply mutatis mutandis when administering the oath.

§ 359

1) The expert shall be informed of the objects, documents and aids in the court which are necessary for answering the questions submitted to him.

2) If the Expert requires the cooperation of the parties or third persons and if this is not provided immediately upon his request, the Expert shall inform the court thereof, listing in detail the required acts of cooperation and the obstacles standing in the way. The court shall then order the parties to do what is necessary and shall set a reasonable time limit for this purpose; this order shall not be subject to appeal. This period shall not be included in the time limit set to the expert for the assessment. If the parties do not comply with the court's request within the time limit, the expert shall prepare his expert opinion without taking into account the missing information. If the missing information is provided prior to the preparation of the expert opinion, the expert shall take it into account immediately, otherwise he shall prepare a supplementary expert opinion. The costs of this expert opinion shall be borne by the defaulting parties jointly, irrespective of the outcome of the proceedings.

§ 360

1) If a thorough and exhaustive expert opinion cannot be given immediately, the judge conducting the taking of evidence shall set a time limit or a special hearing for the submission of the expert opinion.

2) The parties shall be notified of the receipt of the written opinion (section 286).

§ 361

If several experts have been appointed to give an expert opinion, they may give it jointly if their opinions coincide. If they are of different opinions, each expert shall state his opinion and the reasons in favor of it.

§ 362

1) The expert opinion shall always be substantiated. Before stating his opinion, the expert shall, in those cases in which the rendering of his opinion was preceded by the inspection of persons, things, places, etc., and the knowledge of their nature is necessary for the understanding and

the appraisal of the expert opinion is relevant, a description of the inspected objects must be given (findings).

2) If the expert opinion given appears to be insufficient or if different opinions have been expressed by the experts, the court may, upon request or ex officio, order that a new expert opinion be given by the same expert or by other experts or with the involvement of other experts. Such an order shall also be admissible in particular if an expert has been rejected with success after the expert opinion has been given. The Regional Court as the requested court is also entitled to make such orders.

§ 363

The party who has offered evidence by experts may waive the same. However, the opposing party may demand that the ordered taking of evidence be carried out nevertheless, if either the taking of evidence has already begun or at least the experts have already appeared before the court for the purpose of taking evidence.

§ 364

The power of the court to order an expert opinion ex officio shall not be affected by a waiver by the parties.

Fees

§ 365

1) The Expert shall be entitled to reimbursement of the costs and expenses incurred by him, to compensation for loss of time and to remuneration for his efforts; he may request an appropriate advance payment.

2) The judge before whom the taking of evidence takes place may order the person giving evidence to deposit an amount in advance to cover the expenses associated with the taking of evidence by experts (Section 332(2)).

2a) If the Expert's work has remained unfinished due to his fault, he shall not be entitled to any fee, otherwise he shall only be entitled to the fee corresponding to his unfinished work. If the expert has

If, for reasons for which he is responsible, the expert fails to perform his work within the time limit set by the court or if his expert opinion is so deficient that it requires discussion only for that reason, the fee for effort shall be reduced by one-fourth.

3) The judge before whom the taking of evidence takes place shall determine the fees of the experts. An appeal is admissible against the decision on the extent of these fees.

Appeals

§ 366

1) There shall be no separate appeal against the decision rejecting an expert, appointing an expert or ordering a written expert opinion.

2) The decision on the number of experts to be appointed, the decision dismissing an expert on the grounds of rejection, the decisions taken on the swearing-in of an expert, and finally the decisions fixing a day or a time limit for the delivery of the expert opinion in accordance with Section 360 may not be challenged by an appeal.

3) Insofar as an appeal is admissible under the preceding paragraphs against a decision made under this title (sections 351 et seq.), the higher court shall decide on appeals against decisions of the regional court with finality and to the exclusion of any further legal action.

§ 367

Unless otherwise provided for in the foregoing, the provisions on evidence by witnesses shall apply mutatis mutandis to evidence by experts and, in particular, to their examination and the recording of the findings and expert opinion given at a hearing.

6. Title

Evidence by visual inspection

§ 368

1) In order to clarify the matter, the court may, upon application or ex officio, order an inspection, if necessary with the assistance of one or more experts.

2) If the object to be inspected cannot be brought before the adjudicating court or if the inspection has to be carried out abroad for other reasons, it shall be carried out by a requested judge. In this case, the judge entrusted with the inspection may decide on the appointment of the experts. An appeal against these decisions is not admissible.

3) If the performance of the inspection is expected to incur a cost of

the judge may order the person providing the evidence to advance a corresponding amount to cover this expense (section 332(2)). Appeals against such an order of the Regional Court shall be finally decided by the Higher Court to the exclusion of any further appeal.

§ 369

If an object is to be inspected which, according to the information of the person giving evidence, is in the possession of the opposing party or in the custody of a public authority or a notary, the provisions of sections 301 and 303 to 307 shall be applied with the proviso that the assessment of the influence of the refusal by the opposing party to produce and hand over the object, the removal or damage of the object intentionally or at the instigation of the opposing party, or the refusal to make a statement about it, shall be left to the discretion of the court, guided by a careful appraisal of all the circumstances.

§ 370

1) There shall be no separate right of appeal against decisions and orders made during the inspection. This shall also apply to the decision rejecting an application for the involvement of experts.

2) The result of the inspection shall be recorded in the minutes of the hearing, but if the inspection is carried out outside the hearing, it shall be recorded in a special record, as a rule immediately after the inspection.

3) The minutes shall state whether the parties and which of them were present at the inspection, as well as whether and which objections were raised by them at the inspection or against the minutes.

7. Title

Evidence by hearing the parties

§ 371

1) Evidence of disputed facts relevant to the decision may also be taken by hearing the parties; such evidence may be ordered upon request or ex officio.

2) If a party is represented by a lawyer, the party may be summoned to appear before the representative.

§ 372

Parties in respect of whose examination or deposition one of the grounds for exclusion under Section 320 applies may not be heard for the purpose of adducing evidence.

§ 373

1) If the legal representative of a foster child conducts the legal proceedings, it shall be left to the discretion of the court to order the hearing of the legal representative or, if this appears to be permissible under section 372, of the foster child or both.

2) If insolvency proceedings have been opened in respect of the assets of a party and the legal dispute concerns a claim falling within the insolvency estate, the debtor or the insolvency administrator or both may be heard as a party.

3) In legal disputes of a general partnership all partners, in legal disputes of a limited partnership all personally liable partners and, if the legal dispute is conducted by another company, a cooperative, a municipality, an association or otherwise by a legal entity not belonging to the physical persons, its legal representatives shall be treated as parties with regard to the hearing.

4) If more than one person can be heard hereafter, or because there are other parties to the dispute on one side, the court shall determine whether all or some of these persons are to be heard.

§ 374

The court shall, after careful consideration of all the circumstances, decide whether the parties should not be heard at all if it is convinced that the party who is required to prove the disputed fact is not aware of it, or if the hearing of that party is not permissible under the provisions of section 372.

§ 375

1) The taking of evidence by interrogation of the party shall be ordered by resolution. A separate appeal against this order shall not be admissible. The evidence shall be adduced by the court asking the party to be examined appropriate questions about the facts to be proved by the examination. The provisions of sections 340 to 343 shall apply mutatis mutandis to this questioning of the party.

2) This questioning shall take place before the recognizing court. The taking of evidence by a requested judge shall be admissible only if the personal

The court shall be entitled to request the court to make a decision on the matter if there are insurmountable obstacles to the appearance of the party or if the same would cause disproportionate costs.

§ 376

1) The parties shall first be questioned without being sworn; the unsworn questioning may be followed by a hearing under oath.

2) In the case of unsworn examination, if both parties have appeared, they shall, as a rule, both be questioned about the facts to be proved. Before the unsworn examination, the court shall inform the parties that they may be required to take an oath regarding their statements.

3) The provisions of § 336 shall apply mutatis mutandis when administering the oath.

§ 377

1) If the result of the unsworn questioning is not sufficient to convince the court of the truth or falsity of the facts to be proved, the court may order the examination on oath. Parties in respect of whom the grounds for exclusion under section 336(1) apply may not be sworn.

2) In doing so, the court may emphasize individual assertions from the unsworn testimony of this party, which the party must now repeat under oath; likewise, when ordering the examination under oath, the court may determine the form in which the sworn testimony on individual circumstances is to be made. A separate appeal against these decisions is not admissible.

3) A statement made by a party under oath, if false, shall be subject to the same criminal law assessment as a false oath made in court. Before being heard on oath, the party shall be reminded of the duty to state the truth, of the sacredness and significance of the oath and of the consequences under criminal law of a false oath. The reminder that the oath has been administered shall be recorded in the minutes.

§ 378

Retrieved

§ 379

The court may adjourn the hearing for the purpose of questioning a party under oath if it appears appropriate to grant the party to be questioned a period of reflection.

§ 380

1) The provisions on evidence by witnesses shall also apply to the interrogation of the parties for the purpose of adducing evidence, unless otherwise provided for in this section. However, the refusal to testify on the part of a party to be interrogated shall not be justified by the reason specified in Section 321(2).

2) The non-appearance of one of the parties at the hearing ordered under section 375 or the refusal to testify on the part of one of the parties present shall not prevent the hearing of the opposing party present.

3) The use of coercive measures to compel a party who is to be questioned for the purpose of giving evidence, without being sworn or affirmed, to appear in court or to testify shall be unlawful.

§ 381

The court shall assess the influence on the production of evidence if the party refuses to testify or to answer individual questions without sufficient reasons, if the party summoned for the purpose of the unsworn or sworn examination does not appear, or if the sworn testimony of a party deviates in significant points from the statements made during his previous unsworn examination.

§ 382

1) Parties who are examined without being sworn or sworn for the purpose of furnishing evidence may not, without prejudice to the right to reimbursement of the costs of the proceedings, claim remuneration within the meaning of section 346.

2) The provisions of sections 372 to 381 shall apply mutatis mutandis to the examination and sworn hearing of a party ordered on account of the production of a document of evidence, a matter of information or an object of inspection.

§ 383

If a party has made a statement in which he offers to confirm on oath the circumstances to be proved in the proceedings, but the hearing on oath of that party cannot take place because of his previous death, the court shall assess the statement in accordance with section 272.

8. Title Securing evidence

§ 384

1) The taking of a visual inspection or the questioning of witnesses and experts may be requested in order to secure evidence in any situation of the legal dispute and even before the beginning of the same.

if it is to be feared that the evidence would otherwise be lost or its use made more difficult.

2) Such taking of evidence may also be requested, without the latter requirements being met, if defects in an object or work are to be ascertained on account of which the opposing party is to provide a warranty. If the purchaser of an object has notified the seller of a defect or refused to accept the object on account of its defectiveness, the seller may also request that such evidence be taken. In the same way, the contractor of a work shall be entitled to make the request if the purchaser has notified him of a defect or has refused acceptance of the work on account of defectiveness.

§ 385

1) The requesting party shall state the facts on which the taking of evidence is to take place as well as the means of evidence, naming the witnesses to be heard and any experts proposed. The reasons justifying the concern that the evidence would be lost or that its use would be impeded shall be stated by the requesting party.

2) The party filing the application must also name the opponent. This may only be dispensed with if the circumstances presented by the party show that he is unable to designate the opponent in the circumstances of the case.

§ 386

1) A decision on the application shall be taken without prior oral proceedings. Prior to the decision, however, the opposing party shall be heard, unless there is danger in the proceedings, if the opposing party is known and his consent has not already been proven. Prior to the decision, the party filing the application may be instructed to substantiate the circumstances which make it necessary to secure the evidence.

2) In the order granting the application, the court shall specify the facts on which the evidence is to be taken and the means of proof, naming the witnesses to be heard and appointing the experts. At the same time, the necessary arrangements for the taking of evidence shall be made. For the un

If an opponent is known to the court, the court may appoint a curator to exercise his or her rights during the taking of evidence.

3) The decision granting the application may not be appealed.

§ 387

1) The opposing party shall be summoned to the hearing for the taking of evidence by delivery of the decision and, if the opposing party was not heard on the motion earlier, also of a copy of the pleading submitted by the party filing the motion or of a copy of the minutes taken on its motion.

2) In urgent cases, however, the taking of evidence may be commenced before the decision is served on the known opponent. The permission to do so may be granted upon application at the same time as the decision on the application for permission to take evidence. No appeal shall lie against the granting or refusal of such permission.

§ 388

1) Evidence shall be taken in accordance with the provisions of the second, fourth, fifth, and sixth titles of this section.

2) The record of the taking of evidence shall be kept by the court that ordered the taking of evidence.

3) The costs of the taking of evidence shall be contested by the requesting party, without prejudice to any claim for compensation to which it may be entitled. The opposing party shall be reimbursed the necessary costs for his participation in the taking of evidence, without prejudice to the decision on the merits.

§ 389

1) In the course of the legal proceedings, each party may use the evidence taken in order to secure the evidence.

2) The court hearing the case shall assess the influence to be given to the objection that the taking of evidence did not take place in accordance with the provisions applicable to the taking of evidence in the course of the trial or that the opposing party was not notified of the taking of evidence or was not notified in time in accordance with section 272.

3) In the course of the legal proceedings, a supplement or repetition of the taking of evidence may be ordered.

Section 2 Judgments and Decisions

1. title judgments

Final judgment

§ 390

1) If the legal dispute is ready for a final decision according to the results of the hearing and the taking of evidence that has taken place, the court shall render this decision by way of a judgment (final judgment).

2) The same shall apply if only one of several lawsuits which have been combined for the purpose of simultaneous hearing is ready for decision.

Partial judgment

§ 391

1) If individual claims of several claims asserted in the same action or a part of a claim has been put out of dispute by express acknowledgement on the part of the defendant or is ripe for final decision, the court may proceed immediately to the conclusion of the proceedings and to the rendering of judgment with respect to this claim or the part (partial judgment).

2) A partial judgment may also be issued if, when a counterclaim has been filed, only the action or counterclaim is ripe for final judgment.

3) If the defendant has asserted a counterclaim by means of a plea which is not legally related to the claim asserted in the action, the same may be decided by partial judgment if the legal dispute is only ripe for decision on the claim. The proceedings on the counterclaim shall be continued without interruption.

§ 392

1) Each partial judgment shall be regarded as an independent judgment with regard to the right of appeal and execution.

2) The provisions of section 52 subs. 2 shall also apply in respect of the ancillary fees of the claim or partial claim on which a partial judgment has been rendered.

Interim verdict

§ 393

1) If the cause and amount of a claim are in dispute in a legal action and the matter in dispute is initially ripe for decision only with regard to the cause, the court may first decide on the cause of the claim by means of a judgment (interlocutory judgment), even if it is still disputed whether the claim is justified in any amount at all.

2) Furthermore, in the case of sections 244 and 258, the existence or non-existence of a legal relationship or right may be decided by an interlocutory judgment preceding the decision on the merits of the case as soon as the matter in dispute is ripe for decision on the application for a declaratory judgment.

3) The judgments issued in accordance with the first two paragraphs shall be regarded as final judgments as far as the right of appeal is concerned. The filing of an appeal or revision against an interlocutory judgment issued in accordance with para. 1 shall suspend further proceedings on the action until the interlocutory judgment has become final. In all other cases, notwithstanding the appeal or revision against the interlocutory judgment, the trial of the main action shall proceed. However, the court may, if a legal relationship or right of importance for the decision of the main action has not been established, order that the further hearing of the action be suspended until the interim judgment has become final. This order cannot be challenged by an appeal.

4) With regard to the costs, the provision of § 52 para. 2 shall apply mutatis mutandis.

Judgment on the basis of waiver

§ 394

1) If the plaintiff waives the claim at the first hearing or at the hearing, the action shall be dismissed by judgment at the request of the defendant on the basis of the waiver.

2) If the waiver relates only to one of several claims asserted in the action or to a part of a claim, a partial judgment may be issued on the basis of the waiver upon application.

Judgment on the basis of acknowledgement

§ 395

If the defendant acknowledges all or part of the claim against him at the first hearing or at the hearing, judgment shall be rendered on the plaintiff's motion in accordance with the acknowledgment.

Judgment in default cases

§ 396

If the plaintiff or the defendant fails to appear at the first hearing, the factual arguments of the plaintiff or the defendant relating to the subject matter of the dispute shall be considered.

The court shall hold that the claim of the party who has appeared is true, insofar as this is not contradicted by the available evidence, and on this basis, at the request of the party who has appeared, shall rule on the claim by default judgment.

§ 397

If a party fails to appear at the first hearing of the action, a judgment by default shall be rendered upon request in accordance with § 396, even though the first hearing of the action was scheduled to take place.

§ 398

No account is to be taken of written essays which the absent party may have sent in.

1) If the hearing for oral argument has been scheduled and one of the parties misses this hearing or a later hearing scheduled for oral argument, the party appearing may request that the judgment be rendered at this hearing. When the judgment is rendered, new factual submissions of the party appearing which contradict the contents of the pleadings submitted by him or his earlier statements and factual data shall be taken into account only to the extent that they were communicated to the opposing party by preparatory pleading before the hearing. On the other hand, not only the results of previous hearings of evidence, but also the earlier statements and factual data of the now defaulting party shall be taken into account when rendering the judgment, insofar as the latter are recorded in submitted preparatory pleadings, in the minutes of the hearing and its annexes or in the record of proceedings of requested judges or form the subject matter of a taking of evidence ordered by the court at an earlier hearing.

2) If the application for judgment on the merits is filed at a time when a separate hearing is pending on the objections of inadmissibility of the legal proceedings, lack of jurisdiction of the court, pendency of the dispute or res judicata raised at the first hearing, judgment may be rendered only after these objections have been rejected.

§ 400

The provisions of sections 396 to 399 shall also apply if one of the parties is removed from the courtroom for improper conduct.

§ 401

1) The fact that a party misses a hearing shall not affect the application of the provisions that determine what the court may require from

The court shall not be obliged to take into account the circumstances to be taken into account ex officio, nor shall it relieve the opposing party of the obligation to provide such evidence as is necessary with regard to the circumstances to be taken into account ex officio.

2) Similarly, the default of a party shall not prevent the taking of evidence before the recognizing court or the presentation of the results of the taking of evidence not before the recognizing court.

§ 402

1) The motion to enter judgment for default of a party (sections 396, 397, 399) shall be denied:

1. if there is no proof that the party who did not appear was duly summoned to the hearing. The judge may, however, at the request of the party who has appeared, reserve judgment until a day to be determined by him and close the hearing. If it is clear from the service receipt received within the specified period or from the investigations concerning the service that the summons was served on the defaulting party in time for him to appear at the hearing, the judgment by default shall be rendered within eight days after receipt of the service receipt or after completion of the investigations concerning the service;

2. if it is obvious to the court that the non-appearing party is prevented from appearing due to natural events or other unavoidable circumstances;

3. if the party appearing is unable to provide the evidence required by the court at the hearing due to a circumstance to be taken into account ex officio.

2) The application to render judgment against a party to a dispute on the grounds of default shall be rejected in the case of a cooperative society to be judged in accordance with § 14 if there is no proof of summons even in respect of one of the parties to the dispute or if one of the obstacles mentioned in para. 2 exists.

3) If the motion to render judgment due to default of a party is not granted, the hearing shall be extended ex officio for a reasonable period of time and the defaulting party shall be summoned again to the new hearing.

§ 403

If the motion to render judgment due to default of one of the parties is rejected by an order, but this order is set aside as a result of an appeal, the judgment may be rendered without scheduling a new hearing.

Judgment content

1) The judgment rendered in the main action shall dispose of all applications relating to the main action, unless individual applications have already been decided on earlier or are reserved for separate disposal.

2) Several legal disputes between the same parties which have been joined for joint trial in accordance with § 187 shall be decided by the same judgment, unless the trial was not joined before the judgment was rendered or one of the joined actions was decided by special judgment in accordance with § 390.

§ 405

The court is not authorized to award a party anything that has not been requested. This applies in particular to fruits, interest and other ancillary claims.

§ 406

An order to pay a benefit is only permissible if the benefit is already due at the time the judgment is rendered. In the case of claims for alimony, the court may also order the payment of benefits that become due only after the judgment has been rendered.

§ 407

1) In the event of an order to pay a monetary annuity on account of death, bodily injury or deprivation of liberty, the court may, if security for future payments appears to be necessary, also order the provision of security upon application in the judgment. If such an application is not made during the proceedings, the beneficiary may subsequently request security by way of an action if the financial circumstances of the obligor have deteriorated considerably in the meantime.

2) Under the same condition, the beneficiary may request an increase of the security specified in the judgment by means of an action.

§ 408

1) If the court finds that the losing party has conducted the proceedings in an obviously wilful manner, it may order the latter to pay a corresponding amount of compensation at the request of the winning party.

2) The hearing on this motion shall not delay the decision in the main case.

3) When determining the amount of compensation, reference shall be made to the provision of the § 273 shall be taken into account.

§ 409

1) If the obligation to perform is imposed in a judgment, the time limit for this performance shall also be determined. Unless otherwise provided for in this Act, this period shall be four weeks.

2) However, if the obligation to perform a work or a business is imposed, the court shall set a reasonable time limit for the performance of the obligation, taking into account the personal circumstances of the obligor. In this context, particular attention shall be paid to ensuring that the obligor is not prevented from performing the sowing, pruning or grape harvesting work in due time as a result of the action to be performed.

3) If no appeal is lodged against the judgment, the time limit for performance of the obligation imposed by the judgment shall be counted from the day following the service of the judgment on the obligor, but in small claims proceedings, if the judgment takes effect vis-à-vis the parties upon its pronouncement, from the day following the pronouncement of the judgment.

4) If an appeal is lodged against the judgment, the period shall commence on the day after the judgment becomes final.

5) If the time limit for performance of the obligation imposed in the judgment is shorter than the time limit for appeal, the time limit for performance shall be deemed to have expired with the time limit for appeal.

§ 410

If in a judgment an object is awarded which does not consist of a sum of money, it shall be pronounced at the same time that the defendant may be released from the payment of such object by payment of the sum of money which the plaintiff has agreed to accept in the action or during the hearing in lieu of such object.

Legal force of the judgment

§ 411

1) Judgments which can no longer be appealed shall be res judicata insofar as the judgment relates to a claim asserted by way of an action or counterclaim or to a legal relationship or right which has become disputed in the course of the proceedings and in respect of which a declaration of existence or non-existence was sought in accordance with sections 244 or 258. The decision on the existence or non-existence of a counterclaim asserted by the defendant as compensation shall be subject to res judicata only up to the amount to be set off.

2) The legal force of the judgment shall be taken into account ex officio. Passing of judgment, pronouncement of judgment and service of judgment

§ 412

1) The judgment may be rendered only by those judges who participated in the oral proceedings on which the judgment is based.

2) If there is a change in the person of the judge before the judgment is rendered, the hearing shall be held anew with the use of the complaint, the evidence on file and the minutes of the hearing.

§ 413

The judgment shall be pronounced in the name of the Reigning Prince and the people on the basis of the oral proceedings and, if possible, immediately after they have been concluded. The reasons for the decision shall be announced together with the judgment. The pronouncement of the judgment shall be independent of the presence of both parties.

§ 414

1) When pronouncing the judgment, the judge may confine himself to announcing the wording of the judgment and to giving the most important reasons for the decision. The determination of the amount of costs may be reserved for the execution of the judgment when it is pronounced.

2) A written copy of the pronounced judgment together with the complete reasons for the decision shall be delivered to each party.

§ 415

If the judgment cannot be rendered immediately after the conclusion of the oral proceedings, it shall be rendered within four weeks after the conclusion of the oral proceedings, in the case of section 193 subs. 3, however, within four weeks after the receipt of the files on the outstanding taking of evidence, and shall be handed over by the judge for execution in written form together with the complete reasons for the decision (section 416 subs. 2). A special pronouncement of the judgment shall then not take place.

§ 416

1) The judgment shall become effective vis-à-vis the parties only upon delivery of the written copy of the judgment.

2) However, the court shall be bound by its decision as soon as the same has been announced or, in the case of section 415, has been delivered in writing for execution.

§ 416a

1) The district court shall expressly state in its judgments whether they are subject to further legal process and, if the answer is in the affirmative, shall indicate, together with the time limit for appeal, where the appeals or remedies are to be lodged.

2) The instruction shall state that the appeal must be filed orally at the court's protocoll or by means of a written pleading.

3) If an incorrect time limit for appeal has been specified and if this is longer than the statutory time limit, the time limit for appeal shall be observed during this longer time limit; if a shorter time limit has been specified, the statutory time limit shall apply, and if the notice of appeal is missing at all, the time limit for appeal shall not run.

4) If the instruction does not designate the district court, but instead incorrectly designates another office to receive the appeal, the time limit for appeal shall be deemed to have been observed even if it has been submitted to the incorrect office; the latter office shall forward the appeal to the court ex officio.

Written copy

§ 417

1) The judgment shall contain in writing:

1. the name of the court and the names of the judges who participated in the decision;

2. the names of the parties (first names and surnames), occupation, place of residence and party status as well as the names of their representatives; in personal status cases also the date and place of birth of the parties; in cases under Section 75a, the place of residence shall not be stated;

3. the verdict;

4. the facts of the judgment;

5. the reasons for the decision.

2) The facts of the judgment and the reasons for the decision shall be separated externally and may not be combined with the judgment. The statement of the facts of the judgment shall contain a concise presentation of the facts resulting from the oral proceedings, emphasizing the motions made by the parties in the main proceedings. However, instead of the presentation of the results of the evidentiary proceedings, reference may be made to the files.

3) The submission declared inadmissible by the court on the basis of Sections 179, 181 (2), 275 (2) and 278 (2), as well as the evidence which was not used due to the fruitless expiry of a time limit set for the taking of evidence, shall be stated in the facts of the judgment.

§ 418

1) The written version of the judgment intended for the court records shall be signed by the judge and the clerk.

2) Retrieved

3) The excerpt of a judgment must contain, in addition to the sentence, the information contained in

§ Section 417(1) and (2).

4) No extracts or copies of the judgment may be issued before the written copy of the judgment has been delivered to the parties.

Correction of the judgment

§ 419

1) The court which rendered the judgment may at any time correct clerical or accounting errors or other obvious mistakes in the judgment or in copies thereof. An ex officio correction shall also be made in particular if the copy of the judgment does not correspond to the decision rendered by the court.

2) The court may decide on the correction without prior oral proceedings. There shall be no separate appeal against the order rejecting the application for rectification. The higher court shall decide on appeals against rectification decisions of the regional court with finality and to the exclusion of any further legal action.

3) The correction may also be ordered at a higher instance.

§ 420

If the completion of the statement of facts is requested merely because it omits citations and evidence that must be mentioned in the statement of facts pursuant to the last paragraph of section 417, the trial court shall, in accordance with

§ 419 to proceed.

§ 421

A correction which the court decides to make in accordance with §§ 419 or 420 shall be appended to the original of the judgment and shall be evident in all copies of the judgment already issued which are to be requested for this purpose.

§ 422

In the event of rejection of the application for correction of the judgment, the applicant shall be entitled to the er-.

The costs are to be offset against each other if they are not.

Supplement to the judgment

§ 423

1) If the judgment omits a claim which was to be decided according to the facts of the judgment, or if the judgment does not or only incompletely recognizes the reimbursement of legal costs requested by a party, the judgment shall be supplemented by a subsequent decision (supplementary judgment).

2) The application for supplementation shall be filed with the trial court within eight days after service of the judgment; reinstatement of the judgment due to failure to observe this time limit shall be inadmissible.

3) The court shall decide after prior oral hearing if it deems such a hearing necessary. This hearing shall be limited to the part of the legal dispute that has not been settled. The rejection of the request for supplementation shall be made by means of an order.

§ 424

The hearing on the supplementation of the judgment shall not affect the running of the time limit for filing an appeal against the judgment the supplementation of which is requested.

2. title resolutions

§ 425

1) Unless a judgment is to be rendered under the provisions of this Act, decisions, orders and decrees shall be rendered by resolution.

2) The court is bound by its decisions insofar as they are not merely of a procedural nature.

3) The provisions of section 412 shall apply mutatis mutandis to orders of the court.

§ 426

1) All decisions taken by the court during the hearing or taking of evidence shall be announced. Written copies of these decisions shall be sent to the parties present at the announcement.

if the party has a separate right of appeal against the order or the right to immediate execution on the basis of the order.

2) In such cases, and in all cases where the conduct of the proceedings so requires, a written copy shall be served on parties who were not present at the pronouncement.

3) Written copies of orally pronounced decisions against which the party is not entitled to a separate legal remedy and which also do not establish the right to immediate execution shall be served on the parties present at the pronouncement only upon request. If a written copy is not to be served, the oral pronouncement shall constitute the effects of service.

§ 427

1) Decisions taken outside the sessions shall be notified to the parties by delivery of a written copy (notice).

2) A decision rejecting an application of a party without prior hearing of the opposing party shall be served on the opposing party only upon request of the applicant.

§ 428

1) Resolutions on conflicting motions and resolutions rejecting a motion must be substantiated.

2) In this connection, the motions on which the decision is based and the facts of the case shall be included in the statement of reasons to the extent necessary for the understanding of the pronouncement or the order, unless both can be inferred from the pleading communicated at the same time or from the copy of the minutes.

§ 429

1) The original of the decision shall be signed by the judge who made the decision.

2) The written copy of a resolution shall also contain the information referred to in section 417, items 1 and 2.

§ 430

The provisions of Sections 418, 419, 423 and 424 shall apply with regard to the issuance of copies and extracts, then the rectification of decisions and the supplementation thereof, if a party's motion has not been partially adjudicated or if the requested statement on the reimbursement of the costs of the proceedings is missing or incomplete.

§ 430a

The provisions pursuant to § 416a on the right of appeal shall apply mutatis mutandis.

Part 3 Remedies

Section 1 Appointment

Admissibility

§ 431

1) There is an appeal against the judgments rendered in the first instance.

2) The erroneous or incorrect designation of a remedy is irrelevant if only the request is clearly identifiable.

§ 432

1) The court of appeal shall review the judgment and the proceedings of the court of first instance within the limits of the motions and grounds for appeal. Unless the appeal is settled in the preliminary proceedings, a public appeal hearing shall be held in the cases specified in Section 449.

2) Within the scope of the motions and grounds for appeal, the parties may submit new means of attack and defense which were not raised in the first instance, in particular new facts and evidence.

3) However, the Court of Appeal shall at the same time also judge the decisions taken in the proceedings preceding the judgment.

The Court of Justice shall have the right to revoke the decisions of the Supreme Court that have been issued in the course of proceedings, unless their appeal is excluded by law or they have become irrevocable as a result of the failure to file a complaint in due time (Section 196), of the appeal or of the decision issued on the appeal filed.

General provisions on the appeal procedure

§ 433

The provisions governing the proceedings before the Court of First Instance shall apply to the appeal proceedings insofar as no deviations result from the following provisions.

Appeal deadline

§ 434

1) The appeal period is four weeks; it cannot be extended.

2) It shall commence for each party upon the delivery to it of the written

The court shall issue a copy of the judgment, but in small claims cases it shall issue a copy of the judgment when both parties are present.

Raising the appeal

§ 435

1) The appeal shall be filed by submitting a preparatory pleading (notice of appeal) or by declaration to the court of record at the district court.

2) The judge recording the minutes shall specifically request the party to state the grounds of appeal in detail, to submit a specific request for appeal, to state the circumstances and evidence to be newly presented in support of the grounds of appeal, and to instruct the party on the legal consequences of failure to state such grounds.

3) The provisions of the law concerning the notice of appeal shall also apply to the pro- tocol statements which replace the notice of appeal.

§ 436

The timely filing of an appeal shall suspend the entry into force of res judicata and the enforceability of the judgment appealed against to the extent of the claims on appeal until the appeal has been settled.

§ 437

1) The notice of appeal must contain, in addition to the general requirements of a preliminary pleading:

1. the name of the judgment against which an appeal is lodged;

2. a specific statement of the extent to which the judgment is contested, an equally specific brief statement of the grounds for the contestation (grounds of appeal), and a statement as to whether the judgment is to be set aside or modified and which is sought (appeal);

3. the actual arguments and evidence by which the truth of the grounds of appeal may be proved.

2) The notice of appeal may contain a brief statement of the law and a statement of facts and evidence.

3) As a ground for appeal it may also be asserted that certain parts of the facts established by the trial judge, which are to be specified precisely, are incorrect, and new facts and evidence, which were not available to the trial judge, may be submitted in particular in order to present these grounds for challenge.

§ 438

1) If the appeal is filed in due time, the notice of appeal or a copy of the record replacing it shall be served on the appellant's opponent. Late appeals shall be dismissed by the court of first instance.

2) If, in the appeal proceedings, the opponent of the appellant (respondent) wishes to use new circumstances and evidence not yet presented in the previous proceedings to refute the grounds for challenge stated in the notice of appeal, he shall notify the court of first instance of the relevant factual and evidentiary submissions within the emergency period of four weeks after receipt of the notice of appeal by means of preparatory pleadings or by declaration for the court record, failing which he shall be excluded.

§ 439

1) After timely receipt of the notification referred to in Section 438(2) or after fruitless expiry of the time limit open for this purpose, the Regional Court shall submit to the Court of Appeal the notice of appeal and any notification received from the opponent of the appeal or the relevant minutes of the proceedings together with all the records of the proceedings relating to the dispute and, in particular, with the proofs of service of the judgment and the notice of appeal.

2) If the contested judgment has not completely settled the legal dispute and if the hearing on the outstanding issues is to be continued during the appeal proceedings, the court of appeal shall be provided with official copies of the parts of the case files relating to the subject matter of the appeal proceedings which are also required for the proceedings at first instance.

Proceedings before the Court of Appeal

Preliminary proceedings

§ 440

After receipt of the appeal files by the court of appeal, the chairman of the senate or the associate judge appointed to report on the case in accordance with the allocation of duties shall examine the appeal files.

§ 441

On the basis of this examination, the appeal shall be brought before the Appellate Division without first scheduling a hearing:

1. if the appeal is deemed inadmissible by law or is not filed within the statutory time limit

appears raised;

2. if the notice of appeal does not specify the judgment against which the appeal is lodged, if the notice of appeal does not contain any or no specific request for appeal, or if the grounds for appeal are not specified either expressly or by clear indication;

3. if the appeal against a judgment rendered due to default of a party is based on the fact that there was no default;

4. if the judgment or the proceedings preceding the rendering of the judgment are challenged as null and void;

5. if the statement included in the judgment on the plea of inadmissibility or on the pendency or res judicata is contested;

6. if the judge in charge of examining the appeal file is of the opinion that the judgment or the proceedings preceding it are null and void because they have not been asserted by the appellant.

§ 442

1) In particular, the appeal shall also be inadmissible if it is filed by a person who is not entitled to appeal or who has validly waived the right to appeal.

2) The validity of a waiver of the right of appeal declared after the pronouncement or service of the judgment of the court of first instance shall not depend on the fact that the opponent has accepted the waiver.

§ 443

1) In the cases referred to in Section 441, the Appellate Division shall decide on the appeal in closed session and without prior oral proceedings by means of a resolution.

2) If the Appellate Division deems it necessary to obtain factual clarifications from the parties or the Regional Court or other preliminary investigations in order to determine the grounds for appeal or the nullity, such investigations shall be ordered and shall be carried out either by the Appellate Division itself or by the trial court of first instance, using the relevant information provided by the parties in the notices of appeal.

§ 444

1) In the cases of section 441 items 1 and 2 the appeal shall be dismissed. In the cases of § 441 item 2, however, this shall only apply if an order for improvement (§§ 84, 85) has remained fruitless.

2) If the appeal is found to be well-founded in the case referred to in Section 441(3), the judgment shall be set aside and the case shall be referred back to the Regional Court either for a new judgment or for the continuation of the proceedings and the rendering of the judgment, depending on the completion of the trial by the court of first instance.

§ 445

1) If, in the case of section 441 para. 5, the District Court has wrongly declared that it has no jurisdiction, has assumed the pendency of the action without reason, or has wrongly refused to rule on the claim on the grounds that a final judgment has already been rendered on it, the Court of Appeal shall order the District Court to The court of appeal shall order the district court to render judgment on the merits or to hear and render judgment, depending on whether the decision of the court of first instance was rendered after a hearing on the merits or after a separate hearing on the lack of jurisdiction, pendency of the action or res judicata and before the conclusion of the hearing on the merits.

2) If, however, the jurisdiction of the trial court was wrongly assumed at first instance, if no consideration was wrongly given to the pendency of the dispute, or if the motion to dismiss the action without a hearing on the merits because a final decision had already been made on the claim, the action shall be dismissed by the court of appeal, setting aside the judgment of the court of first instance.

§ 446

1) The judgment appealed against shall be set aside as null and void (§ 441 items 4 and 6) and, insofar as the ground of nullity affects the preceding proceedings, the latter shall also be set aside:

1. if the decision was taken by a judge who was excluded by law from serving as a judge in the case;

2. if the cognizing court was not properly staffed;

3. if the court could not be made competent for this case even by express agreement of the parties;

4. if a party has been deprived of the opportunity to be heard in court by an unlawful act, in particular by failure to serve a document;

5. if a party was not represented at all in the proceedings or, if it requires a legal representative, was not represented by such a representative, unless the conduct of the proceedings was subsequently duly authorized;

6. if a matter not subject to legal proceedings has been adjudicated;

7. if the public has been excluded in an unjustified manner;

8. if, contrary to the provisions of Section 210(2), the parties or their authorized representatives have submitted to the court drafts of the minutes of the proceedings;

9. if the wording of the judgment is so defective that its review cannot be made with certainty, if the judgment is inconsistent with itself or if no reasons are given for the decision and these defects cannot be remedied by a correction of the judgment ordered by the appellate court (Section 419).

2) Subsequent authorization of the conduct of the proceedings (item 5) shall be deemed to exist in particular if the legal representative, without asserting the lack of representation, has entered into the appeal proceedings by filing the notice of appeal or a preparatory pleading (section 438).

§ 447

1) If the judgment of the court of first instance is set aside on grounds of nullity without the need for a further hearing in order to dispose of the case (section 446 items 5 and 6), the action shall be dismissed insofar as the nullity extends.

2) If a further hearing becomes necessary as a result of the reversal in whole or in part of the judgment of the court of first instance on the grounds of nullity, the case shall be referred back to the Regional Court.

§ 448

If the case is referred to the Regional Court, the latter shall schedule the hearing ex officio. However, the date of the hearing shall be postponed until after the decision of the court of appeal has become final if the court of appeal has pronounced that the proceedings in the first instance are to be commenced or continued only after the appeal decision has become final. Such a pronouncement may be made ex officio or upon application; a separate appeal against it shall not be admissible.

§ 449

1) Oral proceedings are held before the Court of Appeals.

2) The parties may waive the right to a hearing on the appeal. If neither the appellant in the notice of appeal nor the respondent in the period open for filing a notice of appeal (Sec. 438 (2)) has expressly requested the scheduling of an oral hearing on appeal, it shall be assumed that the parties have waived the scheduling of a hearing on appeal.

have waived.

3) The decision on the appeal shall then be made in closed session, without prior oral proceedings. However, the court may order an oral hearing if this appears necessary in the individual case.

Scheduling of the appeal hearing

§ 450

1) The hearing of the oral appeal shall be scheduled so that the period between the service of the summons on the parties and the hearing is approximately 14 days. In urgent cases, this period may be shortened.

2) A hearing for oral appeal shall also be ordered if the appeal filed in closed session was dismissed by the appellate court due to the erroneous assumption of a default, due to lack of jurisdiction of the court, due to the decision on the pendency or res judicata of the dispute or due to nullity, but other grounds for challenge reserved for oral proceedings are also asserted in the notice of appeal and the prerequisites contained in Sec. 449 (2) apply.

3) If the parties have already named the lawyers representing them in the appeal proceedings, the summons to the oral proceedings shall be addressed to the latter.

§ 451

If, already at the time of scheduling the hearing, the necessity arises to establish the truth of individual facts stated in the notice of appeal or in a preparatory pleading on which the appeal is based, to retrieve evidence already submitted at first instance, to supplement such evidence, or to merely mention such evidence hitherto, the appellant shall be entitled to appeal to the court of first instance.

If the appellate court is unable to take the evidence offered, the chairman of the appellate panel shall summon the witnesses named or the experts examined at first instance to the appeal hearing, request the parties to appear for the purpose of their examination on oath and arrange for the production of all other evidence.

Oral appeal hearing

§ 452

1) In the hearing before the court of appeal, new claims and defenses may be raised within the limits of the appellate motions and grounds of appeal.

2) In the appeal proceedings, the parties shall be entitled without restriction to submit new pleas in law and in particular new facts and evidence in support of or in rebuttal of the requests for reconsideration, if the opposing party has previously been notified of such pleas in the notice of appeal or the notice of appeal (Section 438).

3) However, such submission of new claims or defenses, new facts and evidence may be rejected by the court upon application or ex officio if it was culpably not already submitted in the first-instance proceedings.

§ 453

1) In the oral proceedings, the grounds of appeal may not be expanded or replaced by others without the consent of the opposing party. The same applies to the grounds of appeal stated in the notice of appeal.

2) Such consent shall be deemed to exist if the opponent present, without objecting to the amendment, negotiates the amended motions or the newly asserted grounds of appeal.

3) An amendment of the action on which the contested judgment is based is not admissible even with the consent of the opposing party.

4) Until the conclusion of the oral appeal hearing or, in the cases of the

§ 449, until the decision of the court of appeal (§ 416 para.

2) the parties may agree that the proceedings shall be suspended (sections 168 to 170). Up to the same point in time, the action, insofar as it is

The court of appeal shall make a decision to the effect that a claim which is the subject of the appeal proceedings may be withdrawn if the defendant agrees or if the claim is simultaneously waived; if the claim is withdrawn, the judgment appealed against shall become ineffective.

§ 454

1) Withdrawal of the appeal is admissible until the end of the oral hearing. It may be declared at the oral hearing or by submitting a written statement to the Court of Appeal. If the written statement is submitted before the beginning of the oral appeal hearing, the chairman of the appellate panel may, as a single judge, order the court to abandon the scheduled hearing.

2) Withdrawal shall entail, in addition to the loss of the appeal, the obligation to pay the costs incurred by the appeal and, in particular, all costs incurred by the opponent.

3) The Appellate Division shall decide on the obligation to reimburse costs by resolution. The application shall be filed within an emergency period of four weeks after notification of the opponent of the withdrawal of the appeal, if otherwise excluded at the oral appeal hearing, but if the hearing scheduled for the appeal hearing pursuant to para. 1 was not held.

§ 455

The hearing of an appeal against a judgment for which a supplement has been requested in accordance with section 423 may, upon request, be interrupted until either the supplementary judgment has become final without appeal or the appeal against the supplementary judgment has also reached the court of appeal. In the latter case, the hearing of both appeals shall be combined.

§ 456

1) The oral appeal hearing shall begin after the case has been called with the presentation of a member of the Appeals Panel as rapporteur.

2) The same has, with the help of the case files, examined the facts of the case and the course of the legal proceedings to date, insofar as this is necessary for the understanding of the appeals and for the examination of the correctness of the contested judgment.

and the grounds of appeal, then to set out the essence of the submissions made by the parties in the appeal proceedings and to indicate the points in dispute arising therefrom. The presenter shall not express his opinion on the decision to be rendered.

3) Then the motions of the parties and the part of the judgment of the court of first instance which was decided by the appeal together with the reasons for the decision and, if the presiding judge or the Appeals Panel deem it appropriate, also the relevant parts of the minutes of the hearing of the first instance shall be read out by the court reporter.

4) The parties shall be heard on their submissions. If the submissions of a party do not correspond with the contents of the case file, the chairman shall draw attention to this.

§ 457

1) The appellate panel may not merely use the information necessary to support or combat

The court may not only take evidence serving to substantiate the grounds of appeal, but also, if this appears necessary for a decision on the applications for appeal, repeat or supplement evidence already taken at first instance and subsequently take evidence offered unsuccessfully by the parties in the proceedings before the court of first instance.

2) The appellate panel may have the evidence taken by the judge who rendered the judgment of first instance or by another judge.

3) The appellate panel may have an expert's report conducted in the first instance carried out again by other experts.

4) If the court of appeal considers to deviate from the findings of the court of first instance, it may only refrain from a new admission of evidence taken directly in the court of first instance and may only be content with the laying aside of the record thereon if it has previously informed the parties that it has reservations about the assessment of this evidence by the court of first instance and has given them the opportunity to request a new admission of this evidence by the court of appeal.

§ 458

The evidentiary proceedings shall be conducted in accordance with the rules applicable at first instance.

§ 459

1) Retrieved

2) If the appellate panel orders the renewed examination on oath of a party who has already been heard on oath in the first instance, the party shall be heard, recalling the oath taken in the first instance.

3) The appellate court may order the examination under oath of a party who refused to be examined or to testify under oath in the first instance only if it is convinced that the party had sufficient grounds for refusing to be examined and that these grounds have since ceased to exist.

§ 460

Upon request, the court of appeal shall, before deciding on the appeal, pronounce by order to what extent the judgment of the lower instance is suitable for execution as not contested. A separate appeal against this decision shall not be admissible.

§ 461

If a party fails to appear, the appeal shall nevertheless be heard and a decision shall be taken on the basis of the submissions made in the notice of appeal and any preparatory pleading (section 438). The court of appeal shall decide whether a new submission (§ 452 (2)) is to be regarded as admitted or as disputed, taking into account the facts of the contested judgment and all other records of the proceedings at first and second instance.

§ 462

1) The record of the oral appeal hearing shall contain the content of the factual submissions and the evidence offered by the parties only to the extent that the same deviates from the information in the trial court records on the content of the hearing.

2) If the oral appeal hearing is held at a hearing and brought to a conclusion, the presentation of the parties' submissions relating to the facts of the case may be reserved for the record of the judgment (Section 417(4)). In the minutes of the hearing

then only the circumstances and declarations specified in sections 207 and 208 are to be certified.

Appeal decision

§ 463

If, on the occasion of an appeal hearing, the court is convinced that the contested judgment or the proceedings at first instance suffer from a nullity which has hitherto gone unnoticed, it shall proceed in accordance with sections 446 and 447, unless there is a defect in the representation which has been remedied by express or tacit approval (section 446(5)), even if the nullity has not been asserted by either party.

§ 464

If the defects referred to in section 441(1) and (2) are not noticed until the oral proceedings, the appeal shall be dismissed by order; in the case referred to in section 441(2), however, only if the appellant present fails to improve the notice of appeal despite being requested to do so.

§ 465

1) The Court of Appeal shall refer the case back to the Regional Court for hearing and judgment, if, without this constituting a nullity:

1. the factual claims were not fully settled by the contested final judgment;

2. the first-instance proceedings suffered from substantial deficiencies that prevented an exhaustive discussion and thorough assessment of the matter in dispute;

3. according to the contents of the case files, facts which appear to the court of appeal to be relevant were not even discussed in the first instance.

2) The proceedings before the Regional Court shall be limited, in the case of No. 1, to the claims and applications which have remained unanswered, and, in the case of No. 2, to the parts of the proceedings and judgment of the court of first instance which are affected by the defect.

3) Instead of dismissal, the appellate court may, if necessary after supplementing the hearing in the first instance, render a judgment on the merits of the case if both parties agree or if, in the discretion of the court, this seems appropriate to expedite the proceedings or to avoid substantial costs.

§ 466

1) Unless the provisions of sections 463, 464 and 465 apply, the court of appeal shall render judgment on the merits.

2) The decision of the court of appeal shall include all issues concerning the awarded or denied claim, which, in accordance with the appeals, require a discussion and assessment in the second instance.

3) The judgment of the court of first instance may only be amended to the extent that an amendment is requested.

§ 467

1) The court of appeal shall base its decision on the results of the hearing and the evidence as established in the trial court records and in the judgment of the first instance, which are not affected by the grounds of appeal asserted, unless they have been corrected by the hearing of the appeal itself.

2) The significance to be attached to an objection raised in due time against individual findings of a record of the first instance or against the statements of fact and evidence (sections 264, 265) contained in the copy of an order to take evidence or in the record of the judgment shall be decided by the appellate court, if necessary after an oral hearing on the findings and statements affected by the objection (section 457), with careful appraisal of the facts.

the results of the appeal proceedings and all other circumstances.

§ 468

1) The case shall be remanded to the trial court of first instance by means of an order in the cases referred to in sections 463 and 465.

2) The Regional Court to which a case is referred for a new hearing or decision in whole or in part as a result of a decision of the Court of Appeal shall be bound by the legal assessment on which the Court of Appeal based its decision.

3) With regard to the commencement of a new hearing, the provisions of section 448 shall apply.

4) The same shall apply if the appellate court amends the judgment by which an action for reopening was found inadmissible and the hearing at first instance was limited to the question of the admissibility of the reopening of the proceedings.

5) The court of appeal may also order that the new hearing and decision at first instance be conducted by a judge other than the judge who rendered the contested judgment.

§ 469

1) The judgment or the decision of the Court of Appeal granting the appeal shall always be delivered to the parties in written form.

2) When presenting the facts of the case in the judgment of the court of appeal, a reference to the judgment of the court of first instance is not excluded.

§ 469a

In the copy of its decision, the court of appeal may limit the restatement of the submissions of the parties and the factual basis for the decision to what is necessary for the understanding of its legal arguments. Insofar as the court of appeal considers the arguments of the appeal not to be valid, but the reasons for the decision of the contested judgment that are contested by them to be correct, it may content itself with a brief statement of the reasons for its assessment, referring to their correctness.

§ 470

1) In small claims cases, the judgment of the court of first instance may be appealed only on the grounds specified in section 472.

2) Wherever the aforementioned grounds for revision refer to an appeal or an appeal, this refers to the proceedings at first instance.

3) The judgment of the Supreme Court is final.

2. Revision section

Admissibility

§ 471

1) An appeal against judgments of the Court of Appeal in small claims cases (Section 535(1)) is inadmissible in any case.

2) Except for the cases mentioned in par. 1, the appeal against the judgments of the Court of Appeal shall be admissible, unless:

1. the subject matter of the dispute, as determined by analogous application of Art. 3 et seq. of the Law on the Tariff for Lawyers and Legal Agents, on which the appellate court has rendered a decision (subject matter of the decision), does not exceed the amount of 50,000 francs in total, in terms of money or money's worth, in property disputes on the merits; and

2. the contested judgment of the Regional Court is upheld in its entirety by the Court of Appeal on the merits.

3) However, in the cases referred to in paragraph 2, the appeal shall be admissible:

1. against judgments of the Court of Appeal, by which the latter decides on appeals against decisions of the AHV-IV-FAK institutions as the first court instance;

2. if, in the cases referred to in subsection 2(2), the judgment of the court of first instance was rendered by the Regional Court in accordance with a legal opinion previously expressed by the Court of Appeal (section 465(1) in conjunction with section 468(2)), unless the Court of Appeal attached a reservation of res judicata to its decision to set aside the judgment rendered in the first instance (section 487(1)(3));

3. against judgments of the Court of Appeal in proceedings in matrimonial and partnership cases (Sections 516 et seq.).

§ 472

Revision may be sought only on one of the following grounds:

1. because the judgment of the Court of Appeals is void for one of the defects specified in § 446;

2. because the appeal proceedings suffer from a defect which, without causing nullity, was likely to prevent an exhaustive discussion and thorough assessment of the matter in dispute;

3. because the judgment of the Court of Appeal appears to be based on a factual premise in an essential point, which is in contradiction with the trial records of the first or second instance;

4. because the judgment of the Court of Appeal is based on an incorrect legal assessment of the matter.

§ 473

1) The appellate court shall review the judgment of the court of appeals within the limits of the requests made in the appellate proceedings.

2) New factual allegations or evidence may be raised on appeal only in support of or in opposition to the contention that the judgment of the court of appeals was reversed because of one of the facts set forth in the

§ 446, or that the appeal proceedings suffered from a defect which could prevent an exhaustive discussion and thorough assessment of the matter in dispute.

Revision survey

§ 474

1) The appeal shall be filed by submitting a written statement (notice of appeal) or by making a declaration on the record before the trial court of first instance.

2) The time limit for appeal shall be four weeks from the date of service of the notice of appeal; it may not be extended.

3) The timely filing of an appeal shall suspend the entry into force of res judicata and the enforceability of the judgment appealed against to the extent of the appeal claims until the appeal has been settled.

§ 475

1) The notice of appeal must contain, in addition to the general requirements of a written pleading:

1. the name of the judgment against which the appeal is directed;

2. a specific statement of the extent to which the judgment is contested, an equally specific brief description of the grounds for the contestation

(grounds for appeal) and a statement as to whether the judgment is to be set aside or amended and which is sought (application for appeal);

3. the factual arguments and the evidence by which the truth of the grounds for revision specified in § 472 items 1 and 2 shall be proved.

2) Insofar as the appeal is based on the ground for appeal specified in § 472 item 4, the grounds on which the legal assessment of the case appears to be incorrect shall be set out in the notice of appeal without further ado.

§ 476

1) If the appeal is filed in due time, the Regional Court shall order that a copy of the notice of appeal be sent to the appellant's opponent. Late appeals shall be dismissed by the Regional Court.

2) The opposing party is free to submit a response to the appeal by means of a written statement or to make a statement on the record within the emergency period of four weeks from the service of the notice of appeal at the Regional Court.

3) The provisions of § 475 shall apply mutatis mutandis to the response to the appeal, with the exception of the requirements specified under items 1 and 2. New facts and evidence which the respondent wishes to use to refute the grounds for appeal stated in the notice of appeal shall be taken into account in the appeal proceedings only to the extent that they have already been stated in the response to the appeal.

4) The appellant shall be notified of the filing of the response to the appeal by notification of a copy of the response to the appeal.

§ 477

After the response to the appeal has been filed or after the expiry of the time limit open for this purpose, the Regional Court shall submit the documents referred to above to the court of appeal together with all the records of the proceedings relating to the legal dispute.

Proceedings before the appellate court

§ 478

1) The appellate court shall decide on the appeal in closed session without prior oral hearing.

2) However, if in a particular case it appears necessary to the Court of Appeal for the purpose of deciding on the appeal lodged, an oral hearing before the Court of Appeal may also be ordered on application or ex officio. With regard to this hearing, the provisions enacted for oral hearings before the court of appeal shall apply.

3) Investigations or taking of evidence which are necessary to establish the grounds for revision set forth in § 472 items 1 and 2 shall be carried out at the discretion of the reviewing court.

§ 479

1) As a rule, the court of appeal shall decide on the merits of the case. However, if it finds that the judgment of the court of appeal is void under section 446(4) and (5) or is to be set aside for the reason specified in section 472(2) and consequently considers that a new hearing is necessary in order to dispose of the case, it shall refer the case back to the court of appeal for this purpose.

2) If the appellate court finds that the judgment or proceedings should be set aside because of a nullity already committed at first instance and to be observed ex officio, the case shall be remanded to the first instance (section 447(2)).

§ 480

1) The court to which the case has been referred back shall, in its further consideration and decision, be bound by the legal assessment on which the court of appeal based its annulling judgment.

2) The commencement of proceedings at the Court of Appeal or the Regional Court shall be ex officio.

§ 481

If the appellate court finds that the appeal was filed willfully or only for the purpose of delaying the case, a penalty of willfulness shall be imposed on the appellant or, under certain circumstances, on the appellant's attorneys.

§ 482

Unless deviations result from the provisions of this section, the provisions on appeal shall also apply to the appeal.

3. Section recourse

Admissibility

§ 483

1) Decisions (notices) may be appealed, unless the current law excludes the right to appeal against them.

2) Decisions may also be challenged by means of an appeal, in particular on the grounds specified in Section 446.

3) Retrieved

§ 484

In cases in which a separate appeal against a decision is denied under the provisions of this Act, the parties may enforce their objections against this decision with the appeal brought against the next contestable decision.

§ 485

1) In small claims cases, only the following first-instance decisions may be appealed:

1. if the initiation or continuation of the lawful proceedings on the claim has been refused;

2. if a decision has been made on the application to provide security for the costs of the proceedings or to supplement such security;

3. if the request for extension of a hearing was granted in violation of the provisions of section 134 and the order is at the same time appealable pursuant to section 141;

4. if an application for restitutio in integrum was rejected due to the fact that a hearing was missed or the time limit for filing an appeal expired;

5. if costs to be reimbursed have been decided by resolution.

2) An appeal against decisions of the Court of Appeal is excluded in small claims cases.

§ 486

Retrieved

§ 487

1) An appeal shall only be admissible against the decisions of the Court of Appeal rendered in the appeal proceedings:

1. if the appeal was rejected by the decision;

2. if the nullity of the judgment of the court of first instance and the dismissal of the action were pronounced by the court of appeal by an order;

3. if the case has been referred by order to the Regional Court for a decision or for a hearing and decision and if, at the same time, it has been stated in the order of the Court of Appeal that the proceedings in the first instance are to be commenced or continued only after this order has become final. There is no separate right of appeal against this ruling.

2) The Supreme Court shall rule on an appeal declared admissible under para. 1 item 3 by judgment on the merits if the matter in dispute is ripe for decision.

Filing of the appeal

§ 488

1) The appeal shall be filed by submitting a written statement (notice of appeal) or by making a declaration on the record before the district court.

2) If a decision is challenged by means of an appeal on the grounds of an incorrect legal assessment on which it is based, the reasons for which the legal assessment of the case appears incorrect shall be set out in the appeal without further ado.

§ 489

1) The appeal period is 14 days; it cannot be extended.

2) The time limit shall commence on the day of delivery of the written copy of the decision to be appealed or of the appeal decision and, in small claims cases, if both parties were present at the delivery of the decision, on the day following the delivery.

§ 489a

After the pendency of the dispute, if the urgency of the case does not preclude it or if the purpose of the appeal would thereby be frustrated, the notice of appeal shall be served by the Regional Court, if it does not reject the appeal, on the opponent of the appellant. The opponent of the appeal may file a response to the appeal with the Regional Court within the emergency period of 14 days from the service of the notice of appeal.

§ 490

1) If the appeal is directed against the refusal, declaration of expiry or withdrawal of legal aid, against penal orders or an order which is merely of a procedural nature, the court whose decision or order is contested may itself allow the appeal.

2) The same applies to all decisions by which an application was rejected as inadmissible or belated or dismissed for whatever reason without hearing the opposing party.

3) If the court is not designated for this purpose or if decisions other than those referred to in paras. 1 and 2 are appealed against, the appeal shall be submitted to the court of appeal.

The appellate court shall, without delay, submit to the appellate court an explanatory report and all documents necessary for the appraisal of the appeal.

§ 491

Appeals against decisions against which, in accordance with the provisions of this Act, no appeal may be lodged at all or against which a separate appeal may be lodged, as well as appeals lodged after the expiry of the time limit for appeal, shall be dismissed ex officio by the court before which they are lodged.

§ 492

1) The appeal shall not have suspensive effect with regard to the execution of the contested order and the commencement of its enforceability. Unless otherwise provided by law, an exception shall be made in the case of criminal decisions that are appealable to the courts of appeal.

2) If, however, the suspension of the proceedings, the execution of the contested order or the execution to be instituted on the basis of the same does not cause disproportionate disadvantage to the opposing party and if, without such suspension, the purpose of the appeal would be frustrated, the Court of First Instance shall, upon application, order the temporary suspension and, at the same time, order any necessary precautionary measures. There shall be no separate appeal against this order.

§ 493

Retrieved

Proceedings before the court of appeal

§ 494

1) The court of appeal shall decide on the appeal in a closed session without prior oral proceedings. Prior to the decision, the appellate court may arrange for such investigations as it deems necessary.

2) An inadmissible or belated appeal shall be dismissed immediately.

3) The decision of the court of appeal shall be delivered to the parties in writing. Section 469a shall apply mutatis mutandis to the decisions of the court of appeal.

§ 495

1) If the appeal is allowed, the appellate court may transfer any further orders required as a result of its decision to the court or judge which issued the order appealed against.

2) If the order appealed against is set aside in the second instance and the court of first instance is ordered to make a new decision after completion of the proceedings, the decision of the court of appeal may be appealed against only if it is stipulated therein that the order issued by the court of first instance is to be executed only after it has become final. An appeal against this decision is not admissible.

3) In cases where the law provides that the decision of the court of appeal is not subject to further appeal, a ruling under para. 2 shall not be admissible.

4) The Supreme Court shall rule on the merits of an appeal admissible under subsection 2 if the case is ripe for decision.

§ 496

1) Appeals against decisions of the court of second instance confirming the contested order of the court of first instance shall be dismissed by the court of first instance ex officio.

2) If the appellate court finds that an appeal filed against a decision of a court of second instance was filed wantonly or only for the purpose of delaying the case, the appellant or, depending on the circumstances, the appellant's attorneys shall be fined for wantonness.

4. Part Invalidity and Resumption Action

§ 497

1) A final decision by which a matter is settled may be challenged by an action for annulment:

1. if a recognizing judge was excluded from exercising the office of judge in the legal dispute by virtue of the law;

2. if a party was not represented at all in the proceedings or, if it requires a legal representative, was not represented by such a representative, unless the conduct of the proceedings was subsequently duly authorized.

2) However, the action for annulment shall be inadmissible if, in the case referred to in item 1, the ground for exclusion, or in the case referred to in item 2, the lack of capacity to stand trial or of legal representation, has already been asserted without success before the final decision by means of a motion to dismiss, by means of a motion for a declaration that the proceedings are not pending, or by way of an appeal.

3) The action for annulment is also inadmissible if the party was able to assert the ground for exclusion (item 1) in the earlier proceedings or by means of an appeal.

§ 498

1) Proceedings closed by judgment may be reopened at the request of a party:

1. if a document on which the judgment is based is falsely made or falsified;

2. if a witness or an expert has been guilty of a false statement or the opponent has been guilty of a false oath during his examination and the judgment is based on this statement;

3. if the judgment was obtained by an act of fraud by the representative of the party, his opponent or his representative, which is to be prosecuted by means of criminal proceedings;

4. if, at the time of rendering the judgment or of an earlier decision on which the judgment is based, the judge has been guilty, to the detriment of the party, of a violation of his official duties punishable under the criminal law in relation to the legal dispute;

5. if a criminal court finding on which the judgment is based has been overturned by another judgment that has become final;

6. if the party finds or is enabled to use a judgment (section 411) on the same claim or legal relationship which has already become final and which creates a right between the parties to the resumed proceedings;

7. if the party becomes aware of new facts or finds or is enabled to use evidence whose preliminary

The court has the right to decide on the merits of the case if the court would have decided more favorably on the merits of the case in the earlier proceedings.

2) Due to the circumstances specified in items 6 and 7, the reopening shall be admissible only if the party, through no fault of its own, was unable to assert the legal force of the judgment or the new facts or evidence before the conclusion of the hearing on which the judgment of the first instance was rendered.

§ 499

The reinstatement may also be made for the purpose of executing the obligations referred to in section 279(2) of

The court may allow the use of evidence excluded from the trial if the use of such evidence in the earlier proceedings would obviously have resulted in a decision on the merits of the case more favorable to the party.

§ 500

1) The court which rendered the judgment appealed against in the action shall have exclusive jurisdiction over the action for annulment and over the action for recovery brought in accordance with section 498(4), but if several judgments rendered in the same action by courts of different instances are appealed against in the action, the highest of these courts shall have exclusive jurisdiction.

2) In all other cases (§§ 498 Nos. 1 to 3, 5, 6 and 7 and 499), the action for recovery must be brought before the Regional Court, but if only a judgment passed at a higher instance is affected by the ground of challenge asserted, it must be brought before the competent court of higher instance.

Procedure

§ 501

The provisions of Parts One to Three of this Act shall apply mutatis mutandis to the filing of an action for annulment and reopening and to the further proceedings, unless the following provisions provide otherwise.

§ 502

1) The action shall be brought within the emergency period of one month.

2) This period is to be calculated:

1. in the case of section 497, item 1, from the day on which the party became aware of the reason for exclusion or, if this occurred before the contested decision took legal effect, from the latter day;

2. in the case of § 497 item 2, from the day on which the decision was served on the party, and if the party is not capable of litigation, on the legal representative of the party, but likewise not before the contested decision has become final;

3. in the cases referred to in section 498 items 1 to 5, from the day on which the judgment of the criminal court or the order discontinuing criminal proceedings has become final;

4. in the case of section 498 items 6 and 7 from the date on which the party is able to

was to use the final judgment or to present the facts and evidence of which it had become aware to the court;

5. in the case of section 499, from the service of the judgment of the first instance.

3) After the expiration of ten years from the entry of the judgment into force, the action may no longer be brought, with the exception of the case mentioned in item 2.

§ 503

If the action is not brought before the regional court but before a higher court which, according to the provisions applicable to the proceedings before it, is able to make the main action ready for trial, the provisions which would be applicable to the higher court as an appellate court shall be decisive with regard to the oral proceedings, the taking of evidence and the communication of the judgment rendered on the action to the first instance as well as with regard to the appealability of the judgment.

§ 504

The complaint must contain in particular:

1. the name of the contested decision;

2. the designation of the legal ground for contestation (ground for annulment, ground for resumption);

3. the indication of the circumstances from which the observance of the statutory time limit for the action results and the designation of the evidence available for this purpose;

4. the indication of the circumstances essential for the assessment of jurisdiction;

5. the statement to what extent the removal of the contested decision and what other decision on the merits is requested.

§ 505

The judge, because of whose participation in the decision the action for annulment (§ 497 item 1) or because of whose conduct the action for reopening according to § 498 item 4 is brought, shall be excluded from conducting the hearing and from deciding on the action for annulment or reopening.

§ 506

1) Before scheduling a hearing for oral argument, and in the case of courts in closed session, the court shall examine whether the action is based on one of the statutory grounds for contestation (sections 497 to 499) and whether it was filed within the statutory period. If one of these requirements is lacking, then

it shall be dismissed by order as unsuitable for setting a date for the oral proceedings.

2) The circumstances from which compliance with the statutory time limit results shall be made credible by the plaintiff at the request of the court.

§ 507

1) If the reopening is requested on account of one of the criminal acts listed in § 498 items 1 to 4, without a legally valid conviction having already taken place, the trial court shall, without prior oral hearing, initiate the criminal proceedings for the purpose of ascertaining and determining the alleged criminal act. No appeal shall lie from this order; before making the order, the court may hear the parties or one of them and may take such other inquiries as it deems important.

2) The hearing on the action for revision shall be held only after the final conclusion of the criminal proceedings, and only if these proceedings have led either to a final conviction for the criminal act asserted as grounds for the action for revision, or if the criminal proceedings have not led to a conviction for reasons other than lack of facts or lack of evidence. Otherwise, the action shall be dismissed as inadmissible after the results of the criminal proceedings have been announced. This dismissal shall also be made without prior oral hearing and at the court by a resolution passed in closed session. The criminal court or the public prosecutor's office shall always expressly state the reason for not instituting or discontinuing the proceedings when announcing the decisions taken on the grounds of non-initiation or discontinuation of the criminal proceedings.

§ 508

1) If, in the cases referred to in section 498, the ground for reopening is shown by documents attached to the action in original or certified copy, or if reopening within the meaning of section 499 is applied for, the hearing and decision on the ground and the admissibility of the reopening shall, subject to the power granted to the court in section 189, be combined with the hearing of the main action.

2) The main case shall be heard anew insofar as it is affected by the grounds for challenge.

3) If, however, the court of higher instance, which is competent to decide on the granting of a reopening, is not in a position, in accordance with the provisions applicable to the proceedings before it, to make the main action ready for trial, it shall confine itself to deciding on the admissibility of the reopening and, after the judgment granting the reopening has become final, shall refer the case back to the Regional Court for the trial of the main action. The court shall then set a hearing on the merits of its own motion and conduct it in accordance with the provisions applicable to proceedings before that court.

§ 509

1) In all other cases, only the grounds and admissibility of the reopening of the proceedings or the annulment thereof shall be heard and decided by judgment.

2) If the reopening is granted, the proceedings on the merits, insofar as they are affected by the grounds for challenge, shall be brought before the court before which the action for reopening was brought or, if the latter is not in a position under the provisions applicable to the proceedings to make the merits ready for trial, before the regional court.

3) With respect to the referral, the scheduling of the hearing and the conduct of the hearing, the provisions of section 508(3) shall apply.

§ 510

1) If the trial on the merits is to be conducted before the court having jurisdiction to decide on the admissibility of the request for revision, the court may, after pronouncing the decision granting the request for revision, order by way of an order that the trial on the merits be conducted before this decision is issued. No appeal shall lie from this order.

2) In this case, the decision on the admissibility of the reopening shall be included in the decision on the merits of the case.

§ 511

If it only becomes apparent during the oral proceedings that the action for resumption or annulment is based on a legally inadmissible ground for challenge or has been filed late, the action shall be dismissed by order.

§ 512

1) An action for a retrial brought simultaneously with the appeal or revision against the same judgment or during the pending appeal or revision proceedings shall, ex officio or upon request, immediately be ordered to suspend the appeal or revision proceedings if one of the grounds for retrial set forth in section 498 items 1 to 5 is asserted and the original or a certified copy of the final judgment of the criminal court rendered is attached to the action.

2) In the event of such a decision, the court before which the action for a retrial has been filed shall immediately notify the court before which the appeal is currently being heard of the ordered interruption of the appellate proceedings.

§ 513

1) In other cases, the court called to hear the action shall decide of its own motion or on application whether the appeal or revision proceedings instituted or pending in respect of the same judgment shall be interrupted by reason of the filing of an action for revision, taking into account the particular circumstances of the case and the evidence adduced in support of the existence of the ground for revision.

2) Such an interruption may also be ordered during the oral proceedings on the action for revision. If the interruption is ordered, the provisions of section 512(2) shall apply.

§ 514

1) There shall be no right of appeal against the order by which a decision is taken on an application filed in accordance with sections 512 and 513.

2) If the action for revision has been dismissed with final effect, the interrupted appeal proceedings shall be resumed ex officio or on application. The application shall be filed with the court before which the appeal or revision proceedings were pending at the time of the ordered interruption. This court shall arrange for the timely resubmission of the files required for the continuation of the proceedings ex officio.

§ 515

1) Unless an interruption of pending appellate proceedings is ordered pursuant to the above provisions as a result of the filing of an action for revision, the filing of an action for revision shall have no suspensive effect with respect to the entry into force and enforceability of the judgment appealed against.

2) The enforceability of a contested final judgment shall not be affected by the filing of an action for annulment or an action for revision.

5. Part

Special types of the procedure

1. Section

Proceedings in Matrimonial and Partnership Matters

General Provisions

§ 516

1) Underage spouses and spouses for whom a guardian has been appointed may consent to divorce or separation on their own behalf. They do not require the participation of their legal representative in all proceedings under the Marriage Act if they are capable of judgment (Art. 15 PGR). This applies mutatis mutandis to the bride and groom in the proceedings concerning the action of the opponent (Section 517).

2) In matrimonial proceedings, the court shall also summon the legal representative. The legal representative shall be entitled to perform procedural acts. They shall be legally effective insofar as they do not conflict with the procedural acts of the minor spouse or the spouse under guardianship.

§ 516a

The provisions on proceedings in matrimonial matters shall apply mutatis mutandis to the registered partnership.

Action of the opponent

§ 517

The action of the opponent for prohibition of the conclusion of marriage shall be directed against both spouses. It shall be based on the lack of capacity of one of the spouses or on a legal impediment to marriage (Article 18 of the Marriage Act) and cannot be amended after the pendency of the dispute has arisen, even with the consent of the defendants (Section 243).

Procedure in case of divorce on joint request

§ 518 to 519aRepealed procedure

in case of divorce on complaint

§ 520

1) Divorce after separation and divorce on the grounds of unreasonableness shall be enforced by legal action.

2) The petition for divorce shall be filed with the District Court by writ or on the record. It must contain information on:

a) the place and time of the marriage;

b) the office where the marriage is recorded and, if possible, the number of the register;

c) the last common and current habitual residence;

d) the nationality;

e) employment;

f) the dates of birth;

g) membership in a religious community;

h) the names and dates of birth of the children;

i) the previous marriages of the spouses;

k) the establishment of marriage pacts.

§ 521

1) At the beginning of the proceedings, the court shall make the attempt at reconciliation prescribed in Article 57 of the Marriage Act in the case of divorce on grounds of unreasonableness, which shall be repeated once if there is a prospect of reconciliation. The spouses shall appear at the reconciliation attempts in person and without representatives. With the consent of the parties, the court may call in experts from marriage and family counseling centers for this purpose.

2) The court may interrupt the proceedings for a reasonable period of time if, after the reconciliation proceedings have been completed in the course of the divorce proceedings, it considers that there is a possibility of reconciliation.

§ 522

The hearing and the pronouncement of the verdict are not public.

§ 523

1) The court shall examine ex officio whether the requirement of three years of separation (Article 55 of the Marriage Act) or a ground of unreasonableness (Article 56 of the Marriage Act) exists, whether the petition for divorce can be granted and whether the ground of unreasonableness can be attributed mainly or entirely to the respondent.

2) The court may also consider facts not alleged by the parties and take evidence that none of the parties offered.

3) Facts alleged by a party require proof even if they are admitted by the opponent (Section 266).

4) If a party refuses without sufficient reason to be examined by an expert appointed by the court or fails to comply with a request to appear in person or with a summons to appear as a party without sufficient reason, a penalty may be imposed on the party or the party may be compulsorily brought before the court.

§ 524

1) A separate first hearing (§§ 246, 250) shall not be held.

2) The defendant may file a counterclaim (Sec. 48 JN) until the conclusion of the oral proceedings at first instance.

§ 525

1) Actions and counterclaims shall always be joined for joint hearing and decision (sections 187, 404).

2) In the event of a counterclaim or express consent to divorce by the respondent, the provisions on the procedure for divorce on joint request shall apply mutatis mutandis (Art. 59 Marriage Act).

3) In the case of para. 2, the legal action pending on the grounds of divorce shall be discontinued. If the petition for divorce is granted, the action for divorce shall be deemed to have been filed when the divorce decree becomes final.

withdrawn; the costs of the proceedings shall be set off against each other. If the petition for divorce is withdrawn or dismissed with final effect, the interrupted divorce proceedings shall be resumed upon request.

Proceedings on the invalidity of marriage and divorce of marriage on complaint

§ 526

1) The plaintiff shall be entitled to amend the cause of action (Section 243) until the conclusion of the oral proceedings at first instance even without the consent of the defendant.

2) The action may be withdrawn without the consent of the defendant until the judgment becomes final. A judgment that has already been rendered shall be deemed to have been rescinded.

§ 527

1) In the matter of divorce, the conclusion of a settlement, a judgment of acknowledgment, a judgment by default or a judgment under

§ 399 is not permissible.

2) The court shall first limit the hearing to the issue of divorce of the marriage and shall give a ruling on divorce of the marriage in the form of a partial judgment; however, this shall come into force only after a ruling has been made on the ancillary consequences of the divorce in the non-contentious proceedings before the same court.

§ 528

In the case of an action for divorce on the grounds of unreasonableness, the court shall attempt to reconcile the parties at every stage of the proceedings. For this purpose, it may request the parties to appear in person at the hearing.

§ 529

If the plaintiff fails to appear at the first hearing, the court shall, at the request of the defendant, declare the action withdrawn without prejudice to the claim.

§ 530

If one of the spouses dies before the judgment becomes final, the proceedings shall be discontinued. The judgment shall be deemed to have been set aside. The costs of the proceedings shall be set off against each other.

§ 531

1) If, on the basis of the investigations and the evidence taken, the court has freely determined the existence of a ground for divorce, it shall pronounce divorce by judgment.

2) If the marriage is divorced on the basis of Article 55 of the Marriage Act (living apart), only the objective circumstance of living apart for three years shall be recorded in the judgment.

3) In the case of divorce on the grounds of unreasonableness, the court shall determine the apportionment of the costs of the proceedings in accordance with the principles of the Code of Civil Procedure. In the case of divorce on the grounds of separation, the costs shall be set off against each other.

4) The divorce decree shall state that the bond of marriage is severed when the decree becomes final.

5) In the absence of an agreement between the spouses on the consequences of the divorce, the court shall, ex officio, make a ruling on all consequences of the divorce in the divorce decree.

Procedure for separation of marriage

§ 532

1) The provisions of the divorce proceedings shall apply mutatis mutandis to the proceedings on the separation of marriage.

2) In the judgment of separation, the court shall declare that the obligation of conjugal union and conjugal fidelity shall cease to exist as soon as the judgment becomes final, but the marriage bond shall continue to exist, and that the judgment of separation shall cease to have effect if the separated spouses resume conjugal union and notify the court thereof by a joint written declaration.

§ 532a

Requirements for divorce suits by foreigners

1) If a divorce action is to be judged according to foreign law, the existence of the divorce prerequisites required by the foreign law must be examined.

2) The provisions of this Act on divorce proceedings shall apply insofar as they do not conflict with foreign law.

3) The provisions of sections 518, 520, 521, 522, 524 to 530 shall apply mutatis mutandis in any case.

Invalidation of marriage

Legal standing

§ 533

1) In cases where, according to the provisions of the Marriage Act, proceedings for the annulment of a marriage are to be conducted ex officio, the Public Prosecutor's Office is obliged to file an action. The action shall be brought against both spouses. If there is a public interest, the action may still be brought even if the bond of marriage has been severed by the death of one spouse or by divorce decree.

2) In the cases referred to in Articles 31, 35, 36, 37 and 38 of the Marriage Act, the action may be brought only by the spouse whose rights have been infringed, and in the case referred to in Article 34 of the Marriage Act, only by the legal representative.

3) The action of the public prosecutor's office for annulment of marriage shall be directed against both spouses, if one of them is deceased, against the surviving spouse.

4) In the case of a double marriage, the action shall be brought against both spouses of the subsequent marriage.

5) If the prosecution filed the suit during the lifetime of both spouses,

the proceedings shall be continued against the surviving spouse in the event of the death of one of the spouses.

6) The provisions of sections 522, 523, 524, 525, 526, 527 shall apply to the proceedings, 530 and 531 paras. 1 and 5 mutatis mutandis.

7) The provisions on the suspension of proceedings (sections 168 to 170) shall not apply.

8) The costs shall be apportioned according to whether and to what extent a spouse is to be blamed for the annulment of the marriage insofar as he or she was aware or should have been aware of the reason that led to the annulment of the marriage. If the public prosecutor's office is liable to pay costs, the Land shall be ordered to pay the costs.

Disputes between the spouses concerning property claims

§ 534

The provisions of sections 522, 524, 525, 526 and 530 shall apply to disputes between the spouses concerning property rights connected with the proceedings for divorce, separation or annulment of marriage.

2. Section Small Claims Procedure

§ 535

1) If, in property disputes, the sum of money claimed in the action or the value of the subject matter of the dispute does not exceed the amount of 5,000 francs, or if the plaintiff declares that he wishes to accept a sum of money not exceeding 5,000 francs instead of the subject matter claimed in the action (bagatelle cases), the following provisions shall apply.

2) Par. 1 shall not apply to disputes referred to in Art. 20 of the Act on Court Fees and Art. 11 items 4 and 6 of the Act on the Tariff for Lawyers and Legal Agents.

§ 536

Retrieved

§ 537

If any of the defences referred to in section 250 is heard separately and is dismissed on the basis of such hearing, the judge shall, after giving notice of such decision, order the

that the hearing on the merits of the case be commenced immediately. The decision

In such a case, the court shall not make a special statement of the objection, but shall include it in the decision on the merits of the case.

§ 538

1) In small claims cases, the minutes of the hearing shall contain only:

1. the information ordered in § 207 and § 208, item 1;

2. records of a recorded power of attorney, if the party appears in person with the authorized representative; of the plea, if it was filed on a court day within the meaning of Section 239; the essential content of the taking of evidence and, in particular, whether a witness or expert was sworn before or after being heard or whether he was not sworn; furthermore, the fact that the party was given the legal explanations before the unsworn examination and before the examination on oath (sections 376 and 377);

3. the judgments rendered and announced at the hearing, as well as the orders and decrees of the judge against which an appeal is admissible;

4. the remark whether the parties were present when the judgment was pronounced.

2) In addition, in the event that the commenced hearing cannot be completed in one day, upon request or at the discretion of the judge, an express objection of the defendant to the allegations underlying the action shall be recorded in the minutes of the hearing in the short form to be determined by the judge.

§ 539

1) The judgment shall be announced orally. The judgment pronounced in the presence of both parties shall become effective vis-à-vis the parties upon pronouncement. If both parties are present at the pronouncement of the judgment, a written copy of the judgment shall be served only at the request of the party. Except in this case, a written copy shall be delivered to both parties ex officio.

2) When pronouncing the judgment, the judge shall draw the attention of the parties to the fact that this judgment may be appealed against only on the grounds of

of the grounds enumerated in section 472 may be taken. The same statement shall be included in the written copy of the judgment.

§ 540

If, as a result of an amendment to the complaint made in the course of the proceedings, the

If the value limit specified in § 535 is exceeded, the case shall be heard and decided in accordance with the provisions otherwise applicable to the proceedings.

3. Section Owner Protection Procedure

1. Applicable law

§ 541

1) Proceedings in actions for protection of possession of property and rights shall be conducted taking into account the provisions of the new law and in accordance with the following provisions and ordinary procedural procedure.

2) Actions submitted in writing shall be titled as actions for possession.

2. Acceleration of the procedure

§ 542

1) Special consideration shall be given to the urgency of the matter when setting the facts and deadlines.

2) The district court may issue official orders in accordance with the Code of Legal Protection even before the commencement of the proceedings or during the proceedings. The action can be preceded by the Rechtsbotsverfahren.

3. Evidence

§ 543

1) In possession protection proceedings, all discussions pursuant to the articles on possession protection of property law and also all means of evidence are admissible.

2) The taking of evidence by sworn examination of the parties shall only be admissible in the appeal proceedings.

4. Judgment

§ 544

The decision shall be made by means of a judgment after a closed hearing.

5. Appeals

§ 545

Legal remedies against the judgment and orders issued in the proceedings shall be admissible in the same manner as against judgments and orders issued in ordinary proceedings.

§ 546

Retrieved

§ 547

Retrieved

4. Section Mandate Procedure

§ 548

In an action brought to enforce a claim for money or other fungible property (section 587 (2)), the plaintiff may request that an order for payment (mandate) be issued against the defendant if all the facts on which the plaintiff's claim on the merits and the ancillary claims are based are proved by documents of the kind referred to below produced in an original of unobjectionable external form:

1. by public deeds established within the territory of application of this Act;

2. by private documents on which the signatures of the issuers are certified by a domestic court or notary public;

3. by other documents on the basis of which a right in rem has been recorded in a domestic public register for the claimed claim if, at the same time, no appeal is pending against the court order as a result of which this recording took place, nor is it recorded in the register that this recording is disputed.

§ 549

1) If the action is not brought by the person who appears to be entitled according to the documents on which the action is based, or if it is brought against a person other than the obligor named in these documents, the application for the issuance of an order for payment may be granted only if and to the extent that it is proved by documents of the quality specified in section 548 that the claim or the obligation has passed in whole or in part from the original entitled or obligor to those persons by whom or against whom the action is brought.

2) A payment order may be issued for the collection of claims which could be opposed by the objection of limitation only if the interruption or suspension of the limitation period is already proven in the action by documents of the quality specified in section 548.

§ 550

1) As a result of an application made in accordance with sections 548 and 549, the payment order shall be

without prior oral proceedings and without hearing the defendant. The plaintiff may, to the extent that the

If the court of origin has the documents required for the substantiation of its claims in accordance with §§ 548 and 549, it may replace the submission of the documents with a reference to the relevant court records.

2) The order for payment shall state that the defendant shall, within 14 days after service of the order for payment, satisfy the claims asserted against him, together with the costs determined by the court, or raise his objections to the order for payment. This period may not be extended.

3) The payment order shall be served on the defendant in accordance with the provisions applicable to lawsuits.

§ 551

If in an action filed in writing the issuance of the order for payment is requested against several defendants, this request can only be granted with regard to those defendants for whom copies of the statement of claim, provided with copies of all enclosures, are submitted. The order in which the defendants are named in the complaint shall be decisive in this respect.

§ 552

1) An appeal against the issuance of the order for payment is not admissible, but the decision on the costs contained in the order for payment may be challenged by means of an appeal.

2) Objections to the payment order shall be filed with the district court within the period specified in the payment order.

3) Objections raised late shall be rejected without a hearing.

4) A hearing shall be scheduled as soon as possible on objections submitted in due time without a new request by the plaintiff.

§ 553

The judgment terminating the proceedings shall state whether the payment order issued to the defendant is to be maintained or whether and to what extent it is to be set aside.

§ 554

Can the request for the issuance of an order for payment made in the action be granted

If the action is not allowed, it shall be heard in accordance with the law if it is suitable for the determination of the date of the oral proceedings; otherwise, the action shall be dismissed as unsuitable for the commencement of the proceedings.

5. Section

Proceedings in disputes over bills of exchange

§ 555

In the proceedings on actions for assertion of claims under bills of exchange is:

1. to fix in the judgment the time limit for the fulfillment of the obligation imposed on the defendant at 14 days;

2. the time limit for filing an application for restitutio in integrum, for filing an appeal or revision and for filing an appeal shall be 14 days. These deadlines cannot be extended.

§ 556

In legal disputes arising from bills of exchange, reinstatement in the previous state of affairs and resumption of the proceedings to the detriment of a party who acted in good faith in the main proceedings shall not take place if this party has in the meantime lost his claims under the bill of exchange against third parties in whole or in part due to the lapse of time or can no longer assert them due to the shortness of the remaining time.

§ 557

1) If the claim asserted in the action is based on a bill of exchange which meets all the requirements of validity and the authenticity of which is not questioned, and if, together with the bill of exchange, the protest and the receipted invoice, insofar as these documents are necessary in the individual case to substantiate the plaintiff's claims, are also submitted in original, are presented in original, the plaintiff may request that the defendant be ordered to pay the bill of exchange debt together with the stated ancillary claims and the costs addressed and determined by the judge or to raise his objections thereto within the non-extendable period of 14 days with other execution (payment order).

2) If a bill of exchange is signed by a holder of power, a payment order may be issued only if, in addition to the documents referred to in the first paragraph, the power of attorney of the party giving the power of attorney is provided.

§ 558

The provisions of section 557 shall also apply to the assertion of claims for recourse prior to the forfeiture of the bill of exchange if the conditions further required for this purpose in articles 43 and 44 of the Bills of Exchange Act are proved by credible documents enclosed with the original of the action. For the purpose of proving the opening of insolvency proceedings, it shall be sufficient to submit one of the notices referred to in Article 44(6) of the Bills of Exchange Act.

§ 559

If the application for the issuance of a payment or freezing order is filed in the action, the provisions of the fourth section (sections 550 to 554) shall apply mutatis mutandis to the further proceedings.

6. Section

Proceedings in inventory disputes

Termination out of court

§ 560

If a party wishes to contest the extrajudicial termination of a tenancy agreement concerning immovable property or property declared by law to be immovable, it must file the action with the court within four weeks of receipt of the notice of termination, otherwise its claim is forfeited.

Judicial termination

§ 561

1) Tenancy agreements relating to immovable property or property declared by law to be immovable may be terminated by either the tenant or the tenant's court.

2) A notice of termination validly given by one party may be enforced against it by the other party.

§ 562

1) The legal notice of termination may be filed in writing or orally. The written statement or the record of the termination shall contain, in particular, the designation of the object of the lease, the date on which the lease is to end, and finally the request to order the opposing party either to hand over or take over the object of the lease at the specified time with other execution, or to raise objections to the termination with the court. To attach

of the objections, a period of four weeks shall be set.

2) Judicial notices of termination which do not comply with these provisions shall, if the existing defect cannot be remedied in accordance with section 84, be rejected ex officio by order.

§ 563

1) A court notice of termination must be filed with the court before the beginning of the notice period to be observed for the termination date stated therein in the case of ordinary termination pursuant to § 1090 Art. 38 to 41 or 100 ABGB and in the case of extraordinary termination pursuant to § 1090 Art. 43 to 45 or 101 to 103 ABGB. Notices of termination filed after the commencement of the period shall be rejected ex officio by order. However, notices of termination served before the commencement of the period shall be served on the opposing party even if service cannot be effected before the commencement of the period of notice.

2) A judicial notice of termination shall be effective for the date of termination stated therein if it is served on the opposing party before the beginning of the period of notice to be observed for this date of termination in accordance with § 1090 Art. 38 to 41 or 100 of the General Civil Code and, in the case of an extraordinary termination, in accordance with § 1090 Art. 43 to 45 or 101 to 103 of the General Civil Code, or if the opposing party does not object to it in the event of late service or does not object to the delay. However, if the opponent objects to the delay, the notice of termination shall be effective for the first later termination date for which the period was still open at the time of its service.

§ 564

The order issued by the court to the opponent of the party issuing the notice pursuant to section 562 shall be communicated to the opponent with a copy of the pleading or a copy of the record.

without undue delay in accordance with the provisions applicable to the service of process.

Order to hand over or take over the subject of the inventory

§ 565

1) In the case of tenancy agreements which expire without prior notice of termination after the expiry of a certain period of time, either party may apply for a court order before the expiry of the tenancy period by means of which the opposing party is ordered to transfer or take over the subject matter of the tenancy agreement at the specified time with other execution, or to file objections against this order with the court within four weeks.

2) If the tenancy has been entered into for more than six months, this request can only be made in the last six months.

3) The provision of § 564 shall also apply to the service of such orders.

Extension

§ 566

1) If the tenant wants to demand an extension of the tenancy agreement, he must file the action with the court:

a) in the case of an indefinite tenancy, within four weeks of receipt of the notice of termination;

b) in the case of a fixed-term tenancy, no later than eight weeks before the expiry of the term of the contract.

2) Par. 1 shall not apply if the termination is contested in court (section 560), objections are raised (section 562(1)) or an action is brought for eviction from the premises.

3) The claim for a second extension must be filed with the court no later than eight weeks before the expiry of the first extension.

Relationship with the subcontractor

§ 567

All notices of termination, orders, decisions and decrees obtained against the tenant which relate to the existence or termination of a tenancy agreement concerning immovable property or property declared by law to be immovable shall also be effective and enforceable against the subtenant, unless a legal relationship existing between the subtenant and the tenant is opposed thereto.

Time limits in inventory cases

§ 568

The time limits set forth in sections 560 to 567 may not be extended.

Procedure

§ 569

1) A hearing shall be ordered on objections raised in due time.

2) The party giving notice of termination or requesting the return or repossession of the subject matter of the lease shall be deemed to be the plaintiff.

3) Objections raised belatedly against the termination of a tenancy agreement or against the court order to hand over or take over a property shall be rejected ex officio without a hearing.

4) If one of the parties, after having raised objections in due time, fails to attend a day's sitting before having entered into the dispute by making oral submissions on the merits, a judgment by default shall be rendered in accordance with section 396 at the request of the party who has appeared.

§ 570

In the judgment terminating the proceedings on objections, it shall be stated whether and to what extent and, in case of allegation of delayed service

on which date the termination notice or the order issued pursuant to section 565 shall be recognized as effective or shall be rescinded, as well as whether and when the defendant is obligated to hand over or take over the subject matter of the lease.

§ 571

1) If the defendant is found guilty of handing over or taking over the subject-matter of the tenancy, but the tenancy period has already expired at the time the judgment is rendered, the judgment shall state that the handing over or taking over of the subject-matter of the tenancy vacated by the objects not given into the tenancy shall be effected within 14 days. Section 409 paras 3 and 4 shall apply to this period.

2) If the term of the lease has not yet expired, it shall be ordered that the object of the lease shall be handed over or taken over vacated of the objects not taken over within 14 days after expiry of the term of the lease at the latest. The same time limit for eviction shall also apply if objections have not been raised in due time against the termination by the court or against the order to hand over or take over the leased property.

3) Execution may be granted on the basis of final judgments, notices of termination and court orders to hand over or take over the subject matter of the lease as soon as the period of time has elapsed within which the subject matter of the lease was to be handed over in accordance with the preceding paragraphs.

§ 572

The provisions of § 571 shall also apply if an inventory contract is

The Company shall not be liable for any loss or damage arising from a contract that has been cancelled or terminated by judgment without prior judicial or extrajudicial notice of termination as a result of a lawsuit.

§ 573

1) Subject to the objections to be raised against it, no appeal shall be admissible against the court orders to hand over or take over the property which are issued on the basis of notices of termination or as a result of a request made in accordance with Section 565.

2) A notice of termination by a court or an order to hand over or take over the Leased Property against which objections have not been raised in due time, as well as the final judgments rendered with respect to such objections, shall, subject to the decision rendered with respect to the reimbursement of costs, cease to have effect unless, within six months after the occurrence of the events stipulated in such orders or in the judgment, the following conditions have been met

the time determined for the eviction or takeover of the subject matter of the lease is applied for execution on account of such eviction or takeover.

§ 574

Appeals (Sec. 471), recourses (Sec. 487) and revisions (Sec. 496) against decisions of the court of second instance shall be admissible only if the decision depends on the resolution of a question of substantive or procedural law which is of considerable importance for the preservation of legal unity, legal certainty or legal development, for instance because the court of second instance deviates from the case law of the Supreme Court or such case law is lacking or inconsistent.

§§ 575 and 576Revoked

7. Section

a) Debt drive

§ 577

1) For the collection of claims for money or other fungible property, the creditor may request the issuance of a conditional payment order for any amount by way of debt collection proceedings.

2) Claims which cannot be asserted at all or at present before the court, as well as claims arising from bills of exchange, are not suitable for debt collection proceedings.

§ 578

The district court shall issue a conditional payment order if the debtor's domicile or residence is known.

§ 579

The conditional payment order cannot be issued against persons whose whereabouts are unknown.

§ 580

1) The request for issuance of the conditional payment order may be made orally or in writing.

2) In the same the creditor has:

1. to indicate his and the debtor's name, profession or trade and place of residence;

2. indicate the amount of the claim and the legal basis thereof and, if the claim consists of several items, the amount of each item and its legal basis.

3) If the claim is not for money but for other fungible property, the creditor must specify in the application the amount he is prepared to accept in lieu thereof.

4) Retrieved

§ 581

1) The petition shall be settled without hearing the debtor.

2) The claim shall be rejected if it does not comply with the provisions of sections 577 to 580 or if the information provided by the applicant shows that the claim is inadmissible at all or at present or that it is still conditional on a payment.

3) The issuance of the payment order is not subject to appeal, while the refusal is subject to appeal within 14 days.

§ 582

1) The number command must contain:

1. the inscription: Number command;

2. the information specified in § 580 items 1 and 2;

3. order the debtor to pay the claim together with the demanded interest within 14 days after service of the payment order in order to avoid execution.

and to correct the costs of the order for payment, if their reimbursement was requested in the petition, in the amount determined by the judge, or to object to the order for payment;

4. the remark that the payment order can be suspended only by filing an objection.

2) If the issuance of a payment order has been requested for several claims expressed or evaluated in special monetary amounts, the payment order shall request the correction of the claims separately.

3) If the claim is not for money but for other fungible objects, the debtor shall be released in the payment order to pay the amount specified in the request in money instead of the objects demanded.

§ 583

The order for payment shall be served on the debtor and, if it is directed against several debtors, on each of them in accordance with the rules on service of process.

§ 584

To file an objection, it is sufficient for the debtor to declare orally or in writing to the court that he objects to the payment order. It is not necessary to state the reasons.

§ 585

1) If the debtor has filed an objection in due time, the payment order shall cease to have effect.

2) If the debtor disputes the claim only in part, he shall specify the disputed amount, failing which the objection shall apply to the entire claim. Execution may be demanded for the undisputed amount. The order for payment shall also cease to have effect if an objection is raised by only one of the debtors against an order for payment issued against several debtors in respect of the same claim.

3) If, however, the payment order ordered the correction of several claims expressed in special amounts of money separately and if the objection was expressly raised only against one or the other of these claims, the payment order shall remain in force with respect to the remaining claims and the costs imposed.

§ 586

1) The creditor and the debtor shall be informed of the timely filed objection.

Notify debtor.

2) A belatedly filed objection shall be rejected with reference to the expired time limit; in this case, notification of the creditor shall not be required.

§ 587

1) The costs of issuing a conditional payment order shall be borne by the creditor if an objection to it has been filed in due time, and the creditor shall be ordered to reimburse the costs of the objection, if raised by the debtor, in the amount to be determined by the judge.

2) If, as a result of the opposition, an action is brought or the initiation of mandate proceedings is requested, the costs of the debt collection proceedings referred to shall be awarded in the same way as part of the costs of the legal proceedings.

§ 588

An appeal against the decision rejecting the objection and ordering the creditor to pay the costs of the objection is admissible within a period of 14 days.

§ 589

1) The application for the issuance of a payment order has the effect of a lawsuit with regard to the pending nature of the dispute and the interruption of the statute of limitations; however, this application has no effect on the establishment of the place of jurisdiction of the counterclaim and the main action.

2) If the payment order ceases to have effect when the objection is raised, the limitation period shall be deemed to be suspended until the objection is raised.

§ 590

1) An application for restitutio in integrum for failure to observe the time limit for filing an objection through no fault of the debtor shall be filed within 14 days after the debtor has become aware of the failure and the obstacle has ceased to exist. The granting of the reinstatement shall be subject to the

Effect of the opposition without the need to raise it again.

2) If the debtor has applied for restitutio in integrum, execution may only be taken against him until the application has been rejected.

§ 591

1) If the debtor has neither made payment nor raised an objection in due time, the creditor shall be granted execution on his application on the basis of the payment default.

2) If the order for payment has been issued in respect of claims which have as their object not money but other fungible property, the debtor shall at all times be at liberty to exempt himself from the execution directed at the collection of such property by paying the amount of money specified in the order for payment together with ancillary charges.

3) Retrieved

§ 592

1) Written petitions for the issuance of a payment order and for the raising of an objection shall be submitted in one copy and kept at the court.

2) The payment orders as well as the copies required to notify the creditor and debtor of the objection shall be drawn up officially; the submission of headings shall not be required for this purpose.

3) The other party shall not be provided with a copy of the minutes of the request for payment or of the objection.

4) Persons who file an objection on behalf of the debtor are not obliged to identify themselves with a power of attorney for this intervention. However, if a power of attorney has not been provided, the delivery of the court settlement shall be made to the principal himself.

§ 593

1) The creditor may also request the issuance of a payment order in a lawsuit filed for the purpose of debt collection (dunning action).

2) In this case, the court shall issue the order for payment by way of a decision on the action and with the addition that in the event of an objection the further proceedings on the action shall take place (section 256). A copy of the complaint to be signed over by the plaintiff shall be retained.

3) If the defendant objects to the payment order, the court shall order a hearing on the action and summon both parties to the hearing in settlement of the objection.

4) If the court finds the request for issuance of the payment order inadmissible, it shall immediately hold a hearing on the action, rejecting it.

statutory procedure to be ordered.

5) An action for a writ of summons has the same effect on the pendency of the dispute and the interruption of the statute of limitations as another action.

b) Rechtsbotsverfahren

§ 593a

1) For the assertion of any claim for declaratory judgment, legal form, performance or omission and the like, an application for the issuance of a writ of mandate may be filed with the Regional Court prior to or simultaneously with the action (action for writ of mandate).

2) Prior to the proceedings for the protection of possession, the proceedings for the prohibition of the right may also be carried out.

3) The procedure for the application of the principle of legal estoppel shall not apply to claims to be asserted in proceedings in matrimonial and partnership matters, in disputes concerning bills of exchange, before arbitral tribunals, in insolvency proceedings, or by means of an action for revival or annulment, to claims based on the contestation of a child's matrimonial status, or to paternity matters.

§ 593b

1) The request for the issuance of a legal interdict may be made orally or in writing.

2) The applicant for legal assistance has in the request:

1. to indicate his and the recipient's name, profession or trade and place of residence;

2. indicate the value of the claim asserted;

3. the claim asserted by him and the reason for the same, and if several claims are to be asserted, to state each individual claim and its reason as a request.

3) If the claim asserted is based on an entry in the land register or if such an entry or the amendment or cancellation thereof is requested, the necessary information in the land register must be provided; if necessary, a situation plan or partition plan must be enclosed with the application.

4) If the asserted claim is dependent on a consideration, this consideration must be offered in accordance with the provisions of civil law.

§ 593c

1) The request for a legal bid shall be issued without a hearing of the recipient of the legal

2) It shall be rejected if it does not comply with the above provisions; if it is clear from the information provided by the applicant that the claim is inadmissible at all or at present, in particular if the court is aware that the claim is opposed by a final decision issued by a court or in administrative proceedings.

3) No appeal shall lie against the issuance of the order, and an appeal shall lie against the refusal of the order.

§ 593d

1) The legal command to be issued by the district court shall contain:

1. the inscription: Legal messenger;

2. the information referred to in section 593b(1) and (2);

3. an order to the addressee to comply with the specified request within 14 days from the date of service of the writ to avoid execution and to pay the costs of the writ, if their reimbursement was mentioned in the request, to the extent determined by the judge, or to file an appeal against the writ within the same period of time;

4. the remark that the legal commandment can be suspended only by filing the legal action, but in case of omission it becomes final.

2) If the issuance of the legal bid has been requested due to several specifically listed claims, the legal bid shall state their correction separately and, if applicable, also state that the applicant for the legal bid intends to fulfill its precisely specified consideration.

§ 593e

1) Unless otherwise provided for in the above provisions, the provisions on debt collection proceedings shall also apply to the proceedings for the enforcement of judgments.

2) Retrieved

8. SectionArbitration

1. Title General provisions

§ 594

Scope

1) The provisions of this section shall apply if the seat of arbitration is in Liechtenstein.

2) §§ Sections 595, 597, 600, 601, 602, 610 paras. 3 to 6, sections 619, 629 and 630 are

shall also apply if the seat of arbitration is not in Liechtenstein or has not yet been determined.

3) As long as the seat of the arbitral tribunal has not yet been determined, domestic jurisdiction for the judicial functions referred to in the third title shall exist if one of the parties has its seat, domicile or habitual residence in Liechtenstein.

§ 595

Judicial activity

The court may act in the matters governed by this section only to the extent provided by this section.

§ 596

Duty to reprimand

If the arbitral tribunal has failed to comply with a procedural provision of this section from which the parties may derogate or with an agreed procedural requirement of the arbitration, a party may not subsequently invoke the defect unless it has notified the arbitral tribunal of the defect promptly upon becoming aware of it or within the period provided for that purpose.

§ 597

Receipt of written messages

1) Unless otherwise agreed by the parties, a written communication shall be deemed to have been received on the date on which it was delivered personally to the recipient or to a person authorized to receive it or, if this was not possible, on the date on which it was otherwise delivered at the recipient's registered office, place of residence or habitual abode.

2) If the addressee has knowledge of the arbitration and, despite reasonable inquiry, the addressee or a person entitled to receive it is of unknown whereabouts, written notice shall be deemed to have been received on the date on which proper transmission is shown to have been attempted at a place which, at the time of the conclusion of the arbitration agreement or subsequently, was disclosed by the addressee to the other party or to the arbitral tribunal as his address and has not heretofore been revoked by giving a new address.

3) Paragraphs 1 and 2 do not apply to notifications in legal proceedings.

2. Title Arbitration agreement

§ 598

Term

1) Arbitration agreement is an agreement of the parties to submit to arbitration all or individual disputes that have arisen or will arise between them in relation to a particular legal relationship of a contractual or non-contractual nature. The arbitration agreement may be concluded in the form of an independent agreement or in the form of a clause in a contract.

2) The provisions of this section shall also apply mutatis mutandis to arbitration tribunals established in a legally permissible manner by testamentary disposition or other legal transactions not based on agreement of the parties or by statutes.

§ 599

Arbitrability

1) Any pecuniary claim to be decided by the ordinary courts may be the subject of an arbitration agreement. An arbitration agreement on non-pecuniary claims has legal effect insofar as the parties are able to reach a settlement on the subject of the dispute.

2) Claims under family law and claims arising from apprenticeship contracts under the Vocational Training Act may not be the subject of an arbitration agreement. Statutory provisions outside this section according to which disputes may not be submitted to arbitration or may only be submitted to arbitration under certain conditions shall remain unaffected.

3) The jurisdiction of the Regional Court for proceedings initiated ex officio on the basis of mandatory statutory provisions or at the request or notification of the foundation supervisory authority or the public prosecutor's office cannot be waived by an arbitration clause in articles of association or equivalent documents of an association person or trusteeship.

§ 600

Form of the arbitration agreement

1) The arbitration agreement shall be set out either in a document signed by the parties or in letters, telefaxes, e- mails, faxes or e-mails exchanged between them.

mails or other forms of messaging must be included to ensure proof of the agreement.

2) If a contract complying with the formal requirements of para. 1 refers to a document containing an arbitration agreement, this shall constitute an arbitration agreement if the reference is such as to make the arbitration agreement an integral part of the contract.

3) A defect in the form of the arbitration agreement shall be remedied in the arbitral proceedings by admission into the case if it is not objected to at the same time as the objection at the latest.

§ 601

Arbitration agreement and court action

1) If an action is brought before a court in a matter which is the subject of an arbitration agreement, the court shall dismiss the action unless the respondent makes a submission on the merits or makes oral submissions without objecting thereto. This shall not apply if the court finds that the arbitration agreement does not exist or is unenforceable. If such proceedings are still pending before a court, arbitration proceedings may nevertheless be instituted or continued and an arbitral award may be made.

2) If an arbitral tribunal has denied its jurisdiction over the subject matter of the dispute because there is no arbitration agreement thereon or the arbitration agreement is unenforceable, the court may not dismiss an action thereon on the ground that an arbitral tribunal has jurisdiction over the matter. The filing of the action with the court shall extinguish the right of the plaintiff to bring an action under
§ Section 628 to bring an action to set aside the decision by which the arbitral tribunal denied jurisdiction.

3) If arbitration proceedings are pending, no further legal action may be brought before a court or arbitral tribunal in respect of the claim asserted; any action brought in respect of the same claim shall be dismissed. This shall not apply if the court or arbitral tribunal is not

The arbitral tribunal's failure to act has been challenged before the arbitral tribunal at the latest when the case was submitted to it and a decision by the arbitral tribunal cannot be obtained within a reasonable period of time.

4) If an action is dismissed by a court on the ground of jurisdiction of an arbitral tribunal or by an arbitral tribunal on the ground of jurisdiction of a court or of an arbitral tribunal, or if an award is set aside in setting aside proceedings on the ground that the arbitral tribunal lacks jurisdiction, the proceedings shall be deemed to have been duly continued if proceedings before the court are promptly

or arbitration court is raised.

5) A party who at an earlier stage in the proceedings has invoked the existence of an arbitration agreement may not later claim that it does not exist, unless the relevant circumstances have changed since then.

§ 602

Arbitration agreement and provisional judicial measures

An arbitration agreement does not preclude a party from applying to a court for a provisional or protective measure before or during the arbitration proceedings and the court from ordering such a measure.

3. Title

Formation of the arbitration court

§ 603

Composition of the arbitration court

1) The parties may freely agree on the number of arbitrators. However, if the parties have agreed on an even number of arbitrators, they shall appoint another person as chairman.

2) Unless otherwise agreed by the parties, three arbitrators shall be appointed.

§ 604

Appointment of the arbitrators

1) The parties may freely agree on the procedure for appointing the arbitrator or arbitrators.

2) In the absence of an agreement on the procedure for appointment, the following shall apply:

1. In arbitral proceedings with a sole arbitrator, if the parties cannot agree on his appointment within four weeks after receipt of a written request to that effect by one party from the other party, the arbitrator shall be appointed by the court at the request of one party.

2. In arbitration proceedings with three arbitrators, each party shall appoint one arbitrator. These two arbitrators shall appoint the third arbitrator, who shall act as chairman of the arbitral tribunal.

3. If more than three arbitrators are provided for, each party shall appoint the same number of arbitrators. They shall appoint another arbitrator,

who shall act as the chairman of the arbitral tribunal.

4. If a party has not appointed an arbitrator within four weeks of receipt of a written request to that effect from the other party, or if the parties do not receive from the arbitrators within four weeks of their appointment notice of the arbitrator to be appointed by them, the arbitrator shall be appointed by the court at the request of either party.

5. A party shall be bound by the appointment of an arbitrator made by it as soon as the other party has received written notice of the appointment.

3) If the parties have agreed on a procedure for the appointment and

1. one of the parties does not act in accordance with this procedure or

2. the parties or the arbitrators cannot reach an agreement in accordance with this procedure, or

3. a third party fails to perform a task assigned to it under this procedure within three months of receipt of written notice to that effect,

either party may apply to the court for the appropriate appointment of arbitrators, unless the agreed appointment procedure for securing the appointment provides otherwise.

4) The written request for the appointment of an arbitrator shall also contain information on the claim asserted and the arbitration agreement invoked by the party.

5) If several parties who are jointly required to appoint one or more arbitrators are unable to agree thereon within four weeks after receipt of written notice to that effect, the arbitrator or arbitrators shall be appointed by the court at the request of either party, unless the agreed appointment procedure for securing the appointment provides otherwise.

6) The arbitrator or arbitrators shall also be appointed by the court at the request of a party if, for other reasons not covered in the preceding paragraphs, the arbitrator or arbitrators cannot be appointed within four weeks after receipt of a written notice to that effect from one party to the other, or if the procedure for securing the appointment does not result in the appointment within a reasonable time.

7) If the appointment is made before the decision of the first instance and a party proves this, the application shall be dismissed.

8) In appointing an arbitrator, the court shall give due consideration to all the requirements for the arbitrator provided for in the agreement of the parties and shall take into account all aspects ensuring the appointment of an independent and impartial arbitrator.

9) No legal remedy shall be admissible against a decision appointing an arbitrator.

§ 605

Reasons for refusal and exclusion

1) If a person wishes to accept an arbitrator's office, he shall disclose all circumstances which may raise doubts as to his impartiality or independence or which may contradict the agreement of the parties. An arbitrator shall, from the time of his appointment and during the arbitral proceedings, promptly disclose to the parties such circumstances if he has not previously disclosed them to them.

2) An arbitrator may be challenged only if there are circumstances which give rise to justifiable doubts as to his impartiality or independence, or if he fails to comply with the pre

requirements are not fulfilled. A party may challenge an arbitrator whom it has appointed or in whose appointment it has participated only for reasons of which it has become aware only after the appointment or participation therein.

3) Full-time judges of ordinary courts may not accept appointment as arbitrators during their term of service.

§ 606

Rejection procedure

1) Subject to paragraph 3, the parties may freely agree on a procedure for challenging an arbitrator.

2) In the absence of such an agreement, the party challenging an arbitrator shall, within four weeks of becoming aware of the composition of the arbitral tribunal or of a circumstance within the meaning of section 605 subs. 2, submit to the arbitral tribunal in writing the grounds for the challenge. If the challenged arbitrator does not resign from his office or if the other party does not agree to the challenge, the arbitral tribunal, including the challenged arbitrator, shall decide on the challenge.

3) If a rejection remains in accordance with the procedure agreed by the parties or

If the procedure provided for in para. 2 is unsuccessful, the refusing party may apply to the court for a decision on the refusal within four weeks after it has received the decision refusing the refusal. No appeal shall be allowed against such decision. While such a request is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and render an award.

§ 607

Premature termination of the arbitrator's office

1) The office of an arbitrator shall terminate if the parties so agree or if the arbitrator resigns. Subject to para. 2, the parties may also agree on a procedure for the termination of the arbitrator's office.

2) Either party may apply to the court for a decision to terminate the office if the arbitrator is either unable,

to fulfill its duties, or it fails to do so within a reasonable period of time, and

1. the arbitrator does not resign from his office,
2. the parties cannot agree on its termination, or
3. the procedure agreed upon by the parties does not lead to the termination of the arbitral
judicial office leads.

This decision is not subject to appeal.

3) If an arbitrator resigns under subsection 1 or under section 606(2), or if a party agrees to the termination of the office of an arbitrator, this shall not imply the recognition of the grounds referred to in subsection 2 or section 605(2).

§ 608

Appointment of a substitute arbitrator

1) If the office of an arbitrator ends prematurely, a substitute arbitrator shall be appointed. The appointment shall be made in accordance with the rules applicable to the appointment of the arbitrator to be appointed.

2) If the parties have not agreed otherwise, the arbitral tribunal may continue the hearing by using the results of the proceedings so far, in particular the recorded minutes of the hearing and all other files.

4. Title Jurisdiction of the Arbitral Tribunal

§ 609

Authority of the arbitral tribunal to decide on its own jurisdiction

1) The arbitration court shall decide on its own jurisdiction. The decision may be made with the decision on the merits, but also separately in a separate award.

2) The objection of lack of jurisdiction of the arbitral tribunal shall be raised at the latest with the first submission on the merits. A party shall not be excluded from raising this objection by the fact that it has appointed an arbitrator or has participated in the appointment of an arbitrator. The objection that a matter exceeds the powers of the arbitrator shall not be raised.

The objection shall be raised as soon as it becomes the subject of a substantive application. In both cases, a later raising of the objection is excluded; however, if the arbitral tribunal is convinced that the omission is sufficiently excused, the objection may be raised subsequently.

3) Even if an action to set aside an arbitral award by which the arbitral tribunal has affirmed its jurisdiction is still pending before the court, the arbitral tribunal may for the time being continue the arbitral proceedings and also render an arbitral award.

§ 610

Order of provisional or protective measures

1) Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of one party, order such provisional or protective measures against another party, after hearing the latter, as it deems necessary in relation to the subject-matter of the dispute, because otherwise the enforcement of the claim would be frustrated or rendered considerably more difficult or there would be a risk of irreparable damage. The arbitral tribunal may require any party to provide adequate security in connection with such a measure.

2) Measures under para. 1 shall be ordered in writing; a signed copy of the order shall be sent to each party. In arbitral proceedings with more than one arbitrator, the signature of the chairman or, if he is prevented, of another arbitrator shall suffice, provided that the chairman or the other arbitrator notes on the order the obstacle to signature. § Section 623 subs. 2, 3, 5 and 6 shall apply mutatis mutandis.

3) At the request of a party, the court shall enforce such a measure. If the measure provides for a means of security unknown under domestic law

the court may, upon request and after hearing the respondent, enforce that remedy under domestic law which comes closest to the measure of the arbitral tribunal. In doing so, it may, upon request, formulate the measure of the arbitral tribunal differently in order to ensure the realization of its purpose.

4) The court shall refuse to enforce a measure under subsection 1 if

1. the seat of the arbitral tribunal is within the country and the measure suffers from a defect which, in the case of a domestic arbitral award, would require an annulment of the arbitral award.

grounds for termination pursuant to Section 628 (2), Section 634 (3) and (4) or Section 635;

2. the seat of the arbitral tribunal is not within the country and the measure suffers from a defect which, in the case of a foreign arbitral award, would constitute grounds for refusing recognition or a declaration of enforceability;

3. the execution of the measure is incompatible with a domestic measure previously applied for or issued or with a foreign judicial measure previously issued and to be recognized;

4. the measure provides for a means of security unknown to domestic law and no suitable means of security under domestic law has been applied for.

5) The court may hear the defendant before deciding on the execution of the measure under para. 1. If the defendant has not been heard before the decision is taken, he may file an objection to the granting of execution within the meaning of Art. 290 of the Execution Code. In both cases, the defendant may only claim that there is a ground for refusal of execution under para. 4. In these proceedings, the court is not authorized to decide on claims for damages pursuant to Art. 287 of the Execution Code.

6) The court shall set aside the execution upon request if

1. the period of validity of the measure determined by the arbitration court has expired;

2. the arbitration court has restricted or revoked the measure;

3. a case of Art. 291 par. 1 letters a to e of the Execution Code exists, unless such circumstance has already been unsuccessfully asserted before the arbitral tribunal and the decision of the arbitral tribunal in this respect is not precluded by any obstacles to recognition (par. 4);

4. security has been provided in accordance with paragraph 1, which renders the execution of the measure unnecessary.

5. Title

Conduct of the arbitration proceedings

§ 611

General

1) Subject to the mandatory provisions of this Section, the parties may freely agree on the structure of the procedure. In so doing, they may also refer to procedural rules. In the absence of such an agreement, the arbitral tribunal shall proceed in accordance with the provisions of this Title and, in addition, at its own discretion.

2) The parties shall be treated fairly. Each party shall be granted the right to be heard.

3) The parties may be represented or advised by persons of their choice. This right may not be excluded or restricted.

4) An arbitrator who fails to fulfill the obligation assumed by acceptance of the appointment at all or in a timely manner shall be liable to the parties for any damage caused by his culpable refusal or delay.

§ 612

Seat of the arbitration

1) The parties may freely agree on the seat of arbitration. They may also leave the determination of the seat to an arbitral institution. In the absence of such an agreement, the seat of arbitration shall be determined by the arbitral tribunal, taking into account the circumstances of the case, including the suitability of the place for the parties.

2) Unless otherwise agreed by the parties, the arbitral tribunal may, notwithstanding para. 1, take procedural action at any place it deems appropriate, and in particular convene for deliberation, decision-making, oral proceedings and the taking of evidence.

§ 613

Language of the case

The parties may agree on the language or languages to be used in the arbitral proceedings. In the absence of such an agreement, the arbitral tribunal shall determine this.

§ 614

Action and response

1) Within the period agreed by the parties or determined by the arbitral tribunal, the claimant shall submit his claim and set out the facts on which the claim is based, and the respondent shall comment thereon. The parties may present any evidence they deem relevant or indicate further evidence they wish to use.

2) Unless otherwise agreed by the parties, either party may amend or supplement its claim or submissions in the course of the proceedings, unless the arbitral tribunal does not permit this because of delay.

§ 615

Oral hearing and written procedure

If the parties have not agreed otherwise, the arbitral tribunal shall decide whether oral proceedings shall be held or whether the proceedings shall be conducted in writing. If the parties have not excluded an oral hearing, the arbitral tribunal shall, at the request of a party, hold such a hearing at an appropriate stage of the proceedings.

§ 616

Procedure and taking of evidence

1) The arbitral tribunal shall be entitled to decide on the admissibility of a taking of evidence, to conduct such taking of evidence and to freely assess its result.

2) The parties shall be notified in due time of any hearing and of any meeting of the arbitral tribunal for the purpose of taking evidence.

3) All pleadings, documents and other communications submitted to the arbitral tribunal by one party shall be brought to the attention of the other party. Expert opinions and other evidence on which the arbitral tribunal may base its decision shall be brought to the attention of both parties.

§ 617

Failure to perform a procedural act

1) If the claimant fails to bring the action under section 614(1), the arbitral tribunal shall terminate the proceedings.

2) If the respondent fails to make a statement in accordance with section 614(1) within the agreed or imposed time limit, the arbitral tribunal shall, unless the parties have agreed otherwise, continue the proceedings without the claimant's submissions being deemed to be true solely on account of the failure. The same shall apply if a party fails to take any other procedural step. The arbitral tribunal may

proceedings and render a decision on the basis of the evidence taken. If the arbitral tribunal is convinced that the omission is sufficiently excused, the omitted procedural act may be made up for.

§ 618

Expert appointed by the Court of Arbitration

1) If the parties have not agreed otherwise, the arbitral tribunal may

1. appoint one or more experts to give an opinion on certain questions to be determined by the arbitral tribunal;

2. request the parties to provide the expert with any relevant information or to submit or make available any documents or objects relevant to the proceedings for the purpose of making a finding.

2) Unless otherwise agreed by the parties, the expert shall, if a party so requests or if the arbitral tribunal deems it necessary, attend a hearing after giving his opinion. At the hearing, the parties may put questions to the expert and have their own experts testify on the issues in dispute.

3) Sections 605 and 606 subs. 1 and 2 shall apply mutatis mutandis to the expert appointed by the arbitral tribunal.

4) If the parties have not agreed otherwise, each party shall have the right to submit expert opinions of its own. Para. 2 shall apply accordingly.

§ 619

Judicial assistance

The arbitral tribunal, arbitrators appointed by the arbitral tribunal for this purpose or one of the parties with the consent of the arbitral tribunal may request the court to perform judicial acts which the arbitral tribunal is not authorized to perform. The assistance may also consist in the court requesting a foreign court or authority to perform such acts. §§ Sections 27, 28 and 29 of the Jurisdictional Standard shall apply mutatis mutandis with the proviso that the right of appeal under Section 29 of the Jurisdictional Standard shall be vested in the arbitral tribunal and in the parties to the arbitral proceedings. The arbitral tribunal or an arbitrator appointed by the arbitral tribunal and the parties shall be entitled to participate in the taking of evidence and to ask questions.

§ Section 289 shall apply mutatis mutandis.

6. Title

Arbitration award and termination of the proceedings

§ 620

Applicable law

1) The arbitral tribunal shall decide the dispute in accordance with the law or rules of law agreed upon by the parties. The agreement of the law or rule of law of a particular state shall, unless the parties have expressly agreed otherwise, be construed as a direct reference to the substantive law of that state and not to its conflict of laws rules.

2) If the parties have not determined the applicable law or rules of law, the arbitral tribunal shall apply such law as it deems appropriate.

3) The arbitral tribunal shall decide on the basis of equity only if the parties have expressly authorized it to do so.

§ 621

Decision by a panel of arbitrators

If the parties have not agreed otherwise, the following shall apply:

1. In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be taken by a majority vote of all members. In procedural matters, the chairman may decide alone if the parties or all the members of the arbitral tribunal have authorized him to do so.

2. If one or more arbitrators do not participate in a vote without justifiable reason, the other arbitrators may decide without them. Also in this case the required majority of votes shall be calculated from the total number of all participating and non-participating arbitrators. In the case of a vote on an award, the intention to proceed in this way shall be communicated to the parties in advance. In the case of other decisions, the parties shall be informed subsequently of the non-participation in the vote.

§ 622

Comparison

If the parties settle the dispute during the arbitration proceedings and if the parties are capable of settling the subject matter of the dispute, they may request that

1. the arbitral tribunal records the settlement, provided that the contents of the settlement do not violate fundamental values of the Liechtenstein legal system (ordre public); it is sufficient if the minutes are signed by the parties and the chairman;

2. the arbitral tribunal records the settlement in the form of an arbitral award with agreed wording, provided that the content of the settlement does not violate fundamental values of the Liechtenstein legal system (ordre public). Such an arbitral award shall be issued in accordance with § 623. It shall have the same effect as any arbitral award on the merits.

§ 623

Arbitration award

1) The award shall be made in writing and signed by the arbitrator or arbitrators. If the parties have not

If it has been agreed otherwise, the signatures of the majority of all members of the arbitral tribunal shall suffice in arbitral proceedings with more than one arbitrator, provided that the chairman or another arbitrator shall note on the award the obstacle to the lack of signatures.

2) If the parties have not agreed otherwise, the award shall state the reasons on which it is based.

3) The award shall state the date on which it was made and the seat of arbitration determined in accordance with section 612(1). The award shall be deemed to have been made on that day and at that place.

4) Each party shall be sent a copy of the award signed by the arbitrators referred to in para. 1 above.

5) The arbitral award and the documents on its service shall be joint documents of the parties and the arbitrators. The arbitral tribunal shall discuss with the parties the possible custody of the award and the documents on its service.

6) The chairman, or in his absence another arbitrator, shall, at the request of a party, certify the legal force and enforceability of the award on a copy of the award.

7) The issuance of an arbitral award shall not invalidate the underlying arbitration agreement.

§ 624

Effect of the arbitration award

The arbitral award shall have the effect of a final court judgment between the parties.

§ 625

Termination of the arbitration proceedings

1) The arbitral proceedings shall be terminated by an arbitral award on the merits, by an arbitral settlement or by a decision of the arbitral tribunal in accordance with para. 2 above.

2) The arbitral tribunal shall terminate the arbitral proceedings if

1. the plaintiff failed to bring the action under section 614(1);

2. the claimant withdraws its claim, unless the respondent objects and the arbitral tribunal recognizes a legitimate interest of the respondent in the final settlement of the dispute;

3. the parties agree on the termination of the proceedings and notify the arbitration court thereof;

4. it has become impossible for the arbitral tribunal to continue the proceedings, in particular because the parties previously active in the proceedings do not continue the arbitral proceedings despite a written request by the arbitral tribunal pointing out the possibility of termination of the arbitral proceedings.

3) Subject to sections 623(4) to (6), 626(5) and 627 and to the obligation to set aside a provisional or protective measure ordered, the office of the arbitral tribunal shall end with the termination of the arbitral proceedings.

§ 626

Decision on the costs

1) If the arbitral proceedings are terminated, the arbitral tribunal shall decide on the obligation to reimburse costs, unless the parties have agreed otherwise. The arbitral tribunal shall, at its discretion, take into account the circumstances of the individual case, in particular the outcome of the proceedings. The obligation to reimburse costs may include all costs reasonably incurred for the purpose of pursuing or defending legal action. In the case of Sec. 625 (2) No. 3, such a decision shall only be rendered if a party requests such a decision at the same time as the agreement on the termination of the proceedings is notified.

2) The arbitral tribunal may, at the request of the respondent, also decide on an obligation of the claimant to reimburse costs if it has declared itself without jurisdiction because there is no arbitration agreement.

3) Simultaneously with the decision on the obligation to reimburse costs has

the arbitral tribunal, if this is already possible and the costs are not set off against each other, to determine the amount of the costs to be reimbursed.

4) In any case, the decision on the obligation to reimburse costs and the determination of the amount to be reimbursed shall be made in the form of an arbitral award in accordance with

§ 623 shall apply.

5) If the decision on the obligation to reimburse costs or the determination of the amount to be reimbursed has not been made or can only be made after the end of the arbitration proceedings, this shall be decided in a separate award.

§ 627

Correction, explanation and supplementation of the arbitration award

1) Unless otherwise agreed by the parties, either party may apply to the arbitral tribunal within four weeks of receipt of the award,

1. Correct arithmetic, typographical or clerical errors or errors of a similar nature in the award;

2. explain certain parts of the award, if the parties have agreed to do so;

3. to make a supplementary award on claims which were asserted in the arbitral proceedings but not settled in the award.

2) The request referred to in paragraph 1 shall be sent to the other party. The other party shall be heard before a decision is taken on such a request.

3) The arbitral tribunal shall decide on the correction or explanation of the award within four weeks and on the supplementation of the award within eight weeks.

4) The Arbitral Tribunal may make a correction of the award under para. 1 item 1 within four weeks from the date of the award even without a request.

5) § Section 623 shall apply to the correction, explanation or supplementation of the award. The explanation or correction shall form part of the award.

7. Title

Appeal against the arbitration award

§ 628

Request for setting aside of an arbitral award

1) An arbitral award may only be challenged by an action for setting aside by a court. This shall also apply to arbitral awards by which the arbitral tribunal has agreed on its jurisdiction.

2) An arbitration award shall be set aside if

1. a valid arbitration agreement does not exist, or if the arbitral tribunal has denied its jurisdiction but a valid arbitration agreement does exist, or if a party was not capable of concluding a valid arbitration agreement under the law applicable to it personally;

2. a party was not duly notified of the appointment of an arbitrator or of the arbitration proceedings, or for some other reason was unable to assert its means of attack or defense;

3. the award concerns a dispute to which the arbitration agreement does not apply or it contains decisions which exceed the limits of the arbitration agreement or the parties' request for relief; if the defect concerns only a separable part of the award, this part shall be set aside ben;

4. the formation or composition of the arbitral tribunal is contrary to any provision of this section or to any permissible agreement of the parties;

5. the arbitral proceedings were conducted in a manner which contradicts fundamental values of the Liechtenstein legal system (ordre public);

6. the conditions are met under which, pursuant to section 498(1)(1) to (5), a court judgment may be challenged by means of an action for revision;

7. the subject matter of the dispute is not arbitrable under domestic law;

8. the arbitral award Basic values of the Liechtenstein legal system (ordre public).

3) The grounds for annulment under para. 2 items 7 and 8 shall also be exercised ex officio.

4) The action for setting aside must be brought within four weeks. The period shall commence on the day on which the claimant has received the award or the supplementary award. An application under section 627(1)(1) or (2) shall not extend this period. In the case referred to in para. 2 item 6, the time limit for the action for setting aside shall be assessed in accordance with the provisions on the action for resumption.

5) The setting aside of an arbitral award shall not affect the validity of the underlying arbitration agreement. If an arbitral award on the same subject matter has already been rescinded twice and a further arbitral award on the same subject matter is pending, the arbitral award shall be rescinded.

If the arbitral award rendered is to be set aside, the court shall, at the request of one of the parties, at the same time declare the arbitration agreement invalid with respect to that subject matter.

§ 629

Determination of the existence or non-existence of an arbitration award

A determination of the existence or non-existence of an arbitration award may be requested if the applicant has a legal interest in it.

§ 630

Perception of grounds for annulment in another proceeding

If a court or authority determines in other proceedings, such as exe- cution proceedings, that a ground for setting aside exists under section 628(2)(7) and (8), the award shall be disregarded in such proceedings.

8. Title

Recognition and declaration of enforceability of foreign arbitral awards

§ 631

1) The recognition and declaration of enforceability of foreign arbitral awards shall be governed by the provisions of the Code of Execution, unless otherwise provided by international treaties or declarations to the contrary. The formal for-

dernis for the arbitration agreement also applies

shall be deemed to have been fulfilled if the arbitration agreement complies with both the formal requirements of Section 600 and the formal requirements of the law applicable to the arbitration agreement.

2) The submission of the original or a certified copy of the arbitration agreement pursuant to Art. IV (1) (b) of the UN New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards may only be submitted after the application has been made.

demand by the court is required.

9. Title Legal proceedings

§ 632

Responsibility

The Supreme Court shall have sole and final jurisdiction over an action to set aside an arbitral award and an action to determine the existence or non-existence of an arbitral award. The Regional Court shall have jurisdiction over proceedings in matters under the third title.

§ 633

Procedure

1) The proceedings on the action for setting aside the arbitral award and the action for declaring the existence or non-existence of an arbitral award shall be governed by the general provisions of this Act, and the proceedings in matters under the third title shall be governed by the provisions of the Act on Non-Contentious Proceedings.

2) At the request of a party, the public may also be excluded if a justified interest in doing so is demonstrated.

3) With the consent of all parties to the proceedings, third parties may also inspect the documents and take copies.

4) Documents handed over to the court by a party shall be returned to that party when the purpose of their retention has ceased to exist.

10. Title Special provisions

§ 634

Arbitration agreement between entrepreneurs and natural persons

1) An arbitration agreement between an entrepreneur and a natural person may be validly concluded only for disputes that have already arisen, unless

1. the natural person is himself an entrepreneur or

2. there is an arbitration agreement,

a) which is contained in a stand-alone document,

b) which contains only provisions relating to the arbitration proceedings, and

c) in which the natural person was advised by a lawyer or represented by a lawyer at the time of conclusion of the arbitration agreement; the advice must be confirmed in writing by the lawyer.

2) Arbitration clauses in articles of association, partnership agreements, foundation deeds or trust deeds or in corresponding supplementary deeds shall be binding irrespective of para. 1.

3) An arbitral award shall also be set aside if in arbitration proceedings involving a natural person who is not himself an entrepreneur,

1. mandatory legal provisions have been violated, the application of which, even in the case of a situation involving a foreign country, cannot be prevented by the parties' choice of law.

could be waived, or

2. the conditions exist under which, pursuant to section 498(1)(6) and (7), a court judgment may be challenged by means of an action for revision; in this case, the time limit for the action for revision shall be assessed in accordance with the provisions on the action for revision.

4) If the arbitration has taken place between an entrepreneur and a natural person who is not himself an entrepreneur, the arbitral award shall also be set aside if the consultation, the confirmation of such consultation or the representation pursuant to para. 1 item 2 letter c has not taken place.

§ 635

Labor law cases

Section 634 shall apply mutatis mutandis to arbitration proceedings concerning claims arising from the employment contract. This does not apply to managing directors and board members of an association.

Convention on the

IV. Recognition and enforcement of foreign arbitral awards

Completed in New York on June 10, 1958 Consent

of the Diet: May 19, 2011.

Entry into force for the Principality of Liechtenstein: October 5,

2011 Art. I

1) This Convention shall apply to the recognition and enforcement of arbitral awards rendered in disputes between natural or legal persons in the territory of a State other than that in which recognition and enforcement are sought. It shall also apply to such arbitral awards which are not to be regarded as domestic in the State in which their recognition and enforcement is sought.

2) "Arbitral awards" shall mean not only awards made by arbitrators appointed for a particular matter, but also those made by a permanent arbitral tribunal to which the parties have submitted.

3) Any State which signs or ratifies this Convention, accedes to it or notifies its extension in accordance with Art. X, may at the same time declare on the basis of reciprocity that it will apply the Convention only to the recognition and enforcement of such awards made in the territory of another Contracting State. It may also declare that it will apply the Convention only to disputes arising out of such legal relationships, whether contractual or not.

or non-contractual nature, which are considered commercial matters under its domestic law.

Art. II

1) Each Contracting State shall recognize a written agreement by which the parties undertake to submit to arbitration all or any disputes which have arisen or may arise between them out of a particular legal relationship, whether contractual or non-contractual, provided that the subject-matter of the dispute can be settled by arbitration.

2) "Written agreement" means an arbitration clause in a contract or an arbitration agreement, provided that the contract or arbitration agreement is signed by the parties or contained in letters or telegrams that are

they have changed.

3) If a court of a Contracting State is seized of a matter in respect of which the parties have concluded an agreement within the meaning of this Article, the court shall, at the request of either party, refer the matter to arbitration unless it finds that the agreement is void, ineffective or incapable of being performed.

Art. III

Each Contracting State shall recognize arbitral awards as valid and permit their enforcement in accordance with the procedural rules of the territory in which the award is invoked, provided that the conditions set forth in the following articles are fulfilled. The recognition or enforcement of arbitral awards to which this Convention applies shall not be subject to substantially more stringent procedural requirements or to substantially higher costs than the recognition or enforcement of domestic arbitral awards.

Art. IV

1) For recognition and enforcement mentioned in the preceding article, it is necessary that the party seeking recognition and enforcement submit at the same time with its application:

a) the duly certified (legalized) original of the award or a copy duly certified to be in conformity with such original;

b) the original of the agreement within the meaning of Art. II or a copy, the conformity of which with such an original is duly certified.

2) If the award or agreement is not in an official language of the country in which the award is invoked, the party seeking its recognition and enforcement shall provide a translation into that language of the documents referred to. The translation must be certified by an official or sworn translator or by a diplomatic or consular representative.

Art. V

1) Recognition and enforcement of an arbitral award may be refused at the request of the party against whom it is invoked only if that party furnishes proof to the competent authority of the country in which recognition and enforcement are sought.

a) that the parties who have concluded an agreement within the meaning of Art. II have concluded,

were in any respect incapable of doing so under the law governing them personally, or that the agreement is invalid under the law to which the parties have made it subject or, if the parties have not so determined, under the law of the country in which the award was made, or

b) that the party against whom the award is invoked was not duly notified of the appointment of the arbitrator or of the arbitral proceedings, or that for some other reason it was unable to assert its means of attack or defense, or

c) that the award concerns a dispute not mentioned in the arbitration agreement or not covered by the provisions of the arbitration clause, or that it contains decisions which exceed the limits of the arbitration agreement or the arbitration clause; however, if the part of the award relating to matters which were subject to arbitration can be separated from the part relating to matters which were not subject to it, the former part of the award may be recognized and enforced, or

d) that the constitution of the arbitral tribunal or the arbitral proceedings did not comply with the agreement of the parties or, in the absence of such agreement, with the law of the country in which the arbitral proceedings took place, or

e) that the arbitral award has not yet become binding on the parties or that it has been set aside or temporarily suspended in its effects by a competent authority of the country in which or under the law of which it was rendered.

2) Recognition and enforcement of an arbitral award may also be refused if the competent authority of the country in which recognition and enforcement is sought determines,

a) the subject matter of the dispute cannot be settled by arbitration under the law of that country, or

b) that recognition or enforcement of the award would be contrary to the public policy of that country.

Art. VI

If an application has been made to the authority having jurisdiction under Art. V, para. 1, subpara. e, to set aside the award or to suspend its effects for the time being, the authority before which the award is made may, if it considers it appropriate, suspend the decision on the award.

The court may, however, at the request of the party seeking enforcement of the award, order the other party to provide adequate security.

Art. VII

1) The provisions of this Convention shall not affect the validity of multilateral or bilateral treaties concluded by the Contracting States relating to the recognition and enforcement of arbitral awards and shall not deprive any party concerned of the right to invoke an arbitral award in accordance with the domestic law or treaties of the country in which it is invoked.

2) The Geneva Protocol on Arbitration Clauses of 1923 and the Geneva Convention on the Enforcement of Foreign Arbitral Awards of 1927 shall cease to have effect between the Contracting States at the time and to the extent that this Convention becomes binding upon them.

Art. VIII

1) This Convention shall be open until December 31, 1958, for signature by any member State of the United Nations and by any other State which is or subsequently becomes a member of a specialized agency of the United Nations or a party to the Statute of the International Court of Justice or to which an invitation has been addressed by the General Assembly of the United Nations.

2) This Convention shall be subject to ratification; the instrument of ratification shall be deposited with the Secretary-General of the United Nations.

Art. IX

1) All States referred to in Art. VIII may accede to this Convention.

2) Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Art. X

1) Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect as soon as the Convention enters into force for the State which has made it.

2) Subsequently, this Convention may be extended to such territories by notification addressed to the Secretary-General of the United Nations; the

extension shall take effect on the ninetieth day after the date of receipt of the notification by the Secretary-General of the United Nations or, if this Convention enters into force later for the State concerned, only at that time.

3) With respect to the territories to which this Convention has not been extended at the time of signature, ratification or accession, each State concerned will consider the possibility of taking the necessary measures to extend the Convention to them, with the consent of the Governments of those territories if such consent should be necessary for constitutional reasons.

Art. XI

For a federal state or a state that is not a unitary state, the following provisions apply:

a) with respect to the articles of this Convention relating to matters within the legislative competence of the Federation, the obligations of the Federal Government shall be the same as those of the Contracting States which are not Federal States;

b) With respect to those Articles of this Convention which relate to matters within the legislative competence of the constituent States or provinces which, under the constitutional system of the Federation, are not required to take measures by way of legislation, the Federal Government shall be obliged to bring the Articles in question to the attention of the competent authorities of the constituent States or provinces as soon as possible in a favorable manner;

c) a State Party to this Convention shall, upon the request of another State Party transmitted to it by the Secretary-General of the United Nations, furnish a statement of the law and practice in force within the Federation and its constituent States or provinces with respect to particular provisions of this Convention, showing in particular the extent to which such provisions have been given effect by legislative or other measures.

Art. XII

1) This Convention shall enter into force on the ninetieth day after the date of deposit of the third instrument of ratification or accession.

2) For each State ratifying or acceding to this Convention after the deposit of the third instrument of ratification or accession, the Convention shall enter into force on the ninetieth day after the deposit of its instrument of ratification or accession.

Art. XIII

1) Any State Party may denounce this Convention by written notification addressed to the Secretary-General of the United Nations. Such denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2) Any State which has made a declaration or notification under Art. X, may at any time thereafter notify the Secretary-General of the United Nations that the extension of the Convention is not necessary.

The Secretary General shall be notified of the decision of the Council to the effect that the notification shall cease to have effect one year after the date of receipt by the Secretary General of the notification of the decision.

3) This Convention shall continue to apply to arbitral awards in respect of which proceedings for recognition or enforcement have been instituted before the termination takes effect.

Art. XIV

A Contracting State may invoke this Convention against another Contracting State only to the extent that it is itself bound to apply it.

Art. XV

The Secretary-General of the United Nations shall notify all States

referred to in Art. VIII:

a) the signatures and ratifications pursuant to Art. VIII;

b) the declarations of accession in accordance with Art. IX;

c) the declarations and notifications pursuant to Arts. I, X and XI;

d) the date on which this Convention enters into force in accordance with Art. XII enters into force;

e) the notices and notifications pursuant to Art. XIII.

Art. XVI

1) This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2) The Secretary-General of the United Nations shall transmit to the States referred to in Art. VIII a certified copy of this Convention.

(Signatures follow)

Reservation of the Principality of Liechtenstein

According to Art. I (3) of the Convention, the Principality of Liechtenstein declares that it will apply the Convention only to the recognition and enforcement of arbitral awards rendered in the territory of another Contracting State.

V. Non-Contentious Proceedings Act (AussStrG)

from 25 November 2010

on judicial proceedings in legal matters other than litigation

I. General provisions

A. Scope of application and parties

Art. 1

Scope and designations

1) This law regulates the procedure outside of litigation (Ausserstreitverfahren).

2) The extrajudicial procedure shall be applied in those civil cases for which it is provided for in this Act or in special laws. In any case, this shall apply:

a) In child welfare proceedings for:

1. Decisions on custody (§§ 144 ff. ABGB), even if these are made in the context of a divorce on complaint (Art. 55 to 58 EheG);

2. the extension of minority (§ 173 ABGB);

3. the minimum rights of parents (§ 178 ABGB);

4. the grandparents' entitlement to regular intercourse with the grandchildren;

5. Decisions concerning maintenance between parents and children;

6. the determination of an appropriate marriage estate for unmarried or already married minor or adult daughters (§ 1220 ABGB);

7. disputes between the father of a child born out of wedlock and the child's mother (Section 168 of the General Civil Code);

8. the establishment of paternity to a child;

9. the adoption procedure;

b) in guardianship and conservatorship proceedings;

c) in the proceedings of non-contentious matrimonial matters under Art. 49h of the Matrimonial Act;

d) in divorce proceedings on joint request for all related matters;

e) in the proceedings pursuant to the Advance Maintenance Payments Act;

f) in probate proceedings;

g) in the judicial deposit procedure (§ 1425 ABGB);

h) in proceedings concerning the invalidation of mortgage bonds, promissory notes, securities and the like;

i) in the proceedings concerning preventive placement;

k) in proceedings concerning residence in residential or nursing facilities.

3) Unless otherwise ordered, the General Provisions of this Act shall also apply to extrajudicial proceedings governed by other statutory provisions.

4) The personal terms used in this Act shall mean members of the male and female genders.

5) Articles 93 to 99, insofar as they refer to spouses and matrimonial matters, shall apply mutatis mutandis to registered partners and partnership matters.

Art. 2

Parties

1) Parties are:

a) the applicant;

b) the person designated by the applicant as the defendant or otherwise as a party;

c) any person to the extent that his or her legally protected position would be directly affected by the decision sought or contemplated by the court or by any other judicial activity; and

d) any person or body required by law to be involved in the proceedings.

2) A person who obviously only stimulates an activity of the court is not a party.

3) The ability of a party to act independently in court and the position of the legal representative are governed by the provisions of the Code of Civil Procedure.

Art. 3

Actions of the parties and participation

1) Acts and omissions of one party do not directly affect other parties.

2) Either party may give evidence to the other parties or their representatives, witnesses or

The court may have the expert ask questions or, with the court's consent, ask them directly. The court shall reject inappropriate and inadmissible questions.

Art. 4

Representation in court

1) The parties may act in court themselves and be represented by any person authorized to do so.

2) If a party is unable to express himself or herself intelligibly in writing or orally, the court shall order him or her to appoint a suitable representative within a reasonable period of time if this is necessary to conduct the proceedings appropriately. If the party does not comply with such an order in due time, the court shall

the court shall appoint a suitable representative at their risk and expense.

3) If a deaf or mute party, who is otherwise capable of making an intelligible statement on the subject matter of the proceedings, does not appear with a suitable representative or with an interpreter for sign language, the court shall extend the hearing for as short a time as possible and call in such an interpreter for the new hearing. The costs of the sign language interpreter shall be borne by the Land.

Art. 5

Appointment of a representative ex officio

1) The lack of procedural capacity, legal representation and any special authorization required to conduct the proceedings shall be taken into account ex officio at every stage of the proceedings. In order to remedy such deficiencies, the court shall order the necessary measures and take precautions to ensure that the party does not suffer any disadvantages as a result. Such court orders are not independently contestable.

2) The court in a pending case of its own motion:

a) appoint a legal representative (curator) if:

1. the legal representative of a party is prohibited from representation due to a conflict of interests;

2. could be served on a party only by public notice and, as a result of the service, the party must perform a procedural act in order to preserve its rights.

in particular if the document to be served contains a summons;

b) provide for the appointment of a curator if:

1. a party is not yet born;

2. the person or residence of a party is unknown and without such representative the party or a third party could be prejudiced in the pursuit of its rights;

3. there are indications in the party that the requirements of § 187 ABGB are met;

4. a party requires a legal representative for the proceedings for other reasons.

3) Unless otherwise ordered, the appointment and removal of the curator pursuant to subsection 2(b) and the claims arising from his intervention shall be decided in the special proceedings provided for that purpose.

4) As soon as the court takes a procedural act on account of the appointment of a curator, the emergency periods in force with respect to the party concerned shall be interrupted, irrespective of whether the proceedings are interrupted. They shall begin anew when the decision on the appointment of the curator becomes final. If a curator is appointed and the service of a document triggered the time limit, the time limit shall commence with the service of the document on the curator.

Art. 6

Duty of representation

Unless otherwise ordered, the provisions of the Code of Civil Procedure relating to authorized representatives shall apply mutatis mutandis.

Art. 7

Procedural assistance and legal aid

1) The provisions of the Code of Civil Procedure on legal aid and legal assistance shall apply mutatis mutandis.

2) If a party applies for the appointment of a lawyer by way of legal aid within an emergency procedural time limit or a time limit for improvement granted for such a time limit, the time limit shall begin to run anew for the party upon service of the decision on the appointment of the lawyer and, if a document triggered the time limit, upon service of this document to the appointed lawyer as well; the decision shall be served by the court. If the application for the appointment of a lawyer filed in due time is rejected, the time limit shall begin to run again.

with the entry of the legal force of the dismissing decision.

3) If possible, a decision on the appointment of a procedural assistant shall be made before or at the first hearing.

4) Even in proceedings in which no reimbursement of costs can be claimed, the legal counsel shall be entitled to remuneration in accordance with the tariff applicable to legal aid.

B. Procedure

Art. 8

Initiation of the procedure

1) Unless otherwise ordered, proceedings shall be instituted only upon request.

2) Applications initiating proceedings shall, unless they are to be rejected or dismissed immediately, be served in the same manner as a complaint, at the latest at the same time as the initiation of investigations, on all persons whose status as parties is apparent from the file (parties on record).

3) In proceedings initiated ex officio, the court shall clearly indicate the subject matter of the proceedings to the party at the latest in its first procedural act.

Art. 9

Desire

1) The application does not have to contain a specific request, but it must sufficiently indicate which decision or other judicial activity the applicant is seeking and from which facts it derives this.

2) If only a pecuniary benefit is claimed but its amount is not specified, the court shall request the party to specify the claim in figures within a reasonable period of time as soon as the results of the proceedings permit such specification. An appeal against this decision shall not be admissible.

3) After fruitless expiry of the set time limit, an application not specified in terms of figures is to be rejected. This legal consequence must be pointed out in the request.

Attach

Art. 10

a) Principle

1) Applications, declarations and notifications (submissions) may be submitted to the Court of First Instance in the form of a written pleading or declared on the record.

2) Pleadings shall be submitted with as many copies as there are parties to the proceedings who are to be served with a copy of the pleading. If a party not represented by a lawyer fails to do so, the required copies shall be produced by the court if this is necessary to expedite the proceedings.

3) Applications must contain the name of the case, the name, surname and address of the applicant, his representative and, if necessary, the names and addresses of the other parties known to him, and, in civil status cases, the date and place of birth and the nationality of the parties.

4) If the submission suffers from a defect in form or content which prevents further procedural steps, the court shall not immediately reject or dismiss it, but shall first ensure that it is improved. If a time limit had to be observed, the party shall be requested to remedy the defect within a reasonable period of time. The request shall specify the defect and shall be demonstrably served.

5) If the set deadline is met, the application shall be deemed to have been submitted at the original time. The improvement period granted for an emergency deadline cannot be extended.

Art. 10a

b) Secrecy of the home address

The provisions of the Code of Civil Procedure on the secrecy of the home address of parties and witnesses shall apply mutatis mutandis.

Art. 11

Withdrawal of the application

1) Proceedings that can be initiated only upon motion shall be terminated upon withdrawal of the motion. The application may be withdrawn until the decision of the court of first instance. If an admissible appeal has been lodged, the application, insofar as it is the subject of the appeal proceedings, may still be withdrawn until the decision of the appellate court, but only if the application is waived or with the consent of the defendant; to the extent that the application is withdrawn, the order appealed against shall be finalized with the removal of the application.

The court of law shall determine this by way of an order.

2) Proceedings that may also be initiated ex officio shall be terminated upon withdrawal of the application if the court of first instance does not declare that it will continue the proceedings ex officio. After the decision of the court of first instance, the application can no longer be withdrawn.

3) Insofar as the underlying claim has been effectively waived with the withdrawal of the application, it cannot be asserted again.

Art. 12

Pendency of the proceedings

Proceedings are pending as soon as an application for their initiation is filed with the court or the court has taken a procedural action in proceedings to be initiated ex officio.

Art. 13

Procedural management

1) The court shall ensure the progress of the proceedings ex officio and shall organize them in such a way that an exhaustive discussion and thorough assessment of the subject matter of the proceedings and the shortest possible duration of the proceedings are guaranteed. The parties shall support the court in this.

2) Proceedings involving a foster youth shall be conducted in a manner that best serves the best interests of the foster youth.

3) The court shall work towards a mutually agreeable settlement between the parties at every stage of the proceedings.

Art. 14

Duty to instruct and teach

1) The provisions of the Code of Civil Procedure on the duty to instruct and instruct shall apply.

2) In addition, the court shall inform the parties who are not represented by a lawyer about the special submissions and offers of evidence that may be taken into consideration in the subject matter of the proceedings, which are necessary for the appropriate prosecution or legal proceedings.

The court shall be entitled to take any procedural steps that may serve as a defense and to instruct them to take any such procedural actions that may be appropriate.

Art. 15

Legal hearing

The parties shall be given the opportunity to become acquainted with the subject matter on which the court has initiated the proceedings ex officio, the motions and submissions of the other parties and the content of the investigations and to comment thereon.

Art. 16

Collection of the basis for decision making

1) The court shall ensure ex officio that all facts relevant for its decision are clarified and shall take into account all indications of such facts accordingly.

2) The parties shall fully and truthfully present or offer all facts and evidence known to them that are relevant for the court's decision and shall answer all questions of the court directed thereto.

Art. 17

Consequences of default

1) The court may request a party, setting a reasonable time limit, to respond to the request of another party or to the content of the investigations, or summon the party to a hearing or session for this purpose. If the party fails to comply with the time limit or fails to comply with the summons, the court may assume that there are no objections to the statements of the other party or to an intended decision on the basis of the disclosed content of the investigations.

2) The request to make a statement and the summons must contain a reference to this legal consequence and must be served in the same way as a complaint. An appeal against such a deadline or summons is not admissible.

Art. 18

Oral hearing

If an oral hearing is not mandatory, the court is free to order a hearing on the whole case or on individual points with the parties concerned by the subject matter of the hearing if it considers this expedient to accelerate the proceedings, to ascertain the facts or to discuss legal issues. Also

if a hearing has been held, the court is not required to hold oral proceedings in the further proceedings.

Art. 19

Public

1) The hearing is open to the public.

2) The public shall be excluded ex officio if:

a) it appears to endanger morality or public order;

b) there is a reasonable concern that it could lead to disruption of the hearing or complicate the ascertainment of the facts;

c) this is necessary in the interest of a person in need of care.

3) The public shall also be excluded at the request of a party for reasons worthy of consideration, in particular because facts of family life are to be discussed.

4) The public may be excluded for the entire hearing or for individual parts thereof. Insofar as the public is excluded, the public announcement of the content of the hearing is prohibited.

5) If the court has excluded the public, a party may request that, in addition to him or her and his or her representative, a person of his or her confidence be permitted to be present at the oral proceedings; in all other respects, Sections 171(2) and (3), 173, 174(2) and 175(2) of the Code of Civil Procedure shall apply.

Art. 20

Taking evidence outside an oral hearing

1) Parties who have appeared and their representatives may participate in the taking of evidence outside oral proceedings, in particular in the questioning of a person. Notification of the taking of evidence shall be given only upon request. The court may exclude parties and their representatives from participation if the proceedings concern a minor or other foster child and participation in the taking of evidence would endanger the welfare of a foster child or make it considerably more difficult to establish the facts.

2) No appeal is admissible against exclusion from the taking of evidence. Art. 21

Reinstatement

The provisions of the Code of Civil Procedure on restitutio in integrum, with the exception of Section 154 of the Code of Civil Procedure, shall apply mutatis mutandis if the legal disadvantage resulting from the failure to observe a time limit or a hearing cannot be averted by an appeal or a new application.

Art. 22

Minutes, files, session police and penalties

The provisions of the Code of Civil Procedure on minutes, files and the session police, insults in pleadings and penalties shall apply mutatis mutandis.

Art. 23

Deadlines

1) The provisions of the Code of Civil Procedure relating to time limits, with the exception of Section 142 of the Code of Civil Procedure and those relating to interruption by court vacations, shall apply mutatis mutandis.

2) The deadlines for filing and responding to an appeal and for filing an amendment are emergency deadlines.

Art. 24

Delivery

1) Unless otherwise ordered, the provisions of the Code of Civil Procedure on service and the Service of Documents Act shall apply.

2) Service shall be effected by public notice (Art. 28 of the Service of Documents Act) if the court deems it probable that the necessary requirements have been met. Edicts shall be notified in the manner prescribed by section 117(2) of the Code of Civil Procedure. In addition, publication in accordance with local practice may be ordered ex officio or on application.

Interruption of the procedure

Art. 25

a) Principle

1) The procedure is interrupted when:

a) the unrepresented party dies or loses the ability to act independently as a party before the court;

b) the party's legal representative dies or loses the power of representation and the party can neither act independently in court nor is represented by a person endowed with power of attorney;

c) the lawyer dies or loses the ability to continue representing the party, if such representation is required by law;

d) insolvency proceedings are opened against the assets of a party, provided that the provisions of the Insolvency Code so provide; or

e) the court ceases to function as a result of a war or other comparable serious event.

2) The proceedings may be interrupted in whole or in part ex officio or upon request if:

a) a preliminary question concerning the existence or non-existence of a legal relationship forms the subject matter of another pending or ex officio proceeding before a court or an administrative authority, the resolution of the preliminary question in the pending proceeding is not possible without considerable procedural effort and the interruption is not associated with unreasonable delay;

b) there is a suspicion of a criminal act, the investigation and adjudication of which is likely to have a significant influence on the decision in the pending proceedings; or

c) a party is prevented from participating in the proceedings as a result of war or another comparably serious event and at the same time there is a concern that the absent party would suffer considerable disadvantages as a result.

Art. 26

b) Effect

1) During the interruption, the court shall take only urgent procedural steps. In the case referred to in Article 25(2)(a) and (b), procedural acts of the court and the parties may be taken, provided that they do not prejudice the decision on the preliminary question. If the interruption occurs after the case has become ripe for decision, it shall not prevent the decision from being rendered.

2) The interruption shall terminate the running of any time limit for the performance of a procedural act. This shall not apply to time limits set by the court for urgent procedural acts notwithstanding the interruption. Otherwise, procedural acts during the interruption have no effect on other parties.

3) Proceedings that have been interrupted shall be continued by order at the request of a party if the reasons for the interruption have ceased to exist. Proceedings that have been

In the event that the proceedings can be initiated ex officio, they shall also be continued ex officio by means of a decision if the interests of a party or the general public, the protection of which is the purpose of the proceedings, could otherwise be endangered. Interrupted time limits shall begin anew with the service of the order for continuation.

4) The decision ordering the interruption of the proceedings or refusing the continuation of the interrupted proceedings may be appealed independently.

Art. 27

c) Continuation of the procedure

1) If the proceedings are interrupted for reasons that lie in the person of a party or his legal representative (Art. 25 par. 1 letters a and b), the proceedings shall be continued with the subsequently appointed representative.

set a time limit. If the reason for the interruption lies in the person of the lawyer (Art. 25 par. 1 letter c), the court shall request the party to inform the court of his new representative within a reasonable period of time. If the request is not complied with in due time, the proceedings shall be continued by order notwithstanding this circumstance.

2) If proceedings are interrupted in order to resolve a preliminary question (Art. 25 para. 2 let. a) and if the preliminary question is to be resolved in proceedings to be instituted ex officio, the court shall request that such proceedings be instituted without delay.

Art. 28

Suspension of the proceedings

1) If at least two parties are involved in the proceedings, the proceedings shall be suspended if all parties expressly agree on it and notify the court of the agreement; such an agreement shall become effective as of the date on which it is notified to the court by all parties.

2) If at least two parties are involved in proceedings that can only be initiated upon request, the proceedings shall also be suspended if all parties have been summoned to oral proceedings with reference to this legal consequence, but none of the parties complies with the summons or the parties present declare that they do not wish to participate in the proceedings.

3) Suspension of the proceedings shall have the effects of interruption of the proceedings; however, emergency deadlines shall continue to run. Proceedings which have been suspended may not be continued before the expiry of three months from the date of suspension.

be continued. However, proceedings which may also be initiated ex officio shall be continued if the interests of a party or the general public, the protection of which is the purpose of the proceedings, might otherwise be endangered.

4) After the expiry of the three-month period, the proceedings shall be continued at the request of one of the parties. Proceedings that can be initiated ex officio may also be continued by the court ex officio.

5) If dormant proceedings have already been continued ex officio, any new agreement on dormancy shall require the court's approval in order to become effective.

6) The decision refusing to continue the dormant proceedings after the expiry of three months is independently appealable.

Art. 29

Pause

1) If an amicable settlement between the parties is to be expected, in particular with the assistance of a suitable institution, the court may stay the proceedings, provided that this does not endanger the interests of a party or the general public, the protection of which is the purpose of the proceedings.

2) During the proceedings on a case, a stay may be ordered only for a maximum period of six months. During the stay, the court shall perform only urgent procedural acts.

3) If it becomes apparent before the expiry of the stipulated period that the conditions for the stay are no longer fulfilled, the procedure shall be continued by means of a resolution.

4) A decision to hold the meeting in breach of para. 2 is subject to independent appeal.

Art. 30

Comparison

1) If the parties are entitled to dispose of rights that may be the subject of legal proceedings, they may enter into a court settlement.

2) If a settlement is reached, its contents shall be recorded. The parties shall be provided with copies of the settlement upon request.

3) In proceedings that can be initiated only upon a motion, before filing the motion with the competent court, the summons of the opposing party for the purpose of a

settlement attempt may be requested.

Evidence procedure

Art. 31

a) Evidence

1) Any suitable evidence may be used to establish the facts of the case.

2) The court may also take evidence and make inquiries if all parties oppose it or if the court has reasonable concerns about facts that are presumed by law or for which there is evidence that makes full proof.

3) The court may appoint experts even without first hearing the parties about their person. If the judge has the necessary expertise, he may dispense with the expert evidence.

4) Even in proceedings for which an oral hearing is prescribed, the court must also take into account submissions made outside the hearing. It may also take evidence outside the hearing, order the parties to provide additional information and take other procedural steps.

5) If the court deems it indispensable for a party to attend a hearing, to produce a document or to allow inspection of an object in its custody, it may apply coercive measures (Art. 79 par. 2) against the party if

he/she fails to comply with the summons or request without a reason worthy of consideration.

Art. 32

b) Evaluation of evidence

The court, with careful consideration of the results of the entire proceedings, shall freely judge what is to be considered true and what is not.

Art. 33

c) Omission of surveys

1) The court may dispense with investigations if it is already convinced on the basis of obvious facts or the undisputed and unobjectionable statements of one or more parties that an allegation is to be considered true.

2) The court may disregard factual submissions that have not been proved and refrain from taking evidence if such facts or evidence are raised or offered belatedly by a party and, upon careful consideration of all the circumstances, there is no reasonable doubt that the purpose is to delay the proceedings and that their admission would significantly delay the completion of the proceedings.

Art. 34

d) Determination of cash benefits

If it is established that a party is entitled to a monetary benefit, but it is not possible to ascertain the amount of the benefit or it would be unreasonably difficult to do so, the court may, upon application or ex officio, determine the amount of the benefit in its own discretion, even if it refrains from taking the evidence offered.

Art. 35

e) Supplementary law

Unless otherwise ordered, the provisions of the Civil Procedure Code on the use of technical equipment for the transmission of words and images in the taking of evidence, on the recording of evidence and on the use of technical equipment for the transmission of words and images in the taking of evidence, on the recording of evidence and on the use of technical equipment for the recording of evidence shall apply.

The provisions of the Code of Civil Procedure on the taking of evidence by a requested or appointed judge, on the separate examination of parties or witnesses, on the examination of minors, on the taking of evidence abroad and on the individual means of evidence, with the exception of the provisions on the commonality of evidence, the continuation of the proceedings without regard to the outstanding taking of evidence and the examination of a witness or party on oath, shall apply mutatis mutandis.

C. Decisions Art. 36

Decision-making principles

1) The court shall decide in the form of orders. These shall be issued in writing; if at least one party is present, they may also be pronounced orally.

2) The court may decide on the cause of action by interim order and on part of the cause of action by partial order.

3) Any decision shall be taken within the scope of the subject matter of the proceedings, whereby

the interests and the legally effective declarations of intent of the parties under civil law must be taken into account.

4) In proceedings which may be instituted only upon application, the decision shall be taken in the context of the applications. In proceedings that can also be initiated ex officio, the court is not bound by the applications when making its decision.

Art. 37

Fulfillment period

1) The imposition of a payment is only permissible if the due date has already occurred at the time the resolution is adopted or if the regulation of a legal relationship requires the award of payments that are not due.

2) To the extent necessary, the court shall set a reasonable time limit or date for the performance of its orders. Section 409 (3) to (5) of the Code of Civil Procedure shall apply mutatis mutandis to the calculation of the time limit.

Art. 38

Execution and service of resolutions

Resolutions shall be issued in writing and sent to all parties on record. Decisions pronounced orally shall be executed in writing unless execution and appeal have been waived. In matters of personal status, a waiver of the execution and service of decisions on the merits shall be ineffective.

Art. 39

Content of copies of resolutions

1) The written copy of a resolution shall contain the following:

a) the name of the court and the case;

b) the names and surnames of the parties, their addresses and their representatives; in civil status cases, also the date and place of their birth and their citizenship;

c) the subject of the proceedings;

d) the spell;

e) the reasoning.

2) The ruling and the reasoning shall be external. Deadlines or times set for the fulfillment of orders issued, as well as the preliminary

The award of liability or enforceability shall be included in the judgment.

3) The statement of grounds shall include the motions of the parties, the determination of the legal facts and the evaluation of the evidence as well as the legal assessment.

4) The statement of reasons may be omitted if the parties' motions of the same kind are granted, the decision corresponds to the declared will of all parties or the decision was pronounced orally in the presence of all parties and all parties have waived their right to appeal.

5) The written version of the decision (judgment) intended for the court records shall be signed by the judge or the judicial officer, in senate cases by the chairman.

Art. 40

Binding of the court to the decisions

The court shall be bound by its decisions when they are pronounced orally, or, if no oral pronouncement is made, when the written version is submitted for execution; however, the court shall be bound by procedural decisions only to the extent that they are independently contestable.

Art. 41

Amendment and correction of resolutions

The provisions of the Code of Civil Procedure on supplementing and correcting decisions shall apply mutatis mutandis.

Art. 42

Legal force

If a party can no longer challenge a decision, it shall become legally binding on that party.

Art. 43

Resolution effects

1) When a decision becomes final, it becomes enforceable, binding or legally binding.

2) If, by virtue of the nature of the legal relationship or by virtue of statutory provisions, the effect of a decision extends to all parties on record,

However, it shall only take effect when it can no longer be contested by any party.

3) If a time limit for performance or a due date is specified in an order, enforceability shall only arise after the expiry of the time limit for performance or the expiry of the due date.

4) If an appeal against a decision pronounced orally has been waived, but the written copy of the decision is to be served, its effects shall take effect upon service.

5) Procedural decisions shall become binding for the party upon oral pronouncement, otherwise upon delivery of the written copy thereof.

Art. 44

Provisional award of liability or enforceability

1) Provided that it is not a matter of personal status, the court may provisionally grant binding force or enforceability to an order if it deems this necessary to avoid significant disadvantages for a party or the general public.

2) The provisional effects of the decision shall take effect as soon as the decision granting them has been served and shall continue to have effect until the decision on the case becomes final, even if the decision has been annulled or replaced by another decision in the meantime.

3) The decision on the award may be changed, in particular, if the appellant is threatened with more significant disadvantages which could not be eliminated if the appellant's appeal is successful. The appellate court is responsible for such decisions after the appeal has been submitted.

4) Decisions on provisional binding or enforceability are not subject to appeal.

D. Appeal Art. 45

Admissibility of the appeal

1) Decisions of the court of first instance may be appealed to the court of second instance (court of appeal).

2) Unless an independent appeal is ordered, procedural decisions may only be appealed by means of an appeal against the decision on the merits.

Art. 46

Appeal deadline

1) The time limit for the appeal is four weeks. It begins with the delivery of the written copy of the independently contestable decision.

2) A party not on the record who has not been served with the order may file an appeal up to the date by which

a party with a record may file an appeal or a response.

3) After the expiry of the appeal period, resolutions may be appealed if their amendment or repeal is not detrimental to any other person.

Art. 47

Form and content of the appeal

1) The appeal shall be filed by submitting a written statement to the Court of First Instance; it may also be declared orally on the record by parties who are not represented by a lawyer.

2) In addition to the general requirements of an appeal, the appeal shall contain the designation of the decision against which it is filed.

3) The appeal need not contain a specific request, but it must sufficiently indicate the grounds on which the party considers itself adversely affected and which other decision it seeks (appeal request); in case of doubt, the decision against which the appeal has been filed shall be deemed to be contested in its entirety. Art. 9 is not applicable.

Art. 48

Appeal response

1) If an appeal is filed against an order by which a decision has been made on the merits of the case or on the costs of the proceedings, a copy of the appeal shall be served on each of the other parties on record.

2) The parties who have been served with a copy of the appeal may file a response with the Court of First Instance within four weeks from the date of service on them; Article 47(1) shall apply mutatis mutandis. As long as a party with a record may file an appeal or a response, the parties not with a record may also file a response.

3) The other parties shall be prevented from filing the response to the appeal by

Notification of service of a conforming copy.

Art. 49

Admissibility of innovations

1) New facts and evidence offered in the appeal proceedings shall be taken into account to the extent that they do not relate to unchallenged parts of the decision and Article 55(2) does not provide otherwise.

2) However, facts and evidence that already existed at the time of the decision of the first instance shall not be taken into account if they could have been submitted by the party before the decision was issued, unless the party can show that the delay (omission) in submitting the evidence was an excusable error.

3) If the newly submitted facts were not yet available at the time of the decision, they shall be taken into account only to the extent that they cannot be made the subject of a new application without substantial disadvantage, except for an application for amendment.

Art. 50

Appeal decision by the court of first instance

1) If only an appeal is filed against an order, the Court of First Instance may itself grant it if it is directed against:

a) a procedural decision, insofar as it is independently contestable;

b) a penalty order;

c) the dismissal of an appeal (Art. 67);

d) an order by which a decision on the merits of the case has been rendered, provided that it is clear from the file, without further investigation, that such order is to be set aside and that the motion initiating the proceedings, if any, on which it is based is to be rejected or that it is to be amended in its entirety in the sense of the appeal request.

2) The court may make a decision under subsection 1(d) only once during the proceedings on a case.

Art. 51

Submission of the files to the appeal court

1) The Court of First Instance shall, if provided for after the filing of the response or the fruitless expiry of the time limit open for it, submit the appeal to the appellate court together with all the documents relating to the case, unless it grants the appeal itself (Art. 50).

2) If the content of an appeal or a response gives rise to a finding by the Court of First Instance, such finding shall be made in advance; if deficiencies in admissions are alleged, the necessary inquiries shall be conducted in advance.

3) If the matter has not or not completely been settled by the contested decision and if the proceedings on the outstanding issues are to be continued during the appeal proceedings, copies or originals of the parts of the files relating to the subject matter of the appeal proceedings, which are also required for the proceedings at first instance, shall be submitted to the appeal court.

Art. 52

Proceedings before the court of appeal

1) The appeal court shall hold an oral appeal hearing if it deems such a hearing necessary. Even if no response to the appeal is provided for, the appeal court shall give the parties the opportunity to comment on the submissions of other parties to the extent necessary to safeguard their right to be heard.

2) If the appellate court considers to deviate from the findings of the court of first instance, it may only refrain from a new admission of evidence taken directly in the first instance and relevant for the findings if it has previously informed the parties that it has reservations about the appraisal of this evidence by the court of first instance and has given them the opportunity to request a new admission of this evidence by the appellate court; this may also be carried out by an appointed judge of the appellate court.

Art. 53

Basis for decision-making

The appellate court shall base its decision on the results of the investigation and the findings of fact of the first instance proceedings insofar as they have not been corrected by the results of the appeal proceedings.

Art. 54

Rejection by the court of appeal

1) The appeal shall be dismissed if:

a) it is inadmissible or, insofar as Art. 46 par. 3 does not apply, it is late;

b) it does not have the necessary form or content despite the improvement procedure carried out.

2) An appeal is inadmissible in particular if it has been filed by a person who is not entitled to the appeal or who has waived it.

Decision on the appeal

Art. 55

a) Principle

1) If the appeal is not to be dismissed, the appellate court shall decide on the matter itself, if necessary after supplementing the proceedings.

2) The court of appeal may only decide within the scope of the appeal request. However, in proceedings which may be initiated ex officio, the appellate court shall not be bound by the appellate petition; it may also amend the contested order to the disadvantage of the challenging party.

3) If, on the occasion of an admissible appeal, the appellate court comes to the conclusion that the contested order or the proceedings of the first instance suffer from a defect under Articles 56(1), 57(a) or 58(1)(a) and (b) and (4) which has hitherto gone unnoticed, this defect shall be noticed, even if this has not been asserted by any of the parties.

4) If the court of first instance has itself granted an appeal and the court of appeal sets aside this decision of the court of first instance, it shall at the same time decide on the appeal filed against the original decision of the court of first instance.

Art. 56

b) Invalidity and referral

1) If the contested decision was made on a matter that does not belong to the non-contentious legal proceedings, is not subject to domestic jurisdiction or has already been decided by a final court decision or has been withdrawn with a waiver of the claim, the decision shall be set aside and the preceding proceedings shall be declared null and void and the application that preceded it, if any, shall be rejected.

2) If the contested order was made by a court without subject-matter jurisdiction, it shall be set aside and the case shall be referred to the court of first instance having subject-matter jurisdiction and territorial jurisdiction.

Art. 57

c) Referral back

The appellate court may set aside the contested order and, insofar as the preceding proceedings are affected by the procedural violation, may also set aside the latter and reopen the case for a new decision, or, if necessary, also for a supplementation of the proceedings or for a reopening of the proceedings.

-refer the case back to the Court of First Instance if this is likely to significantly reduce the costs of the proceedings and the costs incurred by the parties, and

a) the wording of the resolution is so defective that its review cannot be carried out with certainty, the resolution is inconsistent with itself or, except in the cases referred to in Art. 39 par. 4, does not contain a statement of reasons and these defects cannot be remedied by correcting the resolution,

b) the public has been excluded in an unlawful manner,

c) the factual claims have not been fully settled by the contested decision and the decision cannot be confirmed or amended as a partial decision,

d) the first-instance proceedings suffer from substantial deficiencies that prevent an exhaustive discussion and thorough assessment of the matter,

e) facts which appear to be relevant according to the content of the files were not even raised at first instance, or

f) other comparably serious procedural violations have occurred.

Art. 58

d) Priority of the own decision

1) If, even on the basis of the information provided in the appeal proceedings, the contested order is to be confirmed in its entirety, the appeal court shall, even if

a) a party has not been granted the right to be heard,

b) a party was not represented in the proceedings or, if it requires a legal representative, was not represented by such a representative and the conduct of the proceedings was not subsequently approved, or

c) was not heard orally contrary to specific statutory provisions, not to set aside the decision but to decide on the merits itself.

2) A subsequent approval of the conduct of the proceedings shall be deemed to exist in particular if the legal representative, without asserting the lack of representation, has entered into the appeal proceedings by filing the appeal or the response to the appeal.

3) If a decision pursuant to para. 1 is not possible and if the contested decision cannot be amended without further investigations, it and the preceding proceedings shall be set aside insofar as they are affected by the procedural violation and the case shall be referred back to the Court of First Instance for a new decision, if necessary after supplementing or repeating the proceedings.

4) In any case, the court shall set aside the contested order and proceed in accordance with para. 3 if:

a) a judge or judicial officer who has been disqualified or successfully challenged;

b) a judicial officer has ruled instead of a judge; or

c) the court was not staffed according to the rules.

Art. 59

Statement of the court of appeal on legal remedies

The appellate court shall state in the notice of appeal whether the appeal is admissible or inadmissible in accordance with Art. 62.

Art. 60

Execution of the appeal decision

1) The written copy of the appeal decision shall also contain the names of the judges who participated in the decision.

2) In the copy of its decision, the appellate court may limit the reproduction of the submissions of the parties and the factual basis for the decision to what is necessary for the understanding of its legal arguments. Insofar as the appellate court does not consider the arguments of the appeal to be valid, but considers the grounds of the contested decision to be correct, it may content itself with a brief statement of the grounds of its assessment with reference to their correctness.

Art. 61

Binding to the legal assessment of the court of appeal

The court to which a case is referred back for a full or partial retrial or decision as a result of a decision of the appellate court shall be bound by the legal assessment on which the appellate court based its decision.

E. Appeal Art. 62

Admissibility of the appeal on points of law

1) Subject to subsections (2) and (3), an appeal shall be admissible against a decision of the court of appeal rendered in the course of the appeal proceedings.

2) The appeal shall be inadmissible if the decisions of the Court of First Instance and the Court of Appeal are identical, with the exception of those on matters under Article 1(2)(a) (child welfare proceedings), 1(2)(b) (guardianship and guardianship proceedings), 1(2)(d) (divorce by mutual consent), 1(2)(i) (proceedings relating to the placement of children in care), 1(2)(k) (proceedings relating to the placement of children in care) and 1(2)(k) (proceedings relating to the placement of children in care). b (guardianship and guardianship proceedings), subparagraph d (divorce by mutual consent), subparagraph i (proceedings relating to placement), subparagraph k (proceedings relating to residence in residential or nursing facilities) and in proceedings relating to the right of succession (Art. 161).

3) However, the appeal is inadmissible in any case:

a) about the cost point;

b) on legal aid; and

c) about the fees.

Art. 63

Appeal against the decision on the admissibility of an appeal on a point of law

There are no (special) legal remedies against the court's ruling that an appeal is not admissible.

Art. 64

Contestation of the annulment decision

1) A decision by which the appellate court has set aside a decision of the court of first instance and ordered it to make a new decision after supplementing the proceedings may be appealed only if the appellate court has pronounced that the appeal is admissible. The court of appeal may pronounce this only if it considers the conditions for admissibility under Art. 62 to be met. This pronouncement may be made ex officio or on application and shall be briefly substantiated.

2) In the event of a pronouncement pursuant to para. 1, the proceedings in the first instance shall be continued only after the annulment decision has become final.

Art. 65

Time limit, form and content of the appeal on points of law

1) The time limit for the appeal is four weeks. It shall commence with the notification of the decision of the court of appeal. An appeal that is not on file

A party who is a party of record and who has not been served with the order may file a notice of appeal up to the time when a party of record may file a notice of appeal or a response to the notice of appeal.

2) The appeal must be lodged with the court of first instance by submitting a written statement; it cannot be declared on the record.

3) The appeal shall contain, in addition to the general requirements of a plea:

a) the designation of the decision against which the appeal is directed;

b) a specific statement of the extent to which the decision is contested, an equally specific brief description of the reasons for the contestation and a statement of whether annulment or amendment of the decision is sought;

c) the factual arguments and evidence by which the grounds for appeal are to be proven;

d) in so far as the appeal is based on Article 66(1)(d), the grounds on which the legal assessment of the case appears to be incorrect;

e) the signature of the appellant or any representative.

Art. 66

Grounds for appeal

1) In an appeal on a point of law, it can only be argued that:

a) a case of Art. 56, 57 let. a or Art. 58 is given;

b) the appeal proceedings suffer from a defect which was likely to prevent an exhaustive discussion and thorough assessment of the matter;

c) the order of the appellate court is based on a factual premise in a material respect that is in conflict with the first or second instance records;

d) the order of the Court of Appeal is based on an incorrect legal assessment of the matter.

2) New facts and evidence may only be submitted in support of or in opposition to the grounds of appeal.

Art. 67

Rejection of the appeal on points of law

An appeal which is inadmissible for a reason other than the absence of the requirements under Art. 62 shall be dismissed by the court of first instance or, if necessary, by the court of second instance.

Art. 68

Appeal response

1) If an appeal is lodged against an order by which the case has been decided and the Court of First Instance finds no reason to dismiss the appeal, a copy of the appeal shall be sent to each of the other parties on the record. These parties may, within four weeks, submit a reply to the appeal by means of a written statement; Art. 65 par. 1 second sentence, par. 2 second half-sentence, par. 3 letters c to e and Art. 66 par. 2 shall apply mutatis mutandis.

2) Objections against the timeliness or admissibility of the appeal may not be raised by way of appeal, but only in the response to the appeal.

3) In the case of an appeal whose admissibility has been declared by the appellate court, the time limit for the response to the appeal shall commence with the delivery of the copy of the appeal by the court of first instance.

4) The response to the appeal must be submitted:

a) to file a response to the appeal with the appellate court if the latter has allowed the other parties on record to file a response to the appeal pursuant to Article 63(5);

b) to file a response to the appeal with the Supreme Court if the latter has allowed the other parties on the record to file a response to the appeal pursuant to Article 71(2);

c) otherwise before the Court of First Instance.

5) The other parties shall be notified of the filing of a response to the appeal by service of a copy of the same.

Art. 69

Submission of the files to the Supreme Court

1) If an appeal on points of law has not already been dismissed by the court of first instance, it shall submit the files.

2) An appeal on a point of law shall be dismissed by the Court of First Instance, if provided for after receipt of the reply or fruitless expiry of the time limit for such appeal.

The court shall forward the files to the Supreme Court after the relevant files of the court of appeal have been connected.

Art. 70

Decision on the appeal

1) The Supreme Court may decide on the contested order only within the scope of the petition for review. In proceedings which may be instituted ex officio, the Supreme Court shall, however, not be bound by the petition; it may also amend the contested order to the disadvantage of the party filing the appeal.

2) The Supreme Court may itself decide on an appeal under Article 64 if the matter is ripe for decision.

3) If the order of the court of appeal is to be set aside, it shall refer the case back to the appellate court if only the proceedings at second instance require supplementation. If, on the other hand, the proceedings of the first instance require supplementation or if they suffer from a defect to be observed ex officio, the decision of the first instance shall also be set aside and the case shall be referred back to it.

4) Furthermore, the Supreme Court may set aside a decision of the appellate court and refer the case back to that court for a new decision if, in the case of an appeal for a final decision on the claim, the necessity of a more detailed examination of individual bases of the claim or of detailed calculations arises.

Art. 71

Proceedings before the Supreme Court

1) If the Supreme Court does not find at the first examination that an appeal is to be dismissed for lack of the requirements under Article 62, it shall inform the respondent that he is free to reply to the appeal. The Court of First and Second Instance and the appellant shall be notified of this notification. After receipt of this notification, the appellate court shall submit its files on these proceedings to the Supreme Court.

2) In the copy of its decision, the Supreme Court may limit the recitation of the party submissions and the factual basis for the decision to what is necessary for the understanding of its legal statements. If the Supreme Court confirms the decision of the Court of Appeal and considers that

If he considers his reasoning to be correct, it shall be sufficient if he refers to its correctness. The assessment that an asserted defectiveness or unacceptability does not exist does not require any justification.

3) Unless otherwise provided, the provisions on appeals shall apply mutatis mutandis, with the exception of Art. 50 Para. 1 letter d.

F. Amendment Art. 72

Admissibility of the request for amendment

If the effects of an order cannot be eliminated by instituting other judicial proceedings, its modification may be sought in accordance with the following provisions.

Art. 73

Reasons for the amendment

1) After the decision on the case has become final, its amendment may be requested if:

a) the party requires a legal representative and was not represented by such a representative and the conduct of the proceedings was not subsequently approved;

b) a judge or judicial officer who has been disqualified or successfully challenged;

c) the requirements under section 498 (1) no. 1 to 5 of the Code of Civil Procedure are met;

d) a party finds or is enabled to use a decision on the matter that has been rendered earlier and has already become final, which creates law between the parties to the proceedings on which the order to be modified is based; or

e) the party becomes aware of new facts or finds or is enabled to use evidence, the submission and use of which in the earlier proceedings would have resulted in a more favorable decision.

2) A ground for amendment under subsection 1(a) to (c) shall not exist if the circumstance on which the application for amendment is based could already have been asserted in the previous proceedings or was asserted without success.

3) A ground for variation under subsection 1(d) and (e) shall exist only if the party, through no fault of its own, was unable to take into account the legal effect of the decision or the new facts or evidence in the previous proceedings.

to assert.

Art. 74

Deadlines for the amendment

1) The amendment must be submitted within four weeks.

2) This period shall be calculated from the day on which:

a) the decision has been validly served on the party (Art. 73 para. 1 let. a);

b) the party has become aware of the ground for exclusion (Art. 73 para. 1 let. b);

c) the judgment of the criminal court or the order discontinuing criminal proceedings has become final (Art. 73 par. 1 let. c); or

d) the party was able to make use of the final decision or to present to the court the facts and evidence that came to his knowledge (Art. 73 par. 1 letters d and e).

3) If another motion has been filed or an appeal has been filed by a party not on the record prior to the motion to amend to eliminate the effects of the ruling, the four-week period shall not commence until the ruling of rejection has become final in the event that such motion or appeal is rejected.

4) In any case, the time limit shall not commence before the decision to be amended has become final.

5) After the expiry of ten years from the date on which the decision becomes final, the application for amendment may be filed only in the cases referred to in Article 73(1)(a).

Art. 75

Form and content of the amendment

1) The amendment shall contain, in addition to the general requirements of an attachment:

a) the name of the decision the amendment of which is requested;

b) the reasons why the amendment is requested;

c) information on the circumstances from which compliance with the time limit under Art. 74 results.

2) The request must indicate which other decision is sought. Art. 9 par. 2 and 3 shall be applied.

Art. 76

Jurisdiction for the amendment procedure

The application for modification shall be filed with the Regional Court. The court shall decide on the application for modification, even if the order to be modified was made by a court of higher instance.

Art. 77

Decision on the amendment

1) If the amendment is inadmissible, the court shall reject it.

2) If a reason for amendment exists, the resolution shall be amended within the scope of the request to the extent that it is affected by the reason for amendment. Decisions may be amended to the disadvantage of the party requesting the amendment only in proceedings which may also be initiated ex officio. Otherwise, the application for amendment shall be rejected if no decision on the matter would be more favorable to the applicant.

3) The amendment of legal resolutions shall not have any retroactive effect on third parties.

G. Reimbursement of costs Art. 78

Success liability, equity

1) Unless otherwise expressly provided in this Act or other statutory provisions, the court shall, without further investigation and after careful consideration of all the circumstances, decide to what extent compensation for costs shall be imposed. This shall be decided in any order disposing of the case, unless the court of first instance reserves the decision on costs until the case has been finally disposed of.

2) The costs necessary for the appropriate prosecution or legal defense shall be reimbursed to a party insofar as it has been successful with its legal prosecution or legal defense against other parties who have pursued opposing interests. This shall only be deviated from insofar as this is necessary on the basis of equity, in particular due to the factual or legal difficulties of the matter or due to an expense attributable to the conduct of individual parties.

3) To the extent that no claims for damages arise therefrom, the cash expenses referred to in Sec. 43 (1) third sentence of the Code of Civil Procedure shall be allocated to the parties in proportion to their shares in the subject matter of the proceedings, or, in the absence of determinability of the shares, in equal shares among the parties.

The parties shall bear their own costs in all other respects. In all other respects, the parties shall bear their own costs.

4) The provisions of the ZPO shall apply mutatis mutandis to the recording of costs and their interest.

H. Enforcement of decisions Art. 79

Means of coercion in the procedure

1) The court shall ex officio enforce orders necessary for the progress of the proceedings against persons who fail to comply with them by appropriate coercive means.

2) In particular, the following may be considered as means of coercion:

a) monetary penalties, also to enforce justifiable acts; Art. 259 EO shall apply mutatis mutandis to the extent thereof;

b) preventive detention, which may be imposed only in the case of unjustifiable acts, acquiescence or omission, up to a total period of six months;

c) the forced screening;

d) the acceptance of documents, information and other movable property;

e) the appointment of trustees who shall perform representative acts at the expense and risk of a defaulter.

Art. 80

Execution

Unless otherwise ordered, decisions shall be enforced in accordance with the execution order.

II. Proceedings in matrimonial, child custody and guardianship matters

A. Parentage Art. 81

Acknowledgement of paternity

1) The court shall record the acknowledgement of paternity and any related declarations.

2) The minutes of the recognition shall contain:

a) the explicit acknowledgement of paternity;

b) the first name and surname, date and place of birth, nationality, occupation, address and affiliation with a recognized religious community of the person making the acknowledgment, as well as, if possible, a reference to the entry in the person's register of births; and

c) if known, the first name and surname, date and place of birth, nationality, occupation and address of the child and the mother and, if possible, a reference to the entry in their register.

3) The court shall send copies of the declarations certified by it or of the certified declarations handed over to it for forwarding to the competent civil status authority.

4) The above provisions shall apply mutatis mutandis to the recognition of maternity insofar as this is possible under foreign law.

Special procedural provisions in parentage proceedings

Art. 82

a) Application and parties

1) Proceedings concerning parentage shall be instituted only upon request, unless otherwise ordered.

2) In proceedings concerning parentage, the parties are in any case the child, the person whose parenthood may be established, terminated or re-established by the proceedings, and the other parent of the child, provided that he or she is capable of understanding and judgment and is alive.

3) In proceedings concerning the parentage of minor children, the maintenance claims of the minor child shall not be taken into account in decisions on legal aid.

Art. 83

b) Procedural principles

1) In parentage proceedings, oral proceedings shall be held.

2) An application shall be declared ex officio to be withdrawn without waiver of the claim if the request has been withdrawn in a way other than by a decision of the court, in particular by recognition of the claim.

parentage, has been fulfilled and the petitioner does not oppose it after having been informed. If the proceedings relate to the determination of non-paternity, the court shall, at the request of the defendant, consider the application as having been filed without a waiver of

to declare the claim withdrawn if the claimant does not appear at the oral proceedings. The claimant must be informed of this legal consequence in the summons.

3) Settlements or decisions on the basis of an acknowledgment are inadmissible. Article 17 applies only to the extent that it is in the interest of establishing the parentage of a minor child.

4) In proceedings concerning the parentage of minor children, costs are not to be reimbursed.

5) In descent proceedings, the time limit is 30 years in accordance with Art. 74(4). Decisions on the merits must always be substantiated. If the decision establishes parentage, it must contain the information specified in Article 81(2)(b) and (c).

Art. 84

Treatment of several applications

1) Proceedings concerning the parentage of the same child shall be combined as far as possible and settled by a single decision.

2) If the determination of parentage under the applicable substantive law requires a determination of non-paternity with another person, then:

a) a joinder under subsection (1) shall be admissible only if the application for determination of parentage was filed before the first-instance decision on the determination of non-paternity;

b) the court shall instruct the party seeking a declaration of parentage without an application for a declaration of non-parentage as to the legal position and, if necessary, suspend the proceedings for a maximum of two years;

c) the decision pronouncing the determination shall not take effect before the decision pronouncing the non-parentage becomes final.

3) If a claim is made against more than one person for the establishment of parentage to the same child and, under the applicable substantive law, only the parentage of one of them can be established, the parentage of the other person shall be established.

the court shall combine the decision on establishing parentage from one person with the dismissal of the petitions for establishing parentage from the other persons. The decision on the rejection of the

The decision on the determination may be contested and become final only together with the decision on the determination by means of legal remedies and applications for amendments.

Art. 85

Duty to cooperate

1) To the extent necessary to establish parentage, the parties and all persons who, according to the results of the proceedings, can contribute to the clarification of the facts, shall cooperate in the taking of findings by an expert appointed by the court, in particular in the necessary taking of tissue samples, body fluids and blood samples.

2) The duty to cooperate does not apply if this would be associated with a serious or permanent danger to life or health. Before taking findings, the court shall inform the persons requested to cooperate of the grounds for refusal and request them to make a statement. The refusal shall be decided by a special order which may be appealed against independently. In the event of a lawful refusal, the court shall order a method of parentage examination that is not associated with the stated danger.

3) In order to obtain tissue samples by methods that do not violate bodily integrity, the court shall, if necessary, order the compulsory production and the use of appropriate direct coercion. The state police are obliged to assist in this. The costs of the presentation and the coercion shall be reimbursed by the person obliged to cooperate. If the tissue samples are no longer required and the person from whom they were taken so requests, they shall be destroyed.

4) Insofar as the necessary evidence cannot be obtained in accordance with the preceding paragraphs and special statutory provisions do not preclude this, the court may demand from anyone the surrender of necessary tissue samples, bodily fluids and blood samples of the persons named in paragraph 1, even if they are already deceased.

B. Adoption in lieu of child

Consent forms

Art. 86

a) Principle

1) Declarations of consent to adoption in place of a child must be made in person before the court. If this would involve disproportionate difficulties or costs, or if judicial proceedings have not yet been instituted, then

consent may be declared in a document, and the signature must be notarized.

2) A power of attorney to make a declaration of consent is permitted in a document, and the signature must be notarized.

3) The declaration of consent under para. 1 and the power of attorney under para. 2 must specifically designate the elective child and the adopter. If the name and place of residence of the adopting party are not communicated and the resolution granting consent is not served (Art. 88 Para. 1), the name of the adopting party is not required.

4) If such a waiver is made in a written statement under subsection (1) or in a power of attorney under subsection (2), the signatures must be notarized for this purpose. A declaration of consent containing such a waiver may also be made in person before the court. The person making the waiver must be informed of the consequences of his declaration.

Art. 87

b) Revocation

1) A consent may be revoked in writing or in court until the decision of the first instance (Art. 40).

2) If proceedings on the granting of the adoption are already pending, the revocation of a declaration of consent shall be submitted to the court. If the consent was given before an adoption agency or transferred to it, the revocation may also be declared to it. This agency is obliged to forward the revocation to the court without delay.

3) Declarations of consent remain effective as long as they have not been revoked and can also be used as a basis for further proceedings.

Art. 88

Incognito adoption

1) The contracting parties may, by concurring motion, condition the approval of the adoption of a minor upon the waiver by all or any of the consenting and hearing officers, other than the Office of Social Services, of notice of the name and residence of the adopter and of service of the approval order.

2) At the request of the relinquishing party, the personal and economic circumstances of the accepting party must be described to him in general terms.

3) The copy of the resolution served on the waiving parties shall not contain any

Contain reference to the name or place of residence of the acceptor.

4) If the condition under paragraph 1 does not occur, the application shall be rejected.

Art. 89

Approval

The approval resolution shall contain, in addition to Art. 39:

a) the pronouncement on the granting of adoption in lieu of a child;

b) the pronouncement on the termination of the legal relations of the adopted child with a natural parent and on the date on which such termination becomes effective, provided that consent to such termination has been given;

c) First names and surnames of the parents and the child, date and place of birth, nationality, membership of a recognized religious community, and a reference to the corresponding entries in the civil register;

d) the date on which the acceptance becomes effective;

e) upon request, other information necessary for the complete recording of the adoption in lieu of child by foreign civil status authorities.

Special procedural provisions

Art. 90

a) Hearing and other procedural principles

1) Before approving the adoption of a minor child shall be heard:

a) the minor child, applying Art. 105 mutatis mutandis; and

b) the Office of Social Services.

2) In the proceedings on adoption in lieu of a child, an amendment is not admissible and costs are not reimbursed. Art. 104 shall apply mutatis mutandis.

Art. 91

b) Cancellation of adoption in lieu of child

In the case of annulment of adoption in lieu of a child, Articles 88 and 90(2) shall apply mutatis mutandis.

C. Recognition of foreign decisions on adoption in lieu of a child Art. 91a

Recognition and reasons for refusal

1) A foreign decision on adoption in lieu of a child is recognized in Liech- tenstein if it is legally binding and there is no reason to refuse recognition. Recognition can be assessed independently as a preliminary question without the need for a special procedure.

2) Recognition of the decision shall be refused if:

a) it obviously contradicts the best interests of the child or other fundamental values of the Liechtenstein legal system (ordre public);

b) the right of one of the parties to be heard has not been respected, unless he or she manifestly agrees with the decision;

c) the decision is incompatible with a Liechtenstein decision or an earlier decision that fulfills the requirements for recognition in Liechtenstein;

d) the cognizing authority would not have had international jurisdiction if Liechtenstein law had been applied.

3) Furthermore, recognition shall be refused at any time upon application by any person whose rights of consent under the applicable law have not been respected, in particular because he or she has not had the opportunity to participate in the proceedings of the State of origin.

Art. 91b

Recognition procedure

1) The recognition of the decision in independent proceedings may be requested by anyone who has a legal interest in it.

2) The application shall be accompanied by a copy of the judgment and proof of its finality under the law of the State of origin. If a party who has not applied for recognition has not appeared in the proceedings of the State of origin, proof of service of the document which served as evidence of his inclusion in the proceedings or a document showing that such party has manifestly accepted the foreign judgment shall also be produced.

3) The court shall involve the adoptive parents and the adoptive child in the proceedings, but not other persons involved in the foreign proceedings on adoption in lieu of a child.

4) If an appeal is directed against a decision of the first instance, the time limit for appeal and response shall be four weeks. If the habitual residence of a party who has not applied for recognition is abroad, and if an appeal or a response to an appeal is the party's first opportunity to participate in the proceedings, the time limit shall be four weeks.

If the applicant is required to participate in the proceedings, the period of time for filing an appeal or a response shall be eight weeks.

Art. 91c

Request for non-recognition

Articles 91a and 91b shall apply mutatis mutandis to petitions alleging non-recognition of foreign decisions on adoption in lieu of a child.

Art. 91d

Primacy of international law

Art. 91a to 91c shall not apply to the extent that international law provides otherwise.

D. Legitimation by the Prince Regnant Art. 92

Repealed

E. Marriage Matters

Special procedural provisions

Art. 93

a) Parties and representation

1) In proceedings on divorce on joint request, the parties may be represented. Representation of both parties by

the same lawyer or representative is permitted if the parties have agreed on all ancillary consequences of the divorce. If this is not the case, the lawyer or representative may no longer represent the two parties in these proceedings.

2) In proceedings for divorce on joint request, only the spouses are parties.

3) The lender shall be involved in the proceedings under Art. 86 of the Marriage Act, if possible, only after the decision of the first instance has been served.

Art. 94

b) Divorce petition, hearing and withdrawal of the petition

1) The petition for divorce on joint request shall be filed with the district court by written pleading or on the record. It must contain information on:

a) the place and time of the marriage;

b) the office where the marriage is recorded and, if possible, the number of the register;

c) the last common and current habitual residence;

d) the nationality;

e) employment;

f) the dates of birth;

g) membership in a religious community;

h) the names and dates of birth of the children;

i) the previous marriages of the spouses;

k) the establishment of marriage pacts.

2) In proceedings on divorce on joint request, the hearing shall be held orally. The court shall hold a hearing in accordance with Article 50 of the Marriage Act and inform the spouses of the purpose of the hearing and its significance.

tion.

3) If, in the proceedings on divorce on joint request, a petitioner does not appear at the hearing, the petition shall be dismissed ex officio.

to be declared as withdrawn.

4) The application for divorce on joint request may be filed by either spouse until the divorce decree becomes final (Art.

43). Withdrawal of the petition has the consequence that a divorce decree that has already been issued becomes ineffective; this must be determined by the court of first instance by way of an order. The same shall apply if one of the spouses dies before the divorce decree becomes final.

Art. 95

Regulation of the collateral consequences of divorce

1) If a party is not represented by a lawyer in the proceedings on divorce on joint request and has not taken advice on the entire consequences of divorce, including the consequences under social security law and the prerequisites of a pronouncement on liability for loans, the court shall point out any offers of advice and, in general, the disadvantages that may arise from insufficient knowledge of these consequences. The party shall be given the opportunity to obtain advice. A new extension for this reason is inadmissible. The court shall

to schedule the next hearing for a date within six weeks if possible.

2) If the spouses do not submit an agreement regulating the consequences of divorce, the court shall direct them to conclude such an agreement. As long as the agreement on the consequences of divorce has not been submitted in writing, a waiver of the withdrawal of the petition for divorce or of the right to appeal against the divorce decree shall have no effect.

3) If, despite the judge's request, the spouses have not submitted any corresponding applications, in particular within the meaning of Article 51(3) of the Marriage Act, the court shall dismiss the joint petition for divorce.

4) Subsequent adjustments of maintenance or pensions of the divorced spouses are to be dealt with in the contentious proceedings due to changed circumstances.

Art. 96

Decision on divorce

1) The court shall pronounce the divorce by order upon joint request and shall accept the agreement submitted by the spouses regarding the maintenance, the allocation of the matrimonial home, the distribution of the property, and the payment of the divorce.

The court shall be entitled to approve the division of the household effects as well as the division of the increase in assets achieved during the marriage and the termination benefits from the occupational pension plan if it is clear from the hearing that both spouses have decided to divorce of their own free will and after careful consideration and that the agreement submitted is not obviously unreasonable.

2) Likewise, the court shall approve by order the submitted agreement concerning maintenance, custody and, in case of joint custody, care of the children, as well as concerning personal contacts between one parent and the children.

3) Reasons shall be given for the decision.

4) The divorce decree has the effect that the marriage is dissolved upon the entry into force of the decree.

5) If the spouses have applied for a pronouncement pursuant to Article 86 of the Marriage Act, such pronouncement shall be combined with the divorce decree as far as possible.

6) Upon request, a copy of the divorce decree shall be issued to the parties without the statement of grounds and without the pronouncement referred to in paragraph 5.

F. Recognition of foreign decisions on the existence of a marriage Art. 97

Recognition and reasons for refusal

1) A foreign decision on the separation without dissolution of the marriage, the divorce or the annulment of a marriage, as well as on the determination of the existence or non-existence of a marriage, is recognized in Liechtenstein within the meaning of Art. 89 of the Liechtenstein Civil Code if it is legally binding and there are no grounds for refusing recognition. Recognition can be assessed as a preliminary question without the need for a special procedure.

2) The Government shall be responsible for recognition. It may transfer this business to an official body for independent execution, subject to legal recourse to the collegiate government. Recognition in independent proceedings pursuant to § 61 JN remains reserved.

3) Recognition of the decision shall be refused if:

a) it obviously contradicts the fundamental values of the Liechtenstein legal system (ordre public);

b) the right of one of the spouses to be heard has not been respected, unless he or she manifestly agrees with the decision;

c) the decision is incompatible with a Liechtenstein decision or an earlier decision fulfilling the conditions for recognition in Liechtenstein, by which the marriage in question was separated, divorced, declared invalid or the existence or non-existence of the marriage was established;

d) the cognizing authority would not have had international jurisdiction if Liechtenstein law had been applied.

Art. 98

Recognition procedure

1) The recognition of the decision in independent proceedings may be requested by anyone who has a legal interest in it. The public prosecutor shall be entitled to file an application if the decision is based on a ground for invalidity comparable to Articles 29 to 38a of the Marriage Act.

2) The application shall be accompanied by a copy of the decision and proof of its finality under the law of the State of origin. If the defendant does not enter an appearance in the proceedings in the State of origin, proof of service of the document instituting the proceedings or an original of the judgment shall also be attached.

The court shall provide a document stating that the defaulting party is in apparent agreement with the foreign judgment.

3) The court may also involve the defendant in the proceedings only by serving the decision. The defendant may raise any objections in an appeal.

4) If an appeal is directed against a decision of the first instance, the time limit for appeal and response shall be four weeks. If the defendant's habitual residence is abroad and an appeal or response is his first opportunity to participate in the proceedings, the time limit for the appeal or response shall be eight weeks.

Art. 99

Request for non-recognition

Articles 97 and 98 shall apply mutatis mutandis to petitions claiming non-recognition of foreign decisions on the existence of a marriage.

Art. 100

Primacy of international law

Articles 97 to 99 shall not apply to the extent that international law provides otherwise.

G. Maintenance between persons related in a direct line Art. 101

Special procedural provisions

1) The procedure for maintenance claims between persons related in a direct line shall be governed by this Act.

2) If the claim for maintenance between persons related in a direct line depends on the result of parentage proceedings, an application for maintenance may be filed if, at the latest at the same time, an application for the initiation of parentage proceedings is filed with the court. A decision on the application for maintenance shall not be taken before the final conclusion of the descent proceedings.

3) The obligation to pay maintenance not yet due is permissible if the obligation to pay maintenance has already been violated or is in danger of being violated.

4) In proceedings concerning the assessment, enforcement and recovery of the ge-

In the case of decisions on procedural assistance, the maintenance claims of the minor child shall not be taken into account.

Information requirements

Art. 102

a) Principle

1) Persons whose income or assets are relevant for the decision on legal maintenance between persons related in a direct line shall provide the court with information on this and enable its accuracy to be verified.

2) The court may also request the "Liechtenstein Labor Market Service" at the Office of Economic Affairs, the relevant social insurance institutions and other bodies granting social benefits to provide information on employment or insurance relationships or on the income of persons whose income is relevant for the decision on legal maintenance between persons related in the same line. If a person fails to comply with the obligations under subsection 1, his or her employer may also be requested to provide information. If the obligation to pay maintenance is established on the merits and the court may determine the amount of the

If the taxpayer is unable to determine the amount of maintenance by other means, it may also request information from the tax administration or other official bodies.

3) Requests for information under subsection 1 and subsection 2, first and second sentences, shall also be available to the Office of Social Services as the legal representative of persons in need of care.

4) Requests for information shall be designed in such a way as to enable the party required to provide information to respond quickly, completely and comprehensibly. The parties requested to provide information are obliged to do so.

Art. 103

b) Violation of the duty to provide information

If a person obliged to provide information has failed to comply with his or her duty through gross negligence, the court may, at its reasonable discretion, order him or her to pay the additional costs of the proceedings incurred as a result. The person obliged to provide information shall be informed of this in the request for information.

H. Regulation of custody and personal contact between parents and minor children

Art. 103a

Initial interview, mediation

1) In proceedings concerning an application for the regulation of custody, care or the exercise of the right and duty of personal contact with a minor child, the court may first schedule a hearing for an initial discussion with the parties. The parties and the minor child who has reached the age of 14 shall be summoned in person.

2) At the hearing, the court shall explain to the parties the legal situation, the course of the proceedings and the nature and possibilities of mediation. If the application is not settled at this hearing, the court may, if this does not appear futile from the outset, order the parties to seek mediation with a mediator in accordance with the Civil Law Mediation Act in order to reach an amicable settlement of the subject matter of the proceedings, and shall then pause the proceedings. Against such an order is

a separate appeal is not admissible. It shall not prevent the ordering of provisional measures.

3) In all other respects, Art. 29 shall apply. The court shall continue the proceedings ex officio if a party submits to it a mediator's confirmation of unsuccessful recourse to mediation.

Art. 104

Special procedural capacity of minors

1) Minors who have reached the age of 14 may act independently before the court in proceedings concerning care and upbringing or the right to personal contact. If the minor's ability to understand requires it, the court must ensure that he or she can effectively exercise his or her procedural rights at the latest when questioning the minor; the minor must be informed of existing counseling options.

2) The authority of the minor's legal representative to take procedural actions in his or her name shall remain unaffected. If the applications submitted by the minor and the legal representative do not coincide, the decision shall take into account the content of all applications.

3) If a minor who has reached the age of 14 is not represented in the appeal proceedings before the Supreme Court in accordance with Article 6, he shall, upon application, be granted legal aid by the appointment of a lawyer without prior examination of the property law requirements. According to

At the end of the appeal proceedings, the requirements for procedural assistance are to be examined and a final decision is to be made on any additional payment.

Art. 105

Interviewing minors

1) The court shall hear minors in person in proceedings concerning care and education or the right to personal contact. The minor may also be heard by the Office of Social Services or in another appropriate manner, such as by experts, if he or she has the

has not yet reached the age of 10, if this is required by his development or state of health, or if there is otherwise a need for an expression of the

serious and uninfluenced opinion of the minor is not to be expected.

2) The questioning must be omitted if it would endanger the minor's well-being or if, in view of the minor's ability to understand, a considered statement on the subject matter of the proceedings cannot be expected.

Art. 106

Survey of the Office of Social Services

The Office of Social Services may be consulted prior to orders concerning care and education or the right to personal contact, as well as prior to the approval of agreements concerning these matters.

Art. 107

Special procedural provisions

1) In proceedings concerning custody or the right to personal contact:

a) Upon request, the parties shall be provided with a copy of the decision without a statement of reasons or a document rewriting the scope of the entrustment of custody;

b) contested decisions may also be amended to the disadvantage of the contesting party if this is in the best interests of the minor concerned;

c) an amendment procedure does not take place.

2) The court may also provisionally grant custody and the exercise of the right to personal contact.

3) In proceedings concerning custody and the exercise of the right to personal contact, there shall be no reimbursement of costs.

4) The costs of mediation ordered by a court pursuant to Art. 103a par. 2 shall be reimbursed by the Land up to an amount determined by the Government by decree. In determining the amount of reimbursement, the Government shall take into account the need for professional mediation in accordance with the purpose of the proceedings.

5) The costs not reimbursed by the state shall be borne by the parties in accordance with the contractual arrangement with the mediator.

Art. 108

Special decisions in visitation proceedings

If a minor who has reached the age of 14. If a minor who has already reached the age of 14 or a parent who does not live with the child in the same household expressly rejects the exercise of personal contact and if an instruction about the legal situation and about the fact that the initiation or maintenance of personal contact with both parents is in principle contrary to the best interests of the minor as well as the attempt at an amicable settlement remain unsuccessful, applications for the regulation of personal contact are to be rejected without further examination of the content and the continuation of the enforcement of personal contact is to be refrained from.

Art. 109

Agreements on custody and right to personal contact

The court shall record or receive agreements on custody or on the right of personal contact. Whether this agreement is approved by the court shall be decided by the court without further application. Insofar as the subject matter of the proceedings has thereby been settled in substance, the proceedings shall be terminated without further ado.

Art. 110

Enforcement of custody and visitation arrangements

1) In proceedings for the compulsory enforcement of a court-ordered or court-approved arrangement of custody or the right to personal contact, enforcement under the Code of Execution is excluded.

2) The court shall, upon application or ex officio, order appropriate coercive measures in accordance with Article 79(2). The court may also enforce decisions relating to custody by the use of appropriate direct coercion.

3) The court may refrain from continuing the enforcement even ex officio only if and as long as it endangers the minor's welfare.

4) If the best interests of the minor concerned so require, the court may request the assistance of the Office of Social Services in enforcing the court-ordered or court-approved custody arrangement, in particular for the temporary care of the minor. However, direct coercion to enforce the court-ordered arrangement may only be exercised by judicial bodies; these may involve the national police.

Art. 111

Visiting companion

If the best interests of the minor so require, the court may appoint a suitable and willing person to assist in the exercise of the right to personal contact (visitation companion). In an application for visitation assistance, a suitable person or body (visitation companion) shall be named. The person or body in question must be involved in the proceedings; the court must define at least the main features of his or her duties and powers. Coercive measures against the visiting companion are not permitted.

I. Declaration of Enforceability of Foreign Judicial Decisions on the Regulation of Custody and the Right to Personal Contact

Art. 112

Requirements

1) Foreign court decisions on the regulation of custody and the right to personal contact may only be enforced if they have been declared enforceable by the court for Liechtenstein. In this regard, court settlements and enforceable authentic instruments shall be deemed equivalent to court decisions.

2) A foreign judgment shall be declared enforceable if it is enforceable under the law of the State of origin and there are no grounds for refusing the declaration of enforceability.

Art. 113

Reasons for refusal

1) The declaration of enforceability shall be refused if:

a) it obviously contradicts the best interests of the child or other fundamental values of the Liechtenstein legal system (ordre public);

b) the defendant's right to be heard has not been respected in the State of origin, unless the defendant manifestly agrees with the decision;

c) the judgment is incompatible with a subsequent Liechtenstein or a subsequent foreign judgment on custody or visitation rights which meets the requirements for a declaration of enforceability in Liechtenstein;

d) the cognizing authority would not have been internationally competent for the decision if Liechtenstein law had been applied.

2) A declaration of enforceability shall also be refused on application by the person having custody of the child if that person has not had the opportunity to participate in the proceedings in the State of origin.

Art. 114

Procedure for the declaration of enforceability

1) The application for a declaration of enforceability shall be accompanied by a copy of the judgment and proof that it is enforceable in accordance with the law of the State of origin and that it has been served. If the defendant does not enter an appearance in the proceedings in the State of origin, proof of service of the document instituting the proceedings or a document showing that the defaulting party has manifestly accepted the foreign judgment shall also be produced.

2) The court may also involve the other parties in the proceedings only by serving the decision and refrain from hearing the child concerned.

3) If an appeal is directed against a decision of the first instance, the time limit for appeal and response shall be one month. If the defendant's habitual residence is abroad and an appeal or response is his first opportunity to participate in the proceedings, the time limit for the appeal or response shall be two months.

4) If the foreign judgment is not yet final under the rules of the State of origin, the proceedings for a declaration of enforceability may, at the request of the defendant, be suspended until the judgment becomes final. If necessary, the defendant may be set a time limit for contesting the foreign judgment.

5) Enforcement may be applied for at the same time as the declaration of enforceability. The court shall decide on both applications at the same time.

6) There will be no reimbursement of costs.

Art. 115

Recognition

The above provisions shall apply mutatis mutandis to petitions seeking recognition or non-recognition of judicial decisions on the regulation of custody and the right to personal contact.

Art. 116

Primacy of international law

Articles 112 to 115 shall not apply to the extent that international law provides otherwise.

K. Proceedings on guardianship of disabled persons Art. 117

Initiation of proceedings

1) The procedure for appointing a guardian for a person who requires a legal representative as a result of mental illness or mental disability shall be initiated if the person himself or herself applies for the appointment of a guardian or if, for example on the basis of a notification of the need for protection of such a person, there are reasonable grounds for the necessity of such an appointment.

2) If the mentally ill or mentally disabled person is a minor, the procedure may be initiated at the earliest one year before the person reaches the age of majority.

The appointment of a custodian shall not take effect before the person reaches the age of majority.

Art. 118

Initial Hearing

1) The court must first obtain a personal impression of the person concerned, insofar as this is reasonable and possible. It must inform the person about the reason and purpose of the proceedings and hear him or her.

2) If the person concerned does not comply with the summons to appear before the court, the court may have him or her brought before it with the necessary restraint. If the appearance of the person concerned before the court is impossible, impracticable or detrimental to his or her well-being, the court shall call on him or her.

3) If the court is unable to obtain a personal impression of the person concerned due to disproportionate difficulties or costs, the initial hearing may be conducted by way of legal assistance.

Art. 119

Guardian ad litem

If the proceedings are to be continued on the basis of the results of the initial hearing, the court shall provide legal counsel for the person concerned in the proceedings if this appears necessary due to the special circumstances of the individual case. If the person concerned does not have a legal representative or a representative of his or her own choosing, or if the interests of the legal representative and those of the person concerned conflict, the court shall appoint a guardian ad litem for the proceedings (procedural guardian); this shall not in itself restrict the person concerned in his or her legal acts. The guardian ad litem shall be removed as soon as the person concerned has chosen a suitable representative. If the applications submitted by the person concerned, his legal representative and the guardian ad litem do not coincide, the decision shall take into account the content of all applications.

Art. 120

Interim custodian

If the best interests of the person concerned so require, the court shall appoint a temporary custodian with immediate effect to take care of urgent matters for the duration of the proceedings at the latest. The person concerned shall be restricted in his or her legal acts by the appointment of a temporary guardian only to the extent expressly ordered by the court. The appointment may only be made prior to the initial hearing if the person concerned would otherwise be at a considerable and irretrievable disadvantage and the initial hearing is held without delay. The provisions on guardianship for disabled persons shall apply to temporary guardianship. Art. 123 letters a to d and 126 apply mutatis mutandis.

Art. 121

Oral hearing

1) The appointment of a custodian shall be heard orally unless this is unnecessary due to the proven and undisputed incapacity of the person concerned and the clear factual and legal situation.

2) The person concerned and his/her representative shall be summoned to the oral proceedings. The person concerned shall not be summoned if it is clear that he or she is completely unable to attend the hearing or that his or her well-being would be endangered if he or she were present at the hearing.

3) If the appearance of the person concerned before the court is impossible, impractical or detrimental to his or her well-being, the court shall hold the hearing at the place where the person concerned is located. If this is also unsuccessful,

the court may also hear the case without the person concerned if he or she has already been examined by an expert and an initial hearing has taken place.

4) At the oral hearing, the evidence required for the court's determination shall be taken, if possible with the assistance of persons close to the person concerned; in addition, the circumstances relevant for the decision shall be presented.

5) A custodian may only be appointed after at least one expert has been consulted. Experts may, if necessary, present their expert opinion at the oral proceedings; the findings may also be presented at the hearing.

be taken outside the oral proceedings. The court must hear oral proceedings and discuss the results if there is the slightest doubt or uncertainty.

6) The results of the taking of evidence shall be discussed at the hearing.

Art. 122

Setting

1) If the court comes to the conclusion that a custodian is not to be appointed, it shall discontinue the proceedings in any situation.

2) A decision to discontinue shall be made only if:

a) the data subject has already become aware of the suggestion (Art. 117) or the procedure; or

b) a court or an authority has initiated the proceedings.

3) The decision to discontinue the proceedings shall be served on the person concerned and his/her representative. Courts or authorities that initiated the proceedings shall be notified of the discontinuation; the protection of the private or family life of the person concerned shall be ensured.

Art. 123

Order

1) The decision on the appointment of the custodian shall contain:

a) the pronouncement that a custodian shall be appointed for the person concerned;

b) the description of the matters to be taken care of by the custodian;

c) if applicable, the extent to which the person concerned can freely dispose of or commit him- or herself;

d) the designation of the person of the custodian;

e) the reference to the special formal requirement for the establishment of a testamentary disposition (§ 568 ABGB);

f) the statement of costs.

2) The decision to appoint a custodian at the request of the person concerned must always be justified.

Art. 124

Delivery and explanation of the appointment decision

1) The decision to appoint a custodian shall be served on the person concerned for his or her own records and on his or her representative and the custodian.

2) If there is no doubt that the person concerned cannot even approximately comprehend the process of service or the contents of the decision, the service shall be effective if the copy of the decision comes into the physical proximity of the person concerned in such a way that he or she would be able to acquire knowledge of its contents without his or her mental illness or mental disability.

3) The court shall explain the content of the decision to the person concerned in a suitable manner. If this is expedient, the court may instruct the trustee to provide the explanation.

Art. 125

Effectiveness of the appointment of a custodian

The decision appointing the custodian shall not be deemed to be provisionally effective.

Art. 126

Obligations to notify

1) The appointment of the cover pool administrator shall be notified in an appropriate manner to those persons and bodies who, according to the results of the proceedings, in particular according to the information provided by the cover pool administrator, have a justified interest in it.

2) Furthermore, the court shall cause the appointment of the custodian to be entered in the public books and registers if the scope of the custodian's activities includes the rights entered in the relevant book or register.

3) Furthermore, the court shall inform anyone who can show a legal interest, upon request, about the appointment of the cover pool administrator and the scope of his or her duties.

Information to be provided.

Art. 127

Appeal in the appointment procedure

The person concerned, his or her representative, the guardian ad litem and the person to be appointed as guardian shall be entitled to appeal. Art. 119, last sentence, shall apply mutatis mutandis. Article 46(3) shall not apply.

Art. 128

Termination, restriction and extension of guardianship

1) The provisions governing the procedure for the appointment of a custodian shall also apply mutatis mutandis to the procedure for the termination, restriction and extension of the custodianship; the already appointed custodian shall be assigned the duties of the procedural custodian.

2) The court need only obtain a personal impression of the person concerned, hear oral proceedings and consult an expert if the person concerned or his representative so request or if the court deems it necessary. This does not apply to proceedings concerning a significant extension of the guardianship.

Art. 129

Costs

If a guardian is appointed, the guardianship is extended or proceedings are conducted in accordance with Article 131, the costs incurred by the Land shall be charged to the person concerned, unless this jeopardizes his or her necessary maintenance or that of the family for which he or she is responsible. Otherwise, the Land shall bear the costs finally.

Art. 130

Reporting requirement

The custodian shall report to the court at reasonable intervals, but at least every three years, on his or her personal contacts with the person concerned, his or her way of life and his or her mental and physical condition. The court may also order the custodian to make such a report.

Art. 131

Permission for sterilization

In the procedure for granting consent to a medical measure that would result in the permanent reproductive incapacity of the person concerned, the

The court shall appoint a special administrator to represent them. The court shall involve two independent experts in the proceedings.

K. Procedure on exclusion from the right to vote

Art. 131a

Initiation of proceedings

1) The procedure for exclusion from voting rights shall be initiated upon request or ex officio if there are reasonable grounds to believe that such exclusion is necessary.

2) The exclusion from the right to vote shall be revoked upon application or ex officio if the preconditions for such exclusion no longer apply.

Art. 131b

Initial Hearing

1) The court must first obtain a personal impression of the person concerned, insofar as this is reasonable and possible. It must inform the person about the reason for and purpose of the proceedings and hear him or her.

2) If the person concerned does not comply with the summons to appear before the court, the court may have him or her brought before it with the necessary restraint. If the appearance of the person concerned before the court is impossible, impracticable or detrimental to his or her well-being, the court shall call on him or her.

Art. 131c

Setting

1) If the court comes to the conclusion that exclusion from the right to vote is not necessary, it shall discontinue the proceedings in any situation.

2) A decision to discontinue shall be made only if:

a) the data subject has already become aware of the suggestion (Art. 131a) or the procedure; or

b) a court or an authority has initiated the proceedings.

3) The decision to discontinue the proceedings shall be served on the person concerned. Courts or authorities that initiated the proceedings shall be notified of the discontinuation.

Art. 131d

Exclusion

The resolution on the exclusion from the right to vote shall contain:

a) the pronouncement of exclusion from the right to vote if the person concerned is incapacitated with regard to elections and votes (Art. 2 para. 1 let. b VRG);

b) the statement of costs.

Art. 131e

Delivery of the decision on exclusion from the right to vote

1) The decision on exclusion from voting rights shall be served on the person concerned.

2) The municipality of residence of the person concerned must be notified of the exclusion from voting rights.

3) In the event of a change of residence, the municipality of the previous place of residence must inform the municipality of the future place of residence of the exclusion from voting rights.

4) This provision shall apply mutatis mutandis if the exclusion from voting rights was to be revoked.

Art. 131f

Costs

If a decision is taken to exclude a person from the right to vote, the costs incurred by the Land shall be imposed on the person concerned, provided that this does not jeopardize his or her necessary maintenance or that of his or her family for which he or she is responsible. Otherwise, the Land shall bear the costs finally.

L. Property rights of foster carers

Art. 132

Approval of legal acts of foster carers

In its decision on the approval of a legal act of a person in need of care, the court may not give a different wording to the content of the act. The court may also approve a specific legal act that has only been planned or declare that a legal act does not require court approval. The decision to approve a legal act shall always be justified, at least summarily. If the refusal of approval is based on several grounds, they shall all be stated in the grounds. Upon request, the court shall confirm on the document on the legal act, without attaching a reason, that it has granted the approval or that the legal act has been approved.

does not require approval.

Art. 133

Supervision of the management of the property of persons in care

1) If there are concrete indications that a person in need of care has assets worth mentioning, the court shall investigate this ex officio. If the person in need of care has appreciable assets, the court must monitor their management with the aim of preventing any risk to the welfare of the person in need of care.

2) If parents, grandparents or foster parents are entrusted with the administration of the assets within the scope of guardianship, the court shall only supervise the administration of the assets if immovable property is part of the assets or if the value of the assets significantly exceeds 75,000 francs or the annual income 25,000 francs. If the assets originate from the custodians or their parents, supervision is not necessary as long as there are no indications of improper management.

3) In any case, the court shall supervise the administration of even insignificant assets if this is necessary to avert an imminent danger to the welfare of the person in care. Under these conditions, the court must also supervise the administrative activities of the Office for Social Services.

4) For the purpose of investigating the assets and supervising their administration, and finally for the purpose of safeguarding them, the court may in particular issue orders to the legal representative, obtain information from banks and securities firms or from persons and bodies required to provide information under Article 102, order a valuation, the freezing of assets and the judicial custody of documents and effects, and make interim arrangements.

Art. 134

Guardianship bill

As part of the supervision of the administration of the assets, the legal representative shall submit accounts to the court at the end of the first full year of supervision (inaugural account), thereafter at reasonable intervals of no more than three years (current account) and after the end of the administration of the assets (final account). For this purpose, the court shall issue the necessary orders to the legal representative; in the case of the current account and the final account, this shall be done in each case with the decision on the last account.

Art. 135

Special conditions

1) Parents, grandparents and foster parents within the scope of custody as well as the Office for Social Services are only obliged to render accounts to the court if the court orders this for special reasons.

2) The court may limit the obligation of other legal representatives to pay the current account, provided that this does not cause any disadvantage for the fostered person.

3) Even if the legal representative is exempt from rendering accounts to the court, he or she is still obliged to collect and retain evidence of the management of significant assets and to notify the court of the acquisition of immovable property or of the exceeding of the value of 75,000 francs.

4) In order to prevent a threat to the welfare of the foster child, the court shall issue a special order to a legal representative to render an account.

Art. 136

Content and enclosures of the invoice

1) The account shall first show the assets of the beneficiary as they existed at the beginning of the accounting period. Then the changes in the basic assets, the income and expenses and finally the state of the assets at the end of the accounting period must be stated. The accounts must be easy to understand.

2) Insofar as other provisions require the preparation of annual financial statements or the submission of a statement of account, the legal representative shall refer to this in the invoice and attach these documents to the invoice, insofar as they are already available. Other documents which the legal representative is obliged to collect and keep (Art. 135 Para. 4) shall only be presented at the request of the court.

3) If the legal representative is only obliged to prepare the initial and final accounts, the accounts may be limited to a presentation of the assets and liabilities at the beginning and end of the accounting period, respectively.

Art. 137

Confirmation of the invoice, compensation

1) If there are no doubts as to the correctness and completeness of the invoice, the court shall confirm it. Otherwise, the legal representative shall be requested to supplement or correct the account accordingly; if this fails, confirmation shall be refused. If the assets or income do not appear to be invested or secured in accordance with the law, the court shall take the necessary measures in accordance with Art. 133 (4).

2) At the same time, the court shall decide on the legal representative's claims for remuneration, in particular on the basis of an hourly account, compensation for personal efforts and reimbursement of expenses. Upon request, the court shall make the necessary dispositions for the satisfaction of these claims from the income or property of the fostered person, and, if necessary, oblige the fostered person to make a corresponding payment. If the legal representative applies for advances on remuneration, compensation or reimbursement of expenses, the court shall grant them to him or her if he or she certifies that this will promote proper asset management.

3) The decision on the invoice does not limit the foster child's right to assert claims arising from the management of the property through litigation.

Art. 138

Termination of asset management, final account

1) Articles 136 and 137 shall apply mutatis mutandis to the content of the final account and to the decision thereon. The court shall, to the extent necessary, make the contents of the final account comprehensible to the person in need of care.

2) Upon termination of the administration of property, the court shall, if necessary, order the legal representative to transfer the property to the beneficiary or to another legal representative by an enforceable order.

3) The person who has reached the age of majority shall be requested to take over assets which are in the custody of the court. In doing so, he/she must be informed of the provisions on the confiscation of judicial custody. Measures under Article 133(4) must be revoked unless the person in care requests that they be maintained for a limited period in order to avert otherwise imminent danger. The court shall ensure that the restriction of legal capacity is deleted from the public books and registers.

Art. 139

Special procedural provisions

1) The ward must be informed of the court's orders, regardless of his or her procedural capacity, insofar as this serves his or her best interests.

2) There will be no reimbursement of costs and no amendment proceedings.

M. Other provisions Art. 140

Protection of private and family life

1) Oral hearings are not public. The court may, if no party objects, open the proceedings to the public,

as far as no circumstances of the private and family life are discussed and this is compatible with the welfare of the foster child. The legal representatives of the minor and the representatives of the Office of Social Services may participate in the non-public parts of the evidentiary proceedings in addition to the persons mentioned in Art. 19 Par. 5.

2) Information on circumstances of private and family life in the secrecy of which a party or a third party has a justified interest may not be published if knowledge of such information was obtained exclusively through the proceedings (Section 301 (1) of the Criminal Code).

3) If the best interests of a minor so require, the court shall also oblige persons to maintain secrecy (section 301(2) second case of the Criminal Code) in respect of certain facts of which they have become aware solely as a result of the proceedings. This order is independently contestable.

Art. 141

Confidentiality of income and assets

Information on income and financial circumstances may be provided by the court only to the beneficiary concerned and his or her legal representatives, but not to other persons or bodies.

Art. 142

Authorization

In proceedings under this chapter that are consolidated in a joint court act, all further service shall be made on a lawyer named as agent, unless the authorization is clearly limited.

III. Probate proceedings

A. Preliminary proceedings

Art. 143

Initiation of the procedure

1) Probate proceedings shall be initiated ex officio as soon as a death becomes known by a public deed or otherwise in an undoubted manner.

2) The hearing of a probate concerning movable property located abroad (Sec. 54 JN) shall only be instituted upon application of a party who certifies his or her status as heir. If it is established that the applicant is not entitled to inheritance and if the proceedings are not to be continued on the basis of other applications, they shall be discontinued by order.

Art. 144

Communities

1) To the extent that the municipalities have jurisdiction under this chapter, they shall act on behalf of and in a provisional capacity for the court. The court may take back competences in individual cases. The municipal council shall appoint the competent official and his or her deputy to act on behalf of the municipality.

2) In order to supervise the activities of the municipality, the court may issue orders to it, obtain reports and conduct the necessary investigations. Persons whose statements or information serve as evidence shall have the same rights and obligations towards the municipality as towards the court.

3) An application for relief may be made to the court against measures taken by the municipality. The court decides after hearing the municipality and the applicant.

4) The District Court President will provide the municipalities with the necessary forms to carry out their duties.

Art. 145

Death record

1) The municipality shall establish the death record. For this purpose, it has to collect all circumstances that are necessary for the probate proceedings and possible measures by the nursing court. It is supported in this by the Civil Registry Office and the Office of Justice.

2) The death record shall include:

a) First name and surname, marital status, nationality, occupation, date and place of birth and death of the deceased, his or her last residence or

habitual residence and all other circumstances relevant to jurisdiction;

b) the assets left behind, including rights and liabilities;

c) the funeral expenses and the person who advanced them, if any;

d) documents relating to testamentary dispositions (wills, codicils) and their revocation, bequest, inheritance and compulsory portion contracts, inheritance and compulsory portion waiver contracts and their revocation, as well as the first names and surnames and the names of witnesses to oral testamentary dispositions;

e) First and last names, address and date of birth of the legal heirs and the heirs appointed on the basis of a testamentary disposition as well as the legatees;

f) The name, surname, address and date of birth of the person whose legal representative the deceased was.

3) The value of the assets left behind shall be determined in a simple manner, in particular by questioning persons providing information, and without extensive surveys, if possible without the involvement of an expert.

Art. 146

Surveys

1) The municipality may carefully open the deceased's home, business premises and lockers, cupboards and other receptacles for the purpose of the investigation. For this purpose, two persons of full age, preferably relatives, housemates or neighbors of the deceased, shall be called in as confidants; they shall be obliged to assist. The heirs, housemates and other persons who have access to the deceased's

The deceased's family members who had access to the deceased's assets are obliged to provide truthful information and to disclose any assets in their possession.

2) Banks, securities firms and other financial institutions are obliged to disclose the assets of a deceased person to the court if the existence of a business relationship is proven; the figures thus obtained may be used exclusively for the probate proceedings.

3) If the municipality finds extraneous funds, cash keys, documents or files relating to the deceased's activity in the public service, it shall secure them without further inspection and hand them over to the service authority.

4) The municipality shall immediately notify the disbursing body of the death of persons who have received continuous payments from public funds and other pension funds apparent to it, if the disbursing body does not already have obvious knowledge thereof.

5) If the deceased was subject to official or professional secrecy, the municipality is obliged to refrain from anything that could impair or endanger the confidentiality interests protected thereby.

Art. 147

Securing the estate

1) If there is a risk that assets will be removed from probate, or if the presumed heirs, close relatives or co-inhabitants are unable or unwilling to take custody, the municipality shall secure the estate in a suitable manner.

2) In addition to locking up the estate, security measures may include, in particular, sealing the estate or keeping it in the custody of the municipality or a custodian. The costs of the security measure shall be borne by the estate.

3) Third persons, in particular relatives and cohabitants of the deceased, shall refrain from any disposition of the estate, even if they have custody of it.

Art. 148

Release

1) Notwithstanding any measures taken to secure the estate, the municipality may issue or release the amounts required to adjust the cost of a simple burial.

2) If it is undisputed or proven by unobjectionable documents that a third party is entitled to objects which apparently belong to the estate, he may exercise this right also during the probate proceedings.

Art. 149

Lock

If the legal basis of a contract between a bank and the deceased provides that after the deceased's death a block will apply in respect of certain dispositions, in particular account withdrawals or access to a safe deposit box, the court may declare the release in accordance with Art. 148.

Art. 150

Ausfolgungsverfahren

1) If the movable property located in Austria is not to be dealt with (§ 54 JN), the court shall, upon application, hand it over by order to a person who is entitled to take it over on the basis of a declaration by the home authority of the deceased or the authority of the state in which the deceased had his last habitual residence.

2) In the event of the death of persons in respect of whose estate the probate proceedings and the decision of the disputed inheritance claims are to be left to the foreign court or other authority in accordance with the provisions of Liechtenstein law, the court shall, at the request of those heirs and legatees, who are Liechtenstein citizens or foreigners who are not domiciled or residing in Liechtenstein, the court shall, at the request of those heirs and legatees who are Liechtenstein citizens or foreigners who are not domiciled or residing in Liechtenstein, await the delivery abroad of the estate or of the part of the estate necessary to cover their claims until their claims have been decided in a legally valid manner by the competent foreign courts.

3) For creditors with a domestic place of jurisdiction who have already filed their claims against the decedent before his death, or who have filed a claim before the actual delivery of the estate, the court shall make provisions to the effect that the delivery of the estate's assets may only take place when they have been satisfied or security has been provided for their claim.

4) Creditors and presumed heirs as well as legatees shall be requested by the court, unless they are already known, by public notice to file their claim and to make the necessary applications within a period of four weeks, failing which the estate shall be handed over to the foreign court, other authority or person duly designated by the latter to take over the estate.

5) State treaties are reserved.

Art. 151

Transmission of testamentary dispositions

Any person who learns of the death of a person whose documents relating to testamentary dispositions (wills, codicils) and their revocations, bequest

The person who is in possession of the inheritance and compulsory portion contracts, inheritance and compulsory portion waiver contracts and their cancellation, as well as records of an oral declaration of the last will and testament, is obliged to immediately notify the municipality of these documents.

or to the court, even if in his opinion the transaction should be invalid, void or revoked.

Art. 152

Acceptance of testamentary dispositions

1) The municipality or the court shall issue documents concerning testamentary dispositions (wills, codicils) and their revocation, bequest

The court shall take over all inheritance and compulsory portion contracts, inheritance and compulsory portion waiver contracts and their cancellation or other declarations in the event of death and shall state in a takeover protocol all circumstances that may be significant for the assessment of the authenticity and validity, such as whether the document was sealed and whether it had any external defects.

2) Uncertified copies shall be served on the parties and on those who, according to the records, would be entitled to succession under the law.

3) If the existence of an oral declaration of the last will and testament is alleged, the municipality shall identify the witnesses and report on this to the court. The court shall question the witnesses about the content of the declaration and about the circumstances on which its validity depends.

Art. 153

Failure to treat

1) If there are no assets of the estate or if they do not exceed the value of 8,000 francs and if no entries in the public books are required, the hearing shall be omitted if no application for continuation of the probate proceedings is filed. A notification is not required.

2) Upon request, the court shall authorize those whose claim is substantiated by the records to take over the estate's assets in whole or in certain parts, to assert or relinquish rights pertaining thereto, to issue legally valid receipts for benefits received, and to issue declarations of cancellation.

Transfer in lieu of payment

Art. 154

a) Distribution

1) The court shall leave the assets of an overindebted estate to the creditors upon request, unless an unconditional declaration of acceptance of inheritance has already been made

or there is an application for transfer as heirless and no probate insolvency proceedings have been opened.

2) The assets are to be distributed:

a) initially in analogous application of Art. 43 and 44 of the IO on the requirements for the assets involved in the insolvency proceedings;

b) then to the administrator of the deceased, insofar as he was awarded benefits for the last year;

c) finally to all other creditors, in each case in proportion to the amount of their undisputed claims or claims certified by unobjectionable documents.

Art. 155

b) Procedure

1) If the value of the assets is expected to exceed 8,000 Swiss francs, the court shall, prior to the transfer in lieu of payment, notify the creditors who are on record and those persons who are known to be possible heirs or contingent heirs, insofar as their whereabouts are known, and shall give them the opportunity to make a statement.

2) If the value of the assets is expected to exceed 40,000 francs, the creditors of the estate must be convened (Art. 174).

3) The decision on transfer in lieu of payment shall contain:

a) the objects that are handed over;

b) The names, surnames and addresses of the persons to whom the items are transferred in lieu of payment;

c) which receivables are to be adjusted as a result;

d) any other information required for the execution of the book.

B. Probate proceedings Art. 156

Representational care

1) For the purpose of conducting the hearing, the court shall decide on the appointment of cu- rators in the cases referred to in Article 5(2)(a)(1) and (b)(1) and for the estate ex officio or upon application. If the whereabouts of known heirs or non-heirs are unknown, the court shall appoint a curator for them in accordance with Article 5(2)(b)(2).

2) If the appointment of a trustee of the estate is required and the deceased has appointed a person to represent the estate in his or her last will and testament, the trustee shall be appointed.

the latter shall be appointed as trustee of the estate as far as possible.

3) If a minor or other person in need of care requires a legal representative, the guardianship court shall appoint one. The wishes of the deceased shall be taken into account as far as possible if they do not conflict with the interests of the person being cared for.

Art. 157

Submission of the declaration of acceptance of inheritance

1) The court shall demonstrably request the persons who, according to the file, are possible heirs to declare whether and how they wish to accept the inheritance or whether they wish to renounce it. The summons shall contain a reference to the legal consequences of para. 3 and an instruction on the legal consequences of the submission of the unconditional and conditional declaration of acceptance of the inheritance and on the possibility of filing an application in accordance with Art. 184 para. 3.

2) A reasonable period of at least four weeks shall be set for the persons eligible as heirs to submit their declaration of acceptance of the inheritance. For serious reasons, they may also be granted a period of reflection, which may not exceed one year in total.

3) If such a person misses the deadline, he or she is no longer to be involved in the further proceedings as long as he or she does not make up the declaration. If the legal representative of a person in need of care fails to meet the deadline, the court of guardianship shall hear the case.

4) If no declaration of acceptance of the inheritance is submitted, a trustee of the estate shall be appointed for the preparation of the proceedings pursuant to Art. 184, unless this has already been done.

Art. 158

Unknown heirs and emergency heirs

1) If no heirs are known or if there are indications on the basis of the files that other persons than the known persons are possible heirs or contingent heirs, the court shall request them by public announcement to assert their claims within six months.

2) If this time limit is missed, the estate may, without regard to the claims of the unknown heirs or contingent heirs, claim the

known heirs or declared heirless. This legal consequence shall be pointed out in the announcement.

Art. 159

Content of the declaration of inheritance

1) The declaration of acceptance of inheritance shall contain:

a) First name and surname, date of birth and address of the heir;

b) the invocation of a title of inheritance;

c) the express declaration to accept the inheritance;

d) the express declaration whether this is done unconditionally or with the reservation of the legal benefit of the inventory (conditional declaration of acceptance of the inheritance).

2) If this is possible at the time the declaration is made, the inheritance rate must also be stated.

3) The declaration must be signed by hand by the heir or his designated representative.

Art. 160

Contradictory declarations of inheritance

If declarations of succession conflict with each other or with a declaration of the country, the court shall endeavor to have the right of succession recognized between the parties; if it fails to do so, it shall proceed in accordance with the following provisions.

Decision on the right of succession

Art. 161

a) Determination of the right to inherit

1) The court shall determine the right to inherit of the beneficiaries on the basis of the submissions of the parties and their offers of evidence and shall reject the other declarations of acceptance of the inheritance. This may be decided by a separate order (Art. 36 (2)) or by the order of inheritance.

2) Even during the proceedings on the right of succession, all those measures of settlement must be continued which are independent of the determination of the right of succession.

Art. 162

b) Oral hearing and representation

In the proceedings on the right of succession, oral proceedings shall be held. The parties may be represented only by a lawyer.

Art. 163

c) Suspension of the proceedings

1) If the parties agree before the court to suspend the proceedings on the right of succession or if other cases of Art. 25 to 29 occur, the proceedings shall be suspended.

2) If the parties do not continue the proceedings on the right of inheritance after the expiry of the suspension period, the court shall invite them to file appropriate applications within a period to be determined. If a claimant fails to meet this deadline, the probate proceedings shall be continued without taking into account his declaration of acceptance of the inheritance. This legal consequence shall be pointed out to the claimant in the summons.

Art. 164

d) Declaration of acceptance of inheritance after determination of the right of inheritance

If a party submits a declaration of acceptance of the inheritance only after the determination of the right to the inheritance, but before the court is bound by the decision on the inheritance, the procedure under Articles 160 to 163 shall be repeated, and a rejection of the declaration of acceptance of the inheritance, which was the basis of the earlier decision on the right to the inheritance, shall also be admissible. Later claims under inheritance law may only be asserted by means of a lawsuit.

Inventory

Art. 165

a) Reasons for the establishment

1) An inventory shall be established:

a) if a conditional declaration of acceptance of inheritance has been made;

b) if persons who are eligible as heirs are minors or require a legal representative for other reasons;

c) if the separation of the estate (§ 812 ABGB) has been granted;

d) insofar as a subsequent inheritance is to be taken into account or a foundation has been established by will;

e) if the estate could fall to the country as heirless (Art. 184);

f) if a person entitled to do so or the trustee of the estate so requests.

2) In the cases of paragraph 1 letters a to c and e, the inventory must refer to the entire assets.

3) The creditors of the estate must be convened (Art. 174) if this is requested or if the court deems it necessary due to the circumstances for the protection of the persons referred to in para. 1 let. b).

Art. 166

b) Scope of the inventory

1) The inventory serves as a complete list of the estate (§ 531 ABGB), namely all physical property and all hereditary rights and liabilities of the deceased and their value at the time of his death.

2) If the claim that an item is part of the estate's assets is disputed, the court shall decide whether this item is to be included in the inventory or excluded. If the item was last in the possession of the deceased, it is to be excluded only if it is proven by inconceivable documents that it does not belong to the estate assets.

3) In order to determine the ownership of the estate, third parties are obliged to grant access to the disputed items and to allow them to be inspected and described.

Art. 167

c) Evaluation rules

1) Movable property is to be valued at its market value. The valuation of household effects, utility items and other movable

The undisputed and unobjectionable statements of all parties may be used as a basis for the evaluation of the property, unless the municipality or the court has reservations about this evaluation or the interest of a person in need of care or other special circumstances require the involvement of an expert.

2) Immovable property shall be valued at its market value. This is based on the economically justified average price at which properties of the same or similar size, location and quality are sold in the area concerned. In the case of built-up land, an average value shall be sought in accordance with recognized principles. The Government shall regulate the details by ordinance.

3) The taxable value may be used instead of the market value if only persons of full age who are not under guardianship are eligible as heirs.

4) Debts are to be listed with their numerical arrears including ancillary charges as of the date of death, insofar as this is possible without extensive surveys and great loss of time.

Procedure for the establishment of the inventory

Art. 168

a) Principle

1) In drawing up the inventory, the municipality has the same powers as in the case of death (Art. 146 paras. 1 and 2). The court may instruct the banks, securities firms and other financial institutions to provide the relevant infor- mation directly to the municipality.

2) For the purpose of establishing an inventory, the municipality may call in experts and request the parties to pay the fees directly. If the fees are paid directly, a decision on the determination of the fees shall be omitted.

3) The costs of drawing up an inventory shall be borne by the estate.

Art. 169

b) Delivery

The inventory shall be sent to the parties without proof of delivery.

Acceptance in court is not required.

Art. 170

Declaration of assets

If no inventory is to be drawn up, the heir shall describe and value the estate assets according to all components as in an inventory and confirm the correctness and completeness of the declaration by his or her signature. The declarant shall be advised of the penal consequences of a false declaration. The declaration of assets shall take the place of the inventory in the proceedings.

Use, administration and representation of the estate

Art. 171

a) Duty to notify; notification of representation

1) The municipality shall draw the attention of the presumptive heirs to the advantages of agreeing in writing on the use, administration and representation of the estate and shall notify the municipality and the court thereof.

2) Any change in the manner of representation of the estate (§ 810 ABGB) shall become effective as of the date on which it is notified to the court or the municipality by all heirs authorized to represent the estate.

Art. 172

b) Confirmation

Upon request, the court shall issue to the beneficiaries a confirmation of their power of representation (§ 810 ABGB).

Art. 173

c) Appointment of a trustee of the estate; change of the representation relationships

1) If the persons who are jointly entitled to the rights under Section 810 of the Austrian Civil Code do not agree on the type of representation or individual acts of representation, or if proceedings on the right of succession are to be instituted (Art. 160 et seq.), the court shall, if necessary, appoint a trustee of the estate. The power of representation of other persons ends with the appointment of the trustee of the estate.

rators.

2) If the representation relationships change during the proceedings, the court shall request the thereby obsolete confirmations from the beneficiaries.

Creditors' rights

Art. 174

a) Convocation

1) If an oral hearing is scheduled when the creditors of the estate are summoned (§§ 813 to 815 of the Austrian Civil Code), the court shall publicly announce the date of the hearing and summon the presumed heirs, heirs of necessity and any trustees and executors of the estate appointed.

2) At the hearing, the court shall work towards reaching agreement on the claims filed.

Art. 175

b) Request for segregation

The court shall decide on an application for separation of the estate (§ 812 of the General Civil Code). It may deprive the heirs of the administration and use of the assets of the estate even before a decision is taken on the application and appoint a curator. An already appointed trustee of the estate shall have the rights and duties of a curator of separation after this application has been granted.

Art. 176

Evidence required for the inheritance

1) All persons who are entitled to claims under inheritance law other than those of an heir shall be demonstrably informed of such claims prior to the inheritance.

2) If the beneficiaries of care are entitled to claims under para. 1 which have not yet been fulfilled, security shall be furnished before the inheritance (section 56 of the Code of Civil Procedure). If the security is not furnished despite a request within the prescribed period, the court shall order the furnishing of the security by order.

3) Security may also be provided from the estate's assets.

Answer

Art. 177

a) Requirements

If the heirs and their quotas have been determined and if the fulfillment of the other prerequisites has been proven, the court shall file the probate with the heirs (§ 797 ABGB).

Art. 178

b) Decree of inheritance

1) The resolution on the inheritance shall contain:

a) the designation of the estate by the name and surname of the deceased, the date of his birth and death and his last residence;

b) the designation of heirs by first and last names, date of birth and address;

c) the inheritance title, the inheritance quotas and the reference to any inheritance division agreement;

d) the type of declaration of acceptance of the inheritance made (§ 800 ABGB).

2) Furthermore, if necessary, record:

a) any restriction of the rights of the heirs by fideicommissarial substitutions or equivalent arrangements (§§ 707 to 709 ABGB);

b) the properties to which adjustments are to be made as a result of the inheritance; it must be stated whether those to whom the inheritance is made belong to the circle of legal heirs.

3) At the same time as the inheritance, all other outstanding procedural acts, in particular the lifting of blocks, seizures (Art. 176 para. 2) and the determination of fees, shall also be carried out.

4) Anyone who can credibly show that the privacy of the testator or the parties would otherwise be impaired may request that the orders be issued separately.

5) The order of inheritance shall be served on the parties, in the case of heirs under guardianship, heirs by necessity or legatees also on the guardianship court and, upon request, also on other persons who show a legal interest in it, in particular creditors.

6) If the decree of inheritance contains a statement of reasons for the determination of the right to inherit, the copy intended for persons who were not parties to the determination proceedings shall not contain any statement of reasons in this respect.

7) Upon request, the parties shall also be issued a confirmation containing the information referred to in paragraph 1.

Art. 179

c) Overcoming the lock

A copy of the decree of devolution with a confirmation of the legal force within the meaning of Art. 36 (1) GOG shall be sufficient to overcome a bar (Art. 149).

Art. 180

d) Waiver of appeal and res judicata

1) The parties may already waive their right to appeal against an order corresponding to their requests prior to the issuance of the decree of inheritance; the orders corresponding to their requests may then be put into effect immediately.

2) No amendment proceedings shall take place after the devolution of the estate has become final.

Art. 181

Inheritance sharing agreement

1) Several heirs may record their agreement on the division of the estate or the use of the objects of the estate with the court prior to the inheritance. Such agreements shall have the effect of a settlement concluded before the court.

2) If foster children are involved, the agreement requires the approval of the guardianship court.

3) The above provisions shall apply mutatis mutandis to agreements relating to probate with other persons involved in the probate proceedings.

C. Proceedings outside the trial Art. 182

Land registry matters

After obtaining the necessary declarations of consent, the court shall send a copy of the decree of devolution to the Office of Justice, insofar as properties in Liechtenstein are concerned. The Office of Justice will take the necessary steps.

Art. 183

Changes in the basis of treatment

1) If assets become known only after the probate proceedings have ended, the court shall notify the parties who are not yet aware thereof.

2) If the proceedings have ended with inheritance, the court shall supplement the inventory or request the heirs to supplement their declaration of assets. As a rule, it is not necessary to supplement the decree of inheritance, but Art. 178 (2) shall apply.

3) If the probate proceedings have not yet been held, a new decision shall be made on the basis of the total values now supplemented in accordance with Art. 153 et seq.

4) If documents within the meaning of Art. 151 are found after termination of the probate proceedings, Art. 152 shall apply again.

Art. 184

Heirless estate

1) After the expiry of the time limit set in accordance with Article 157, para. 2, and the drawing up of the inventory, an estate remaining heirless (§ 760 of the General Civil Code) shall, at the request of the Government, be handed over to the Principality of Liechtenstein. At its request, if this has not yet been done, an appraisal (Art. 167) of the assets shall be carried out.

2) The transfer resolution shall contain, mutatis mutandis, the information required under Art. 178.

3) Prior to the adoption of this decision, the inventory shall be served on those persons who had been requested to submit a declaration of acceptance of the inheritance but had only filed an application for service of the inventory.

Art. 185

Costs and publicity

In probate proceedings, except for proceedings on the right of succession, no

Reimbursement of representation costs and no public hearing held.

IV. Certifications

Art. 186

Certifications and attestations

Notarizations and certifications are governed by the respective special legal provisions, in particular the legal security regulations, the personal and corporate law and the property law.

V. Transitional and final provisions Art.

187

Change of designations

Article 46(3)(18) of the Court Fees Act, Article 18(a) of the Lawyers' Fees Act, Article 3 of the Act on the Tariff for Lawyers and Legal Agents, Article 49h(1) of the Marriage Act, Article 5(2) of the Act on the Implementation of the European Convention of

May 20, 1980, on Recognition and Enforcement of Decisions on Custody of Children and Restoration of Custody,

§§ Sections 159(2) and 164 of the General Civil Code, Art. 10,

23, 27 (3), 28 (2) of the Act on Advance Maintenance Payments, Art. 8 (2), 43

Para. 3, 102 Para. 5, 105 Para. 3, 110 Para. 2, 120 Para. 3, 121 Para. 2, 155 Para.

1, 234, 235, 280 para 4, 281 para 4, 282 para 3, 283 para 2, 295, 316 para 2,

340 par. 3, 351 par. 1, 378 par. 1 and 2 and Art. 141 par. 2 item 12 SchlT of the Property Act, Art. 15 par. 2 of the Act establishing transitional provisions concerning land included in the consolidation of property and remeasurement and concerning liens and usufructuary rights on such land, Art. 9 par. 2 of the Act on the Protection of Topographies of Semiconductor Products, Art. 7 par. 2, 19 par. 2, 36

(3), 54 (1) and (2), 101 (2), 121 (3), 122 (3), 124 (2), 136

Para. 4, 142 Para. 3, 152 Para. 4, 159 Para. 1, 172 Para. 1, 183 Para. 1, 190 Para.

1, 192 (7), 210 (1), 211 (5), 212 (2), 213 (1), 231 (2),

258 (1), 287 (3), 318 (5), 337 (2), 351n (5), 406 (1), 407

Para. 2, 414 Para. 1, 445 Paras. 5 and 6, 461 Para. 4, 477 Para. 3, 516 Para. 2,

521 par. 1, 544 par. 2, 3 and 4, 549 par. 3, art. 552 § 9 par. 4, art. 552

§ 19 par. 4, art. 552 § 27 par. 1, art. 552 § 29 par. 3 and 4, art. 552 §
33 par. 1, Art. 552 § 34 par. 1, Art. 552 § 35 par. 1, Art. 552 § 39 par. 4
and 5, 659 par. 5, 720 par. 3, 738 par. 5, 764 par. 2, 773 par. 2, 791 par.
2, 796 para. 1, 804 para. 2, 807 item 2, 819 para. 3, 825 para. 5, 826 para. 3
and 4, 827 (1), 831 (1) and (4), 904 (1), 906 (2), 910 (4), 913
(2) and (3), 919 (6), 921 (1), 923 (7), 925 (5), 927 (2), 929
paras. 2 and 3, Art. 932a § 116 para. 1, 1061 para. 3, 1062a para. 3 and §§ 66
Para. 1, 66b Para. 1, 66c Para. 1, 72a Para. 1, 78 Para. 1, 125 Para. 3, 128 Para.
1, 138 (1), 149 (2) and (3), 155 (2) no. 4 SchlT of the Personenund
Company Law, Art. 37 para. 4 of the Data Protection Act, Art. 31 para. 2
of the Media Act, Art. 12 para. 1 of the Social Welfare Act, Art. 24 para. 4 of the Children and Youth Act, Arts. 1(g) and (o), 270 para. 3 and 284 para. 2 of the Executive Order, as well as Arts. 76, 98 paras. 2 and 3, 105 para. 1

and 3, Section 106(5) of the Code of Civil Procedure, Section 633(1) of the Code of Civil Procedure, the term "legal assistance proceedings" shall be replaced by the term "legal dispute proceedings" in the grammatically correct form.

Art. 188

Executive Orders

The Government shall issue the regulations necessary for the implementation of this Act.

Art. 189

Transitional provisions

1) This Act shall not apply to disputes pending before the entry into force of this Act in matters which would now have to be enforced in proceedings outside of litigation instead of in contentious proceedings.

2) It applies to procedural steps set after the effective date.

3) The provisions of this Act concerning probate proceedings shall apply to those deaths which were first brought before the court or the municipalities after the effective date, unless they could have been initiated earlier. Otherwise, the provisions previously in force concerning probate proceedings shall continue to apply.

Art. 190

Repeal of previous law

It is repealed:

a) Law of April 21, 1922, concerning the legal welfare procedure, LGBl. 1922 No. 19;

b) Act of October 22, 1992, on the Amendment of the Act on Legal Welfare Proceedings, LGBl. 1993 No. 57;

c) Act of 17 December 1998 on the Amendment of the Act on the Legal Welfare Procedure, LGBl. 1999 No. 32;

d) Instruction of 8 April 1846 for the judicial treatment of estates in the sovereign Principality of Liechtenstein, ASW;

e) Law of 22 October 2008 on the Amendment of the Instruction for the Judicial Treatment of Estates in the Sovereign Principality of Liech- tenstein, LGBl. 2008 No. 341;

f) Law on the settlement of estates of foreigners, LGBl. 1911 No. 6;

g) Art. IV of the Act of 10 December 1912 on the Introduction of the Code of Civil Procedure and the Jurisdictional Standard, LGBl. 1912 No. 9/3.

Art. 191

Entry into force

Subject to the unused expiry of the referendum period, this Act shall enter into force on 1 January 2011, otherwise on the day of promulgation.

Agreement between the Principality of Liechtenstein and the Republic of Austria on the

VI. Recognition and Enforcement (FL- AT)

of court decisions, arbitration awards, settlements and public deeds

Concluded in Vaduz on July 5, 1973 Entry

into force: March 28, 1975

His Serene Highness the Reigning Prince von und zu

Liechtenstein and

the Federal President of the Republic of Austria

Desiring to regulate the mutual recognition and enforcement of judgments, arbitral awards, settlements and public judgments in civil and commercial matters, have resolved to conclude an agreement to this effect. To this end they have appointed as their Plenipotentiaries:

His Serene Highness the Reigning Prince von und zu Liechtenstein:

Dr. Walter Kieber,

Deputy Head of Government of the Principality of Liechtenstein,

Vaduz; the Federal President of the Republic of Austria:

Dr. Karl Gruber.

a. o. and bev. Ambassador of the Republic of Austria, Bern,

who, having exchanged their powers of attorney found to be in good and due form, have agreed as follows:

Art. 1

1) Judgments in civil and commercial matters rendered in one of the two States shall be recognized in the other State if they meet the following conditions:

1. recognition of the judgment must not be contrary to the public policy of the State in which the judgment is invoked; in particular

the law of that State shall not preclude it from raising the plea of res judicata;

2. the decision must have been rendered by a court having jurisdiction according to the provisions of Art. 2;

3. the decision must have become final under the law of the state in which it was rendered;

4. in the case of a judgment by default, the order or summons initiating the proceedings must have been served in due time on the defaulting party, either in person or on his representative; this applies mutatis mutandis to the service of orders for payment and payment orders. If service had to be effected in the territory of the State in which the judgment is enforced, it must have been effected by legal assistance.

2) For the purposes of recognition, it is irrelevant whether the decision is designated as a judgment, order, payment order or otherwise.

3) Based on this agreement can neither be recognized nor enforced:

1. Decisions in bankruptcy proceedings;

2. Decisions of Liechtenstein courts on the confirmation of an inheritance contract and of Austrian courts in composition proceedings;

3. Decisions in inheritance and probate cases;

4. Decisions in guardianship and conservatorship cases;

5. restraining orders;

6. Regulatory penalties;

7. decisions on private law claims rendered in criminal proceedings. Art. 2

1) The jurisdiction of the courts of the State in which the judgment was given is established within the meaning of Article 1(1)(2):

1. for proceedings concerning the status of a person or capacity to act, if at the time the proceedings were instituted the person whose status or capacity to act is affected was a national of this State;

2. for proceedings involving family law relationships, if at the time the proceedings were instituted the persons whose family law relationships are involved were nationals of that State;

3. for proceedings which have as their object a right in rem in respect of a property situated in this State.

2) In proceedings other than those referred to in para. 1, the jurisdiction of the courts of the State in which the judgment was given is established within the meaning of Art. 1 para. 1 item 2:

1. if, at the time the proceedings were instituted, the defendant was domiciled or habitually resident or, if the defendant is not a natural person, had its statutory seat or effective management in the State in which the judgment was given;

2. if the defendant, who had a commercial establishment or branch in the State in which the judgment was given, was prosecuted there for claims arising out of the operation of that establishment;

3. in the case of a counterclaim legally connected with the action, if the court which rendered the decision had jurisdiction within the meaning of this Convention to rule on the first action;

4. if the decision concerns compensation for damage resulting from accidents which occurred in the State in which the decision was rendered and which were caused by the operation of motor vehicles or bicycles with or without motors;

5. if the defendant, by a written agreement with the plaintiff, has submitted to the jurisdiction of the courts of the state in which the judgment was rendered or of the court that has recognized the case and he is registered in the Public Register (Commercial Register);

6. if the defendant, if not registered in the Public Register (Commercial Register), by an agreement with the plaintiff contained in a public document, has submitted to the jurisdiction of the courts of the state in which the decision was rendered or of the court that has adjudicated in the case;

7. if, before the conclusion of the hearing at first instance, the defendant has neither contested the jurisdiction of the court seized nor made any reservation as to the jurisdiction of that court within the meaning of this Agreement.

3) Notwithstanding the provisions of paragraph 2, the jurisdiction of the court of the State in which the judgment was given shall not be established within the meaning of Article 1, paragraph 1, item 2, if, under the law of the State in which the judgment is given, a court of that State or of a third State has exclusive jurisdiction in the matter in question.

Art. 3

Judgments rendered by the courts of one of the two States and requiring recognition in the other State may be examined only to ascertain whether the conditions laid down in Article 1 of this Convention have been fulfilled and whether the documents required by Article 5 have been produced. Beyond that, the decision may not be reviewed.

Art. 4

1) Judgments given by the courts of one of the two States which satisfy the conditions provided for in Article 1 may be enforced in the other State if they are enforceable in the State in which they were given.

2) Jurisdiction and procedure for enforcement shall be determined by the law of the State in which enforcement is sought.

Art. 5

The party requesting recognition or enforcement of a judgment shall provide:

1. a copy of the decision bearing the official signature and the official seal or stamp;

2. a court confirmation of the legal force and, if applicable, of the enforceability of the decision;

3. in the case of a judgment by default, a copy of the order or summons initiating the proceedings and a court confirmation of the manner and time of its service on the party who failed to appear; this shall apply mutatis mutandis to the service of payment orders and orders for payment;

4. if the decision does not reveal the facts on which it is based to such an extent as to permit examination within the meaning of Article 1, a copy of the action certified as correct or other appropriate documents.

Art. 6

The examination of the application for enforcement shall be limited to the requirements provided for in Article 1 of this Convention and to the documents to be produced in accordance with Article 5. The decision may not be reviewed beyond this.

Art. 7

1) Arbitral awards made in one of the two States shall be recognized and enforced in the other State if they comply with the provisions of the foregoing Articles insofar as they may apply. In particular, Art. 2, para. 2, items 5 and 6 shall apply to the arbitration agreement (arbitration agreement or arbitration clause), under

The provisions of this Article shall apply mutatis mutandis, subject to the exclusive jurisdiction provided for in paragraph 3 of this Article.

2) The provisions of the preceding paragraph shall also apply to the enforcement of settlements concluded in court or before arbitration courts.

3) If recognition or enforcement of an arbitral award or enforcement of a settlement concluded before an arbitral tribunal or a court is applied for, a copy of the arbitral award and a confirmation of its legal force and, if applicable, also of its enforceability, or a copy of the settlement and a confirmation of its enforceability shall be submitted. This confirmation

In the Principality of Liechtenstein, such certificates shall be issued by the District Court in Vaduz; in the Republic of Austria, they shall be issued by the District Court in whose district the arbitral tribunal rendered the arbitral award or in whose district the arbitration settlement was concluded; in the case of judicial settlements, they shall be issued by the court before which the settlement was concluded.

Art. 8

1) Enforceable public deeds drawn up in the Principality of Liechtenstein at the District Court in Vaduz or at an intermediary office in respect of a legal transaction and enforceable notarial deeds drawn up in the Republic of Austria shall be enforced in the other State if they are enforceable at the time the application is made and public policy does not prevent their enforcement.

2) If an application is made for the enforcement of an enforceable public deed drawn up in the Principality of Liechtenstein, the original or an official copy of this deed must be produced; in the case of an application for the enforcement of a notarial deed drawn up in the Republic of Austria, a copy bearing the seal and signature of the public notary must be produced.

Art. 9

The documents referred to in Articles 5, 7(3) and 8(2) do not require certification.

Art. 10

1) If proceedings are pending before a court of one of the two States, and if the decision on the subject-matter of such proceedings is likely to be recognized in the other State, a court of that other State, subsequently seized of the case, shall order the conduct of proceedings on the same claim and between the two States.

to reject the same parties.

2) The provisions of para. 1 shall not preclude the issuance of temporary injunctions in the other state.

Art. 11

1) This Agreement shall not affect the provisions of any other bilateral or multilateral treaties in force or to be in force between the two States.

2) Provisions of the internal law of either State providing for the recognition or enforcement of decisions of the other State to a greater extent than is provided for in this Agreement shall not be affected.

Art. 12

The provisions of this Agreement shall be applied without regard to the nationality of the Parties, subject to Art. 2 para. 1 items 1 and 2.

Art. 13

1) This Agreement shall apply to judgments and awards rendered after its entry into force.

2) The Agreement shall apply to settlements and to the enforceable authentic instruments and notarial acts referred to in Article 8 if they were concluded or established after its entry into force.

Art. 14

The Government of the Principality of Liechtenstein and the Federal Ministry of Justice of the Republic of Austria shall, upon request, provide each other directly with legal information on questions to which the application of this Agreement should give rise. The freedom of decision of the courts shall remain unaffected.

Art. 15

1) Any difference of opinion concerning the interpretation or application of this Agreement which cannot be settled by diplomatic negotiation within six months shall, at the request of either State, be referred to a commission entrusted with the task of seeking a solution to the dispute and composed of a representative of each of the two Governments.

2) If one of the two States has not designated its representative and has not complied with the invitation of the other State to make such designation within two months, the representative shall be appointed by the President of the International Court of Justice at the request of the latter State.

3) In the event that these two representatives are unable to reach a settlement within three months after the disagreement has been submitted to them, they shall designate by common agreement a member to be chosen from among the nationals of a third State. In the absence of agreement on the selection of this member within a period of two months, one or other of the two States may request the President of the International Court of Justice to proceed with the appointment of the third member of the Commission, which shall then perform the functions of an arbitral tribunal.

4) Unless otherwise determined by the two States, the arbitral tribunal shall determine its own procedure. The arbitral tribunal shall decide by a majority vote of its members; its decision shall be final and binding.

5) Each of the two States shall bear the costs incurred by the arbitrator appointed by it. The expenses of the President of the Court of Arbitration shall be borne equally by both States.

Art. 16

1) This Agreement shall be ratified; the instruments of ratification shall be exchanged in Vienna.

2) This Agreement shall enter into force on the 60th day after the exchange of instruments of ratification.

3) This Agreement may be terminated by either State at any time by written notice, which shall take effect one year after notification.

4) The expiry of this Agreement shall not affect any execution already granted at that time.

In witness whereof, the Plenipotentiaries have signed and affixed their seals to this Agreement.

Done at Vaduz, this fifth day of July in the year one thousand nine hundred and seventy-three, in two copies.

Agreement between the Principality of Liechtenstein and the Swiss Confederation on the

VII. Recognition and enforcement (FL- CH)

of judicial decisions and arbitral awards in civil matters Concluded in Vaduz, April

25, 1968

Entry into force: March 15, 1970

His Serene Highness the Reigning Prince von und zu

Liechtenstein and

The Swiss Federal Council

Desiring to regulate the mutual recognition and enforcement of judicial decisions and arbitral awards in civil matters, have decided to conclude an agreement to this effect. For this purpose they have appointed as their Plenipotentiaries:

His Serene Highness the Reigning Prince of Liechtenstein: Dr.

Gerard Batliner

Princely Head of Government

The Swiss Federal Council:

Dr. Walter Thalmann

Director of the Justice

Department

Having mutually disclosed their powers of attorney found to be in good and due form, have agreed as follows:

Art. 1

Civil judgments rendered in one of the two States shall be recognized in the other State if they meet the following conditions:

1. the recognition of the judgment must not be contrary to the public policy of the State in which the judgment is invoked; in particular, it must not be precluded under the law of that State by the plea of the case decided;

2. the decision must have been rendered by a court having jurisdiction in accordance with the provisions of Art. 2;

3. the decision must have become res judicata under the law of the State in which it was rendered;

4. in the case of a judgment by default, the order or summons instituting the proceedings must have been served in due time on the defaulting party, either personally or on his representative. If service had to be effected in the territory of the State in which the judgment is invoked, it must have been effected by legal assistance.

2) Decisions rendered in criminal proceedings on private law claims as well as decisions imposing administrative penalties in civil proceedings or ordering an arrest or any other interim measure may neither be recognized nor enforced on the basis of this Agreement. The same shall apply to judgments in bankruptcy or composition matters.

3) Decisions of administrative authorities appointed in Switzerland to order and supervise guardianship, as well as settlements concluded before such authorities, shall be treated in the same way as judicial decisions and settlements in respect of this Agreement.

Art. 2

1) The jurisdiction of the courts of the State in which the judgment was rendered is established within the meaning of Art. 1, para. 1, item 2 in the following cases:

1. if, at the time the proceedings were instituted, the defendant was domiciled or, if the defendant is not a natural person, had its registered office in the State in which the judgment was given;

2. if the defendant, who has a commercial establishment or branch in the State in which the judgment was rendered, has been sued there for claims arising out of the operations of that establishment;

3. in the case of an action at law connected with the main action, if the court which rendered the decision had jurisdiction within the meaning of this Agreement to hear the main action;

4. if the decision concerns compensation for damage resulting from accidents occurring in the State in which the decision was rendered and caused by the operation of motor vehicles or bicycles with or without motors;

4. until when the decision concerns compensation for damage caused by defective

products and occurred in the state in which the harmful event occurred;

5. if the action concerned a right in rem in real property located in the state in which the judgment was rendered;

6. in civil status, legal capacity or family law cases of nationals of the State in which the decision was rendered;

7. if the parties have by a written agreement submitted to the jurisdiction of the court which has recognized the merits of the case;

8. Retrieved

9. if the defendant, whether or not registered in the Commercial Register (Public Registry), has tried the case on the merits without making a reservation as to the jurisdiction, within the meaning of this Convention, of the courts of the State in which the judgment was given, although he has been informed by the judge of the possibility of such a reservation.

2) Notwithstanding the provisions of paragraph 1, items 1, 2, 3, 7 and 9 of this Article, the jurisdiction of the courts of the State in which the judgment was rendered shall not be established within the meaning of Article 1, paragraph 1, item 2, if, under the law of the State in which the judgment was rendered

a court of this or another State has exclusive jurisdiction over the subject-matter of the dispute.

Art. 3

Judgments given by the courts of one of the two States which are sought to be recognized in the other State shall be examined only as to whether the conditions laid down in Article 1 of this Convention have been fulfilled. A review of the merits of these decisions may not take place under any circumstances.

Art. 4

1) Judgments given by the courts of either State which satisfy the conditions specified in Article 1 may be enforced in the other State if they are enforceable in the State in which they were given.

2) Jurisdiction and procedure for enforcement shall be determined by the law of the State in which enforcement is sought.

Art. 5

1) The party requesting recognition of a judgment or seeking its enforcement shall provide:

1. the decision in the original or in a conclusive copy;

2. a certificate of res judicata and, if applicable, of enforceability of the decision; the certificate shall be issued by the court that rendered the decision or by the clerk of the court;

3. in the case of a judgment by default, a copy of the order or summons initiating the proceedings and a certificate of the manner and time of its service on the party who failed to appear;

4. if the decision does not reveal the facts on which it is based to such an extent as to permit examination within the meaning of Article 1, a copy of the action certified as correct or other appropriate documents;

5. if necessary, a translation of the documents referred to in items 1 to 4 into the official language of the authority with which the recognition is to be made.

The court must be satisfied that the decision is correct under the law of one of the two countries. The transfer must be certified as correct under the law of one of the two states.

2) The documents to be provided in accordance with this article do not need to be certified.

Art. 6

The examination of the application for enforcement shall be limited to the requirements provided for in Article 1 of this Convention and to the documents to be produced in accordance with Article 5. A substantive review of the decision shall not take place under any circumstances.

Art. 7

1) Arbitral awards made in one of the two States shall be recognized and enforced in the other State if they comply with the provisions of the foregoing Articles insofar as they may apply. In particular, Art. 2, para. 1, item 7, shall apply mutatis mutandis to the arbitration agreement (arbitration agreement or arbitration clause), subject to the exclusive jurisdiction provided for in para. 2.

2) This also applies to settlements concluded in court or before arbitration courts.

3) The certificate of res judicata and of enforceability of the arbitral award or of the settlement concluded before an arbitral tribunal shall be issued in the Principality of Liechtenstein by the District Court in Vaduz, and in Switzerland by

issued by the competent authority of the canton in which the arbitral award was made or the settlement was reached.

Art. 8

Maintenance settlements concluded in one of the two States before a court or an administrative authority appointed to order and supervise a guardianship shall be enforced in the other State, irrespective of the nationality of the parties, if they comply with the provisions of the preceding Articles in so far as they may apply.

Art. 9

1) If proceedings are pending before a court of one of the two States and the decision on the subject-matter of such proceedings is likely to be recognized in the other State, a court of that other State subsequently seized shall refuse to entertain proceedings on the same subject-matter and between the same parties.

2) The provisional or protective measures provided for in the legislation of Liechtenstein and Switzerland may be applied for before the authorities of either State, irrespective of which court is dealing with the main case.

Art. 10

The provisions of intergovernmental agreements to which both States are parties shall not be affected by this Agreement.

Art. 11

The provisions of this Agreement shall be applied without regard to the nationality of the Parties, subject to Art. 2 para. 1 item 6.

Art. 12

This Agreement shall apply to judgments, arbitration awards and agreements made or entered into after its entry into force.

Art. 13

The Government of the Principality of Liechtenstein and the Federal Department of Justice and Police shall, upon request, provide each other directly with legal information on questions to which the application of this Agreement should give rise. The freedom of decision of the courts shall remain unaffected.

Art. 14

1) Any difference of opinion concerning the interpretation or application of this Agreement which cannot be settled by diplomatic negotiation within six months shall, at the request of either State, be referred to a commission,

which is charged with seeking a solution to the dispute and is composed of one representative from each of the two governments.

2) If one of the two States has not designated its representative and has not complied with the invitation of the other State to do so within two months, the representative shall be appointed by the President of the International Court of Justice at the request of the latter State.

3) In the event that these two representatives are unable to reach a settlement within three months after the disagreement has been submitted to them, they shall designate by common agreement a member to be chosen from among the nationals of a third State. In the absence of agreement on the selection of this member within a period of two months, one or other of the two States may request the President of the International Court of Justice to proceed with the appointment of the third member of the Commission, which shall then perform the functions of an arbitral tribunal.

4) Unless otherwise determined by the two States, the arbitral tribunal shall determine its own procedure. The arbitral tribunal shall decide by a majority vote of its members; its decision shall be final and binding.

5) Each of the two States shall bear the costs incurred by the arbitrator appointed by it. The expenses of the President shall be borne equally by both States.

Art. 15

1) This agreement is to be ratified and the instruments of ratification are to be exchanged in Bern.

2) The Agreement shall enter into force two months after the exchange of the instruments of ratification.

3) The agreement may be terminated by either state at any time; however, it shall remain in force for one year after termination.

4) In witness whereof, the Plenipotentiaries have signed this Agreement in duplicate and affixed their seals.

This is what happened in Vaduz on April 25, 1968

VIII. Execution Code (EO)

from 24 November 1971

on the execution and legal protection proceedings

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1. Exec
ution part

1. Section General Provisions

1. Title

Execution on the basis of domestic documents Art. 1

Execution title

For the purposes of this Act, an executory title shall be the following acts and deeds executed in Austria:

a) Final judgments and other judgments and decisions rendered in litigation and execution matters, if further legal action against them is excluded or if an appeal suspending execution is not granted;

b) Payment orders in bill of exchange and check procedures against which objections have not been raised in due time;

c) Payment orders in debt collection proceedings against which an objection has not been filed in due time;

d) Decisions to initiate legal proceedings in cases where the action for the recognition of the claim has not been filed in due time or has been dismissed with final effect;

e) court terminations of a tenancy agreement for land, buildings and other immovable property or property declared by law to be immovable, if objections to the termination have not been raised in due time, as well as, subject to the same precondition, court orders to hand over or take over an object of tenancy;

f) Settlements reached in court regarding claims under private law;

g) Decisions in non-contentious proceedings, insofar as they can be enforced in accordance with the applicable regulations;

h) final decisions in criminal cases, by which the costs of the criminal proceedings or private law claims have been decided or a security has been declared forfeited;

i) final decisions imposing fines on parties or their representatives;

j) final decisions of the administrative authorities;

k) Retrieved

l) Retrieved

m) awards of arbitrators and arbitral tribunals that are no longer subject to challenge before a higher arbitral body and settlements reached before them;

n) Arbitration awards of the Apprenticeship Commission recognized by the parties;

o) enforceable deeds under the Act on Non-Contentious Proceedings;

p) legally binding rulings and contribution notices from the Liechtenstein Old Age and Survivors' Insurance Fund, the Liechtenstein Disability Insurance Fund, the Liechtenstein Family Compensation Fund and the Liechtenstein Unemployment Insurance Fund;

q) Arbitration awards and fines imposed by the Conciliation Board and settlements reached before the Conciliation Board;

r) Execution applications of the Liechtensteinische Landesbank pursuant to the Law Concerning the Liechtensteinische Landesbank;

s) enforceable notarial deeds according to Art. 41 of the Notarial Act;

t) all other documents to which a law expressly grants the status of an executory title.

Art. 2

Granting of execution

The execution shall be granted by the Regional Court in Vaduz upon application of the party entitled to claim (creditor seeking enforcement). Unless otherwise provided for in this Law, the application for the granting of execution shall be decided upon without prior oral hearing and without hearing the opposing party.

Art. 3

Maturity of the claim

1) Execution may only be granted if, in addition to the person of the beneficiary and the obligor, the subject matter, type, scope and time of the performance or omission owed can be inferred from the execution title.

2) Execution may not be granted before the due date of a claim and before the expiry of the time limit for performance specified in a judgment or in another execution order. If the due date or the end of the period for performance is not determined in the execution title either by specifying a calendar day or by specifying a starting point of the period that is fixed in terms of the calendar, or if the enforceability of the claim is not dependent on the date specified by the court in the execution title, the execution may not be granted.

If the court makes the occurrence of a fact to be proven by the beneficiary, namely dependent on a previous performance of the beneficiary, the occurrence of the facts relevant for the maturity or enforceability must be proven by a public document or a document on which the signatures of the parties are certified.

Art. 4

Performance train by train

1) The granting of execution for a claim which the obligor has to fulfill only against a consideration to be granted to him concurrently is not dependent on the proof that the consideration has already been obtained or that its fulfillment is ensured.

2) Execution shall also be granted with respect to the claim arising on the basis of a value protection clause, if

a) the value protection clause is linked to no more than one variable, and

b) the revaluation key is proven by an unobjectionable document. The proof shall not be required if the revaluation key is a consumer price index published by the Office of National Economy or if the amount of the revaluation key is determined by law.

3) If, according to an executory title, a claim is to be paid value-protected, without any further details being stipulated in this respect, the consumer price index valid for the month of the creation of the executory title and published by the Office of National Economy shall apply as the revaluation key. The claim shall be reduced or increased to the extent that the consumer price index changes compared to the time of the creation of the execution title. Changes are not to be taken into account as long as they do not exceed 10% of the previously applicable index figure.

Art. 5

Proof of active and passive legitimacy

Execution may only take place in favor of a person other than the person designated as entitled in the execution title or against an obligor other than the obligor named in the execution title if it is proven by a public document or a document on which the signatures of the parties are certified that the claim recognized in the execution title or the obligation established therein has passed from the persons named therein to the persons by whom or against whom execution is sought.

Art. 6

If the documentary evidence required by Art. 3, 4 par. 2 and 5 cannot be obtained, the authorization of the Executive Board must be approved.

The Company is not required to obtain a court judgment to terminate or continue its operations.

Art. 7

Obligor's right of choice

1) If the obligee has a choice between several benefits, the creditor may request execution with respect to one of these benefits.

2) The obligor may nevertheless exercise his right of choice as long as the creditor has not received the performance chosen by him in whole or in part.

Art. 8

On the basis of a decision in which several independent claims have been awarded, if an appeal suspending execution has been filed only with respect to individual claims, execution may be granted in favor of the remaining unappealed claims as soon as the decision on these claims has become final.

Art. 9

Accumulation of means of execution

1) The simultaneous application of several means of execution is permitted; however, the application may be limited to individual means of execution if it is obvious from the application for execution that one or more of the means of execution applied for are already sufficient to satisfy the creditor seeking satisfaction.

2) If execution is pending on a salary claim or another claim consisting of continuous payments, execution on movable tangible property shall not be executed to collect the same claim until:

a) the execution under Art. 217a has been unsuccessful because no possible third party debtor is registered in the Central Register of Persons;

b) the garnishee has not acknowledged the garnished claim as justified in his declaration or has not submitted a declaration; or

c) the debtor creditor applies for execution on movable tangible property after receiving the third party debtor's declaration.

3) An executor may apply for execution under Art. 217a after an execution on movable tangible property has been granted only if one year has elapsed since the granting of the execution or if the executor credibly demonstrates that he has learned only after his application for execution on movable tangible property that the obligor is entitled to claims within the meaning of Art. 211.

Art. 10

Execution against the state, a municipality or other corporation, institution or foundation under public law

Execution for the recovery of money may be granted against the Land, a municipality or any other corporation, institution or foundation under public law only in respect of such parts of the property as may be used to satisfy the creditor without prejudice to the public interests to be safeguarded by the Land, the municipality or the other corporation, institution or foundation under public law, provided that this does not involve the realization of a contractual lien. The government shall be called upon to declare the extent to which the latter applies to certain assets.

Art. 11

Execution against extraterritorial persons

Execution may not be granted against persons who enjoy extraterritoriality in Liechtenstein if the foreign state holds counter-law.

Art. 12

Execution

1) Unless otherwise provided in this Act, the execution of a granted execution shall be carried out ex officio.

2) Execution is carried out either directly by the court or by the bailiff, who acts on behalf of and under the direction of the court.

3) The bailiff shall perform execution acts until the execution order of the court is fulfilled or it is determined that it cannot be fulfilled.

Art. 13

Activity of the bailiff

1) The bailiff shall have the right to enforce the

The debtor shall be entitled to receive payments or other performances, to give receipts for them and, if the debtor has fulfilled his obligation by such performance, to return to the debtor the debt documents handed over to him for this purpose by the court or by the creditor seeking enforcement. During the execution proceedings, the creditor may have the bailiff hand over to the obligor a document, a sum of money or other items which he is obliged to hand over in return.

2) The bailiff shall be authorized, to the extent required by the purpose of the execution, to search the obligor's home, his receptacles and, if necessary, even the clothes worn by the obligor, with due regard for the person. Locked house, apartment and room doors as well as locked containers may be opened for the purpose of execution, irrespective of minor damage; house and apartment doors may only be opened by changing the lock if the key to the new lock can be removed at any time. However, if neither the obligor nor an adult belonging to his household is present, a trustworthy person of legal age shall be called as a witness to the aforementioned execution actions. In the expectation of resistance or in order to eliminate any resistance put up against him, the bailiff may directly request the assistance of the security organs.

3) Retrieved

Art. 13a

Enforcement location

1) The bailiff shall execute the execution order at the place specified in the application for the execution permit, unless he is aware that the execution act cannot be performed there.

2) If the bailiff is aware of places where the execution can be successfully carried out, or if he can find out about such places by means of reasonable investigations, he shall visit such places ex officio.

Art. 13b Contacting the

obligated party

If the obligor is not found during an execution attempt, the bailiff may request the obligor to report to him if the purpose of the execution is not frustrated thereby.

Art. 14

Prohibition of execution over the required extent

1) The execution may not be carried out to a greater extent than is necessary for the realization of the claim specified in the execution authorization.

2) In the case of execution for the recovery of monetary claims, the costs likely to be incurred until the creditor is satisfied shall always be taken into account.

Art. 15

Enforcement time

1) The bailiff shall choose the time of execution himself. In doing so, he shall take into account the time when the debtor is most likely to be found, taking into account paragraph 2.

2) On Saturdays, Sundays and public holidays and from 10 p.m. to 6 a.m., the bailiff may perform execution acts only:

a) in urgent cases, in particular if the purpose of the execution cannot be achieved otherwise; or

b) if an enforcement attempt on working days at daytime was unsuccessful.

Art. 16

All parties involved in an execution action may be present when it is carried out. Persons who disturb the execution proceedings or behave inappropriately may be removed by the bailiff.

Art. 17

Death of the obligor

1) If the debtor dies after the execution has been granted, the execution may be continued or carried out with respect to the assets left behind as soon as a declaration of acceptance of the inheritance has been made or a trustee of the estate has been appointed without a new grant. Otherwise, the petitioning creditor must apply for the appointment of a temporary representative of the estate.

2) An execution on real property commenced during the lifetime of the debtor may be continued without the prior appointment of a temporary representative of the estate if the entry in the land register required for the commencement of the forced administration or forced sale was made prior to the death of the debtor.

Art. 18

Objections to the claim (opposition action)

1) Objections to the claim in favor of which execution has been granted may be raised during the execution proceedings only to the extent that they are based on facts which cancel or inhibit the claim and which occurred after the execution title on which these proceedings are based came into existence. However, if the execution title consists of a court decision, the point in time up to which the obligor was able to make effective use of the relevant facts in the preceding court proceedings shall be decisive.

2) These objections shall be asserted by means of an action, irrespective of any appeal against the execution. Objections to a claim based on one of the grounds specified in Art. 1(j) and (p)

The court shall be informed of any action based on the execution title referred to above by the authority from which the execution title originated.

3) All objections that the obligor was able to raise must be raised at the same time in case of other exclusion.

4) If the objections are granted by a final court decision, the execution shall be stopped.

Art. 19

Objections to the Execution Authorization (Impugnation Action)

1) If the obligee objects to the granting of the execution,

a) that the facts relevant for maturity or enforceability (Art. 3 para. 2) or the assumed legal succession (Art. 5) had not occurred,

b) that the claim for the recovery of which execution was granted did not arise on the basis of a clause safeguarding the value of the claim,

c) that the debtor creditor has waived the initiation of execution at all or for a period which has not yet expired,

he/she shall assert his/her objections in an action if they cannot be raised in an appeal against the execution authorization.

2) The provisions of Art. 18 Para. 3 shall apply mutatis mutandis to this action.

3) If the action is finally granted, the execution shall be discontinued.

4) These provisions shall also apply in the case of Art. 706 last paragraph of the Persons and Companies Act of January 20, 1926, LGBl. 1926 No. 4.

Art. 20

Opposition (excindication) procedure

1) If a third party's right is asserted to an object affected by the execution, to a part of such object or to individual objects belonging to the real property subject to the execution, which would render the execution inadmissible, the court shall grant the executing creditor and the obligor a

The customer shall set a time limit of 14 days within which they may contest the third party's claim before the court.

2) If the claim is not contested, the execution shall be discontinued with respect to the object in question.

3) If the claim is contested, the court shall notify the debtor creditor, the obligee and the third party thereof, adding that the debtor creditor may bring an action against the third party if the object subject to execution is in his custody, and otherwise the third party may bring an action against the debtor creditor and the obligee as joint litigants or against the debtor creditor alone (action of opposition).

4) If the action is finally granted, the execution shall be discontinued.

Discontinuation of execution

Art. 21

1) Except for the cases specified in Articles 18, 19 and 20, the execution shall be discontinued with simultaneous cancellation of all acts of execution executed up to that time:

a) if the execution title on which it is based has been declared invalid, annulled or otherwise declared ineffective by a final court decision;

b) if the execution is carried out on objects, rights or claims which, according to the applicable provisions, are excluded from execution in general or from separate execution;

c) if the execution is carried out on the basis of judgments or settlements that were reached without the participation of a legal representative in accordance with Art. 2 of the Code of Civil Procedure, on such property of a minor to which his free disposal does not extend;

d) if execution against the state, a municipality or any other body, institution or foundation under public law has been declared inadmissible pursuant to Art. 10;

e) if the execution has been declared inadmissible for other reasons by a final decision;

f) if the creditor has withdrawn the request for execution, if he has waived execution of the granted execution at all or for a period which has not yet expired, or if he has refrained from continuing the execution proceedings;

g) if, in the case of Art. 7, after the execution has been granted, the obligor, exercising his right of choice, has effected a performance other than that for which the execution is directed;

h) if it cannot be expected that the continuation or execution of the exe- cution will yield a return exceeding the costs of such execution;

i) if the execution was granted contrary to the provision of Art. 3 par. 2.

2) In the cases specified in subparagraphs (a), (f) and (g), discontinuance shall be effected only upon application, otherwise ex officio. However, in the cases specified in subparagraphs (b) and (c), unless a final decision on the inadmissibility of the execution has been rendered, the termination ex officio shall be preceded by an agreement of the parties.

3) If an action is brought for the declaration of invalidity or ineffectiveness or for the revocation of the execution title or if an action is brought to assert objections against the claim, against the execution authorization or against the admissibility of the execution, the application for discontinuation of the execution may be combined with the action.

Art. 22

1) If, after the creation of the execution title or, in the case of judicial decisions, after the time specified in Art. 18 Par. 1, the debtor has been satisfied, has granted a moratorium or has waived the initiation of execution altogether or for a period which has not yet expired, the debtor may, without filing an action for the time being in accordance with Art. 18 or 19, apply for the suspension of execution. The decision on the application shall be preceded by the hearing of the creditor seeking enforcement if the latter's satisfaction or declaration is not supported by unobjectionable documents.

2) If, according to the results of this hearing, the decision appears to be dependent on the investigation and determination of disputed facts, the obligor shall be referred to the courts with his objections.

Art. 23 Limitation of execution

1) If the grounds for discontinuance specified in Articles 18 to 22 occur only with respect to

If the court finds that there is a breach of any of the objects of execution or of any part of the enforceable claim, the execution shall be limited proportionately instead of being discontinued.

2) Furthermore, the execution shall be limited if it has been executed to a greater extent than is necessary to achieve full satisfaction of the creditor.

Deferment of execution Art.

24

Deferment (suspension) of execution may be ordered upon application:

a) if an action is brought for the invalidity or declaration of invalidity or for the revocation of one of the execution titles listed in Art. 1 on which an execution has been granted;

b) if, with regard to one of the execution titles mentioned in Art. 1, the resumption of the proceedings or the reinstatement in the prior state is requested or if the setting aside of an arbitral award is applied for by way of action;

c) if, in accordance with Art. 21 letters b to d, f and h or Art. 22, the cessation of the executi- on is requested;

d) if the execution is carried out on account of a claim which is dependent on a counter-performance to be effected concurrently by the creditor and the creditor has neither effected the counter-performance incumbent upon him nor is prepared to effect or secure the same;

e) if one of the actions mentioned in Art. 18, 19 and 20 is brought, if an action is brought for a declaration of inadmissibility of the execution on other grounds (Art. 21 let. e) or if objections to the claim are raised with the authority mentioned therein in accordance with Art. 18 par. 2;

f) if the summoning of the creditors of the estate (§ 813 ABGB) is granted;

g) if the order granting the execution is contested by appeal;

h) if an appeal is lodged against an act of execution and the hearing of the parties or other participants required for the decision thereon cannot take place without delay (Art. 45);

i) if the obligor is seriously ill.

Art. 25

1) In the event of a stay of execution, unless the court orders otherwise, all acts of execution which have already been executed at the time of the request for stay shall remain in force for the time being.

2) The court may order the revocation of acts of execution already executed in the case of postponement of execution only if the maintenance of such acts would cause a disadvantage to the party requesting the postponement which would be difficult to compensate and if, moreover, the party provides security for the full satisfaction of the claim to be executed.

3) If grounds for postponement of execution arise only with respect to individual items or a part of the claim, execution shall be continued in the one case only with respect to the remaining items, but in the other case only with respect to the part of the claim not affected by the ground for postponement.

Art. 26

1) The granting of a stay of execution shall not be made if the execution can be commenced or continued without the risk of irreparable or difficult-to-execute disadvantage for the party requesting the stay.

2) When granting a stay of execution, the court shall specify for how long the execution is to be stayed.

3) Unless otherwise ordered for individual cases, execution proceedings that have been postponed shall be resumed only upon application.

Art. 27

The provisions of Articles 21 to 26 shall not preclude the application of the special provisions contained in this Act with respect to individual types of execution concerning the suspension, limitation or deferral of execution or certain acts thereof.

Art. 27a

Payment agreement

The execution shall be postponed by order without the provision of security at the request of the petitioning creditor or with the consent of the petitioning creditor if a payment agreement has been reached between the parties. It may be continued only after the expiry of three months from the date of receipt by the court of the application for postponement. If the continuation is not requested within two years, the execution shall be discontinued.

Art. 28 Pausing

with the execution

The judicial officer may only suspend the execution of the enforcement act without a court order if it is shown to him that the creditor concerned has been satisfied after the order to be executed by the judicial officer has been issued, has granted a moratorium or has refrained from continuing the execution proceedings.

Oath of disclosure

Art. 29 *List of assets*

1) If the items for the surrender or performance of which execution is sought are not found on the debtor's premises, the debtor shall declare in court or before the bailiff where such items are located or that he does not possess them and does not know where they are located.

2) If the execution of a monetary claim has been unsuccessful because no property was found on the debtor's premises that could be seized, or only such property was found whose insufficiency is evident from its low value or from the liens already established on it for the benefit of other creditors.

If the debtor's assets are not clearly stated or are claimed by third parties, the debtor shall submit a list of his assets to the court, indicating the location of the individual assets and, in the case of claims, the reason for them and the means of proof. The obligor shall sign this list of assets before the court or the bailiff and thereby confirm that the information provided by him is correct and complete and that he has not concealed any of his assets.

3) The court may, at the request of the petitioning creditor or ex officio, include in the list of assets other matters which, according to the circumstances, are useful for the determination of the property to be surrendered or seized.

4) In the case of legal entities, partnerships, trust enterprises, legal representatives, insolvency estates, etc., section 373 of the Code of Civil Procedure shall apply mutatis mutandis with regard to the submission and execution of the list of assets.

Art. 30

Refraining from recording a list of assets and liabilities

If the value of the thing to be surrendered or paid or the amount of the fine together with ancillary fees and costs does not exceed the amount of 100 Swiss francs, a list of assets shall not be drawn up.

Art. 31

Enforcing the submission and signing of the list of assets and liabilities

1) If the duly summoned obligor fails to appear before the court to present and sign the list of assets without sufficient excuse, or if the obligor unjustifiably refuses to present the list of assets or to sign it before the bailiff, the court shall order the obligor to be brought before it by force.

2) If the obligor unjustifiably refuses to present or sign the property statement before the court, the court shall impose detention to enforce it. Detention shall be executed in accordance with Articles 264 to 266. Its total duration may not exceed six months.

The period of the obligation shall not exceed one month and shall end as soon as the obligor submits the list of assets and signs it in court.

3) The arrested debtor may at any time submit a list of assets to the court and request to be admitted to sign it before the court. The application shall be granted without further proceedings.

4) The imposition of detention shall cease to have effect if it has not been executed within one year. However, the debtor may again be required to submit a list of assets and to sign it in court. Detention may also be imposed again under the conditions specified in para. 2.

Art. 32

Renewed submission and signing of a list of assets and liabilities

1) A person who has submitted and signed a list of assets in accordance with Article 29(2) shall be obliged to submit and sign it again, even to third parties, only if it is shown to the satisfaction of the court that he has subsequently acquired assets. The same prima facie evidence shall be required if, after enforcement of the six-month imprisonment under Article 31, imprisonment is to be imposed anew on the obligor for the purpose of forcing him to produce and sign a list of assets before the court. In both cases, however, no prima facie evidence shall be required if, since the execution of the detention or the presentation of the list of assets

The following table shows the period of time in which more than one year has elapsed between the date on which the list of assets was drawn up and the date on which it was signed by the court or the bailiff.

2) After a declaration of assets under Art. 29 par. 1, the obligor may be required to make a further declaration of assets before the court at the request of the same creditor and on account of the same claim only if the creditor credibly demonstrates that the factual situation has since changed with respect to the possession of the assets or the knowledge of the obligor.

3) If the requirements of Art. 29 par. 2 are met and if an order for a new submission of a list of assets and the signing thereof pursuant to par. 1 is inadmissible, a copy of the last submitted and signed list of assets and liabilities shall be sent to the debtor creditor.

Art. 33

Execution request

1) In addition to the special information and supporting documents otherwise required, the application for an execution permit must contain:

a) the exact designation of the applicant and the person against whom the execution is to be carried out;

b) the specific indication of the claim for which the execution is to take place and of the existing execution title for it. In the case of pecuniary claims, the amount to be recovered by way of execution and the ancillary fees claimed shall also be stated;

c) the designation of the means of execution to be applied and, in the case of execution on property, the designation of the parts of the property on which execution is to be carried out, as well as the place where they are located, and finally all information which, according to the nature of the case, is important for the orders to be issued by the court in the interest of carrying out the execution.

2) If the application is based on one of the executive instruments referred to in Art. 1(j), (p) and (q), a confirmation from the body concerned that the decision or order is not subject to a legal process which would prevent its enforceability must be provided. In the case of arbitral awards (Art. 1(m)), a confirmation by the arbitrators that the award has become final and enforceable must be provided.

3) If the execution title was not obtained in the country, it must be presented in original or certified copy.

Interrogation

Art. 34

1) Unless otherwise required by this Act, court decisions and orders in execution proceedings shall be made without prior oral proceedings. A hearing of the parties or other participants ordered by law shall not be bound by the rules applicable to oral hearings. It may take place orally or by requesting written statements and, in the former case, without the simultaneous presence of the other persons to be heard and without the taking of minutes; a short statement shall suffice.

a written record of the result of the questioning. Nor shall the hearing require that each of the persons to be questioned be given the opportunity to comment on the statements made by the other persons. Each party may request that, in addition to his authorized representative, a person of his confidence be permitted to be present at his oral examination. The person of trust may be prohibited from being present if there is justified concern that the presence will be misused to disrupt the hearing or to make it more difficult to establish the facts.

2) All circumstances essential to a requested judicial decision or order shall be proved by the applicant. Except in the case of an application for a writ of execution, the court may, even before making decisions for which it is not required by law, order the oral or written examination of one or both parties or other interested persons and require them to produce the necessary documents and other evidence if the purpose is to establish material facts.

3) However, the court may obtain the clarifications it deems necessary without the mediation of the parties or other involved parties and for this purpose may ex officio conduct all appropriate investigations and order the necessary certificates or taking of evidence in accordance with the provisions of the Code of Civil Procedure.

Art. 35

1) If, in accordance with the provisions of this Act, a hearing is scheduled or the hearing of parties or other participants is ordered, the non-appearance of the persons duly summoned to the hearing or to the hearing shall not prevent the commencement and continuation of the hearing and the adoption of a judicial decision.

2) If the hearing or examination is based on a motion, then, unless otherwise provided by law, those persons who, in spite of proper

If a member of the Supervisory Board fails to appear at the summons, he shall be deemed to have agreed to the motion. The essential content of the motion and the legal consequences of non-appearance shall be stated in the summons.

3) The above provisions shall also apply to the failure to meet deadlines given for written declarations or statements by the parties or other participants.

Art. 36

1) Motions and objections for which a hearing has been set may not be raised subsequently by persons duly summoned but not present at the hearing. The same shall apply to the failure to attend a hearing at which an objection could be raised.

2) Persons who have not appeared at the first hearing despite having been duly summoned shall not be notified of the postponement of a hearing intended for oral proceedings, for the hearing of parties or other participants, for the filing of motions and objections or for the filing of an objection.

Art. 37

Time

limits

1) The time limits specified in this Act shall not be extended, unless otherwise provided with respect to individual time limits.

2) Restitutio in integrum shall not be granted for missing a deadline or a hearing; however, this shall not apply to proceedings arising in the course of and on the occasion of execution proceedings, which shall be heard and decided in accordance with the provisions of the Code of Civil Procedure.

Art. 38

Oral hearing

1) The hearing in the execution proceedings shall not be public.

2) Minutes shall be taken at each hearing by the judge or a sworn clerk.

3) It shall contain the names of the parties and other participants present at the hearing, a brief statement of the course and content of the proceedings, the motions filed during the hearing but not withdrawn before a decision is taken, and the decisions and orders pronounced by the court. Those present shall be at liberty, in order to preserve their

rights to demand that individual points or statements be recorded in the minutes.

4) The minutes shall be signed only by the judge and the secretary, unless otherwise provided in this Act.

Art. 39

1) The bailiff shall make a brief record of the execution acts performed by the bailiff.

2) The record shall contain the place and time of the recording, the names of the persons involved in the execution, the subject matter of the execution and a statement of the essential events. In particular, any payment made by and on behalf of the obligee shall be recorded. The record shall be signed by the bailiff.

Art. 40

If the judicial officer has not performed the execution act in accordance with the order, the court shall issue instructions to the judicial officer that are necessary to remedy the errors made or otherwise ensure the proper execution of the execution act.

Resolutions

Art. 41

Unless a dispute initiated by a lawsuit is to be decided, judicial decisions in execution proceedings and all court orders occurring in such proceedings shall be made by order.

Art. 42

The order granting the execution shall contain in particular:

a) Name, occupation and place of residence of the enforcing creditor and the obligor and their representatives;

b) the execution title and the claim to be enforced with a precise description of its content and subject matter as well as any ancillary charges; in the case of interest-bearing claims, the interest rate and the date from which the interest is in arrears shall be indicated;

c) the indication of the means of execution to be applied;

d) in the case of execution against the assets of the obligor, the designation of the assets to be used for the satisfaction of the debtor creditor.

Appeal

Art. 43

1) An appeal shall be admissible against court orders issued in execution proceedings insofar as this law neither declares them unappealable nor denies a separate appeal against them. § Section 485 of the Code of Civil Procedure shall not apply.

2) The appeal period is 14 days.

3) No separate legal remedy shall be permitted against orders scheduling or rescheduling hearings or ordering the parties or other persons involved in the execution proceedings to be heard, or against orders issued to the bailiff for the performance of individual acts of execution.

Art. 44

1) Unless otherwise provided by this Act, court orders in execution proceedings may be enforced before the expiry of the time limit for filing an appeal.

2) The appeal shall have the effect of restraining the execution of the contested decision only in the cases specifically mentioned in the law.

Art. 45

Complaints against the execution

Any person who considers himself aggrieved by an act of execution, in particular by the procedure observed by the judicial officer in an official act or by the refusal or delay of an act of execution, may, within the meaning of the Judicial Organization Act, demand redress by filing a supervisory complaint.

Art. 46

Announcement by edict

1) In all cases where the notification is to be made by edict, the edict to be issued by the court shall be published in the Official Gazette.

2) The court may, upon request or ex officio, publish the edict in another appropriate manner, in particular by publication in the official gazettes.

Art. 47 Calls and

notifications

Unless otherwise provided for in this Act, the requests and notifications occurring in the course of execution proceedings shall be made orally, and in writing in the case of absences.

Costs

Art. 48

1) Unless otherwise ordered for individual cases, the obligor shall reimburse the debtor creditor, upon the latter's request, for all costs of the execution proceedings incurred by him and necessary for the realization of the right; the court shall determine which costs are necessary after careful consideration of all circumstances.

2) The claim for reimbursement of execution costs that have not already been legally awarded shall expire if their judicial determination is not requested within one month after termination or discontinuation of the execution at the latest.

Art. 49

If execution proceedings are discontinued for one of the reasons specified in Articles 18, 19 and 21(1)(a) and (i), or if they had to be discontinued for other reasons already known to the debtor at the time of filing the application for execution or at the time of commencement of execution, the debtor shall not be entitled to reimbursement of all execution costs incurred up to the time of discontinuation. This shall not apply if the execution is discontinued because

the obligee was granted reinstatement in the title proceedings.

Art. 50

Investment of party funds

Party funds deposited with the court shall be invested with the Landesbank in a fruitful manner, unless the amounts involved are small or the period of deposit is expected to be short.

Art. 51

Application of the Code of Civil Procedure

Unless otherwise provided in this Act, the general provisions of the Code of Civil Procedure concerning the parties, the proceedings and the oral proceedings, concerning evidence, the taking of evidence and the individual means of evidence, concerning judicial decisions and concerning the right of appeal shall also apply in execution proceedings.

2. Title

Execution on the basis of foreign documents

Foreign execution titles

Art. 52

On the basis of acts and deeds established abroad and executable under the legal provisions applicable there, execution or the performance of individual acts of execution may take place in Austria only if and to the extent that this is provided for in international treaties or reciprocity is guaranteed by international treaties or by declaration of the government to the contrary.

Art. 53

Moreover, an application for execution based on a decision of a foreign court or other authority or on a settlement reached before such authority shall only be granted:

a) if the case could be brought in the foreign state in accordance with the domestic provisions on jurisdiction;

b) if the summons or order by which the proceedings before the foreign court or authority were instituted was served on the person against whom execution is to be taken in his own hands;

c) if, in accordance with the law applicable to the foreign court or other authority, the judgment is no longer subject to a legal process that would prevent its enforcement.

Art. 54

Notwithstanding the existence of the conditions specified in Articles 52 and 53, the granting of the execution or the requested execution act shall be denied:

a) if the person against whom the execution is to be carried out was deprived of the possibility to participate in the proceedings before the foreign court or authority due to an irregularity of these proceedings;

b) if the execution is intended to enforce an act which, according to domestic law, is prohibited or cannot be enforced at all;

c) if the execution title concerns the personal status of a Liechtenstein citizen and is to be executed against the latter;

d) if the execution or the requested act of execution is intended to recognize a legal relationship or to realize a claim which is denied validity or enforceability by domestic law in Germany for reasons of public order or morality.

Art. 55

1) If the application is granted without the existence of the legal conditions for the granting of execution specified in Articles 52 to 54, the person against whom execution has been granted may, without prejudice to any appeal, lodge an objection to the granting of execution.

2) The objection, unless it is based on the lack of reciprocity or on one of the grounds listed in Art. 54 b) to d)

otherwise excluded, within 14 days of service of the order granting enforcement. After oral proceedings, the Regional Court shall decide on the objection by way of an order. After the objection has been raised, the court may, upon application, order the suspension of the execution.

Art. 56

The foregoing provisions shall not apply if any provisions to the contrary are contained in state treaties or in counter-law declarations of the government concerning the granting of execution and the prerequisites for the enforceability of foreign executable instruments.

Art. 57

The provisions of this Act shall apply to the performance and execution of any act of execution or execution granted on the basis of foreign executory instruments.

2. Section

Execution for monetary claims Execution on

1. Title

immovable property

1. Departm
ent

Forced creation of lien (executive intabulation) Art. 58

Compulsory creation of lien

1) In favor of an enforceable pecuniary claim, a lien may be created on real property or real property shares of the obligor at the request of the operating creditor.

2) This lien shall arise upon registration in the land register.

3) When registering the lien, the claim for which the lien is registered must be designated as an enforceable claim. The effect of this entry is that the lien is transferred to the debtor on account of the enforceable claim.

The land or the share in the land may be enforced directly against any subsequent acquirer of the same.

4) If a claim has become enforceable for which a lien had already been registered on the basis of an order preceding the occurrence of enforceability, the priority notice of enforceability shall be granted in the land register at the request of the creditor seeking enforcement. By means of this priority notice, the claim shall become directly enforceable against any subsequent purchaser of the real property or share in the real property.

Art. 59 Limitation

of execution

1) If the creditor seeking enforcement has obtained greater security than is necessary for his full satisfaction, either alone or in conjunction with other liens on real property previously acquired by him for the enforceable claim (Article 58(4)). 4), the court may, at the request of the obligee, order the cancellation of the compulsorily created lien or its restriction, in particular also the restriction of the lien for the enforceable claim on several plots of land or parts of plots of land to one or several of these plots of land, provided that the remaining security can still be regarded as sufficient. In the event of such restriction, originally contractual liens shall remain valid under all circumstances.

2) The resolution may only be enforced after it has become legally effective.

2. Department of forced administration

Receivership

Art. 60

1) Receivership shall be granted at the request of the debtor creditor for the purpose of settling the enforceable claim arising from the use of and income from real property or shares in real property of the debtor.

2) If the forced administration has been instituted within the last year for the reason that, according to the circumstances, the realization of proceeds which could be used for the satisfaction of the petitioning creditors is not to be expected at all or not for a longer period of time, the court may refuse to institute the forced administration.

Art. 61

1) The court shall ex officio order that the forced administration be recorded in the land register in respect of the property concerned. The name of the creditor seeking enforcement and the enforceable claim shall be entered in the priority notice.

2) This priority notice has the consequence that the granted forced administration can be carried out against any subsequent purchaser of the property.

Art. 62

1) As soon as the court grants a forced administration, it shall appoint an administrator and notify the obligor that he must refrain from any disposal of the proceeds affected by the execution and may not participate in the management of the administrator against his will.

2) This order shall be served on the petitioning creditor, the obligor, the administrator and the competent tax authority. At the same time, the court shall order that the property be handed over to the administrator by the bailiff for administration and collection of the proceeds.

3) If compulsory administration of the share of the property to which he is entitled is granted against the co-owner of a property, the other co-owners shall be notified of the court's decision in addition to the persons referred to in para. 2 and the competent tax authority. In this case, the property shall be handed over to the administrator only in accordance with the property rights to which the obligor is entitled.

Art. 62a

The obligor shall hand over to the sequestrator all documents necessary for the management of the business and provide all necessary information.

issue. The court may, at the request of the official receiver, detain the debtor if he persistently and without sufficient cause fails to fulfill his obligations. At the request of the receiver, the delivery of documents may also be effected against the debtor by way of execution (Art. 251, 252).

Art. 63

If a creditor is granted compulsory administration of a property for which an administrator has already been appointed at the request of another creditor, the court shall not appoint a new administrator but shall order the administrator already appointed to administer the property also for the benefit of the new creditor. In addition to the new creditor and the competent tax authority, any creditor who has obtained forced administration of this property up to that time shall also be notified of this decision.

Art. 64

If the forced administration is impracticable according to the status of the land register, the court shall, depending on the nature of the case, either discontinue the proceedings or order the petitioning creditor to show that the impediment has been removed within a period to be determined at its discretion. If this period expires without result, the proceedings shall be discontinued ex officio.

Art. 65 Effect

of discharge

1) After the forced administration has been registered in the land register, the proceeds of the real estate may only be enforced by way of forced administration as long as the forced administration has not been terminated by a final court decision, irrespective of any rights previously acquired in respect of the real estate.

2) As soon as the forced administration of a property has been initiated within the meaning of the first paragraph, a special forced administration of the same property may no longer be initiated for the benefit of further enforceable claims as long as it has not been legally discontinued. All creditors to whom compulsory administration of the property is granted during this period shall thereby accede to the already initiated compulsory administration; they must accept it in the position it is in at the time of their accession. From then on, the acceding creditors shall have

The debtor shall have the same rights as if the receivership had been initiated at his request.

Art. 66

Priority

The priority of the creditor's right to satisfaction shall be determined by the date and time when the request for execution of the priority notice is received by the Office of Justice. The debtor creditor

The creditor in whose favor the priority notice is given shall, with regard to the satisfaction of his enforceable claim including ancillary fees from the proceeds, have priority over all persons who acquire rights to the property in the land register or obtain forced administration only after that time.

Art. 67 Living quarters of the obligor

1) If, at the time of the granting of sequestration, the debtor resides on the property subject to sequestration or in the house to be sequestered, he shall be provided, for the duration of the sequestration, with the living quarters indispensable for him and for the members of his family living in the same household as him. The court shall decide on the extent of these rooms. If the obligor jeopardizes the administration, he may be deprived of the living quarters provided.

2) Sick persons and women who have recently given birth cannot be required to vacate the apartment as long as they cannot leave it without endangering their health.

Scope of Business of the Administrator Art. 68

1) The powers and entitlements to which the administrator is entitled under the law shall come into force upon the transfer of the real property to him.

2) The administrator shall take all precautions necessary for the proper and advantageous economic use of the property transferred to him. He shall collect and transfer all benefits and income from the administered property in place of the obligor.

The court may also instruct him/her to perform all legal transactions and legal acts and to bring all actions necessary for the execution of the forced administration. The court may also issue instructions to him.

Art. 69

1) Third persons who are liable for payments to the obligor which constitute income from the administered property shall, at the request of the administrator or of the creditor seeking enforcement, be ordered by the court to pay to the administrator the payments in arrears and the payments falling due until the termination of the forced administration.

2) After this request, they can no longer make valid payments to the obligee. Earlier payments to the obligee are invalid if proven

it is established that the third parties were aware of the granting of compulsory administration or the transfer of the property to the administrator at the time of payment.

Art. 70

The granting of sequestration shall have no effect on the existing lease agreements relating to the administered property. The administrator may, however, terminate such agreements under the conditions otherwise applicable, bring an action for eviction and conclude new lease agreements for the usual duration. The administrator shall require the approval of the court to lease the property or individual parts thereof.

Art. 71

1) The administrator shall require the consent of the court for any dispositions not included in the ordinary course of business and for all other measures of special importance. If there is no danger, the creditor concerned, the obligor and the administrator shall be consulted beforehand.

2) If the administrator appointed for a part of the real property is also entrusted with the administration by the other co-owners, the co-owners not affected by the forced administration must also be consulted on the administrator's application prior to the court's approval of dispositions of the kind specified in subsection 1.

Art. 72 Reward

of the administrator

1) The administrator shall be entitled to a reward to be assessed according to the extent, difficulty and diligence of his management and to reimbursement of the administrative expenses incurred by him. The amount of the reward and the expenses to be reimbursed shall be determined by the court.

2) The court may at any time, upon the request of the administrator, authorize the administrator to withdraw reasonable advances from the proceeds.

Supervision of Management; Accounting Art. 73

1) The court shall supervise the management of the administrator and remedy defects and irregularities. It may also dismiss the administrator and appoint a new one.

2) The administrator shall render accounts of his activities at the time to be determined by the court and shall surrender to the court the funds resulting as surplus income.

3) The court may impose administrative penalties on defaulting administrators. It may also have the bill prepared by another person at the expense of the defaulting party.

Art. 74

The court shall decide on the approval of the administrative account and the remuneration of the administrator as well as on the amount of the expenses to be reimbursed to him. This decision may be preceded by the hearing of the operating creditor and the obligor and, if further clarification is necessary, also of the administrator.

Art. 75

Administrative income

1) The proceeds of the administered property shall be used in accordance with the following provisions for the adjustment of the administrative expenses and for the satisfaction of the executing creditor and the otherwise entitled persons.

2) These proceeds shall include all uses and income of the real property due to the obligor which are not exempt from execution, namely the fruits obtained after the transfer of the real property to the administrator as well as the fruits already separated and located on the real property at the time of this transfer, furthermore the income already due at this time but not yet collected and the income only becoming due after the transfer of the real property to the administrator.

3) If separate fruits have already been seized by creditors of the obligor before handing over the property to the administrator, only that part of the proceeds obtained for these fruits which is surplus to requirements after adjustment of the order of pledge including ancillary charges shall be part of the administrative proceeds; if execution is not carried out by the creditor himself, the disposal shall be incumbent on the administrator. The same shall apply with regard to the income already due at the time of transfer of the property to the administrator, which had not yet been collected but had already been seized.

Direct correction from administrative income Art. 76

1) The expenses connected with the administration and ordinary economic use of the real property shall be adjusted by the administrator from the proceeds without further proceedings.

2) These expenses include in particular:

a) taxes and other public charges payable on the real property during the forced administration, including interest on arrears;

b) the obligations of the obligor under insurance contracts, provided that such contracts have been concluded in respect of the managed property, individual parts thereof, the appurtenances or the inventories included in the management;

c) the wages and other salaries of the persons working for the administered property that fall due during the receivership and those in arrears from the last six months prior to the granting of the receivership;

d) the costs of forced administration, the costs of maintenance and necessary improvement of the property and the advances made to temporarily defray these costs;

e) the interest, annuities, maintenance payments and other recurring payments due during the receivership arising from uncontested claims and rights secured on the real property, as well as the installment payments calculated to repay the principal, which are to be effected by annuities or by equal installments due in periods of not more than one year on the basis of an incontestable agreement made prior to the granting of the receivership.

3) The direct adjustment of the expenses listed under subparagraph (e) shall only be admissible to the extent that the relevant subscription rights undisputedly enjoy priority over the satisfaction right of the creditor seeking satisfaction.

Art. 77

1) The expenses necessary for the maintenance and management of the real property, including the services referred to in Art. 76, para. 2, subparas. b and c, shall be paid from the proceeds before the taxes and public dues (Art. 76, para. 2, subpara. a) falling due during the forced administration.

2) The payments referred to in Art. 76 para. 2 subpara. e shall be governed by the ranking in the land register.

Distribution of surplus income Art.

78

The distribution of the income remaining after deduction of the directly adjusted expenses (Art. 76) (surplus income) shall, as a rule, take place after the settlement of each individual administrative account.

Art. 79

The court shall convene a hearing to discuss the distribution. In addition to the obligor and the competent tax authority, the petitioning creditor and all persons for whom, according to the excerpt from the land register to be submitted, claims and rights obligating them to monetary payments are based on the real property or on the rights attached to the real property shall be summoned to attend. These latter persons shall not be summoned if their claims have been directly adjusted from the proceeds. If the real property is used for

If there are liens on bearer bonds, a curator shall be appointed to safeguard the rights of the creditors and summoned to the hearing.

Art. 80

Out of the surplus income to be distributed, adjustments shall be made in the order set forth below:

a) the claims of the administrator for reward and reimbursement of the administrative expenses disputed by him, insofar as they are not already covered by the advances granted (Art. 72);

b) to the extent that they have not already been paid directly from the proceeds within the meaning of Art. 76, the taxes and public dues referred to in Art. 76, para. 2, subpara. a, together with interest on arrears;

c) to the extent that they have not already been adjusted in accordance with Art. 76 (2) (e), the interest, annuities, maintenance payments and other recurring payments due during the receivership from claims and rights secured on the real property, including the capital instalments referred to in Art. 76 (2) (e), in the order of priority accorded to the subscription rights themselves, provided that these subscription rights have priority over the creditor making the claim.

Art. 81

1) The sums remaining after adjustment of these payments shall be used to redeem the claim for the collection of which compulsory administration has been granted. If there are several creditors enforced by sequestration, the time specified in Art. 66 shall determine the order of payment of their claims, unless one of them is entitled to priority on the basis of a previously acquired lien. The creditor lagging behind in this respect shall be given priority when all the preceding claims of the other creditors seeking enforcement, together with the three years' interest and other arrears, legal costs and execution costs, have been repaid.

2) Claims ranking equally among themselves shall be settled in proportion to their total amounts. The claims of the petitioning creditors shall, with regard to the satisfaction out of the surplus income, take precedence over the taxes and public levies which are not secured by lien.

3) The remaining part of the surplus proceeds shall be used to adjust the payments referred to in Art. 80(c) which become due during the forced administration and which are subordinate in rank to the satisfaction rights of the debtor creditor. Any remainder after the adjustment of all such claims shall be allocated to the obligor.

Art. 82

1) The claims listed in Art. 80(a) to (c) shall be taken into account in the distribution only upon application by the creditors. However, the claims in favor of which forced administration has been granted shall be included in the distribution ex officio.

2) In order to avoid exclusion from the distribution in question, the application must be made at the latest at the scheduled meeting; it may also be made in writing. The application shall state the amount claimed to be allocated from the surplus earnings.

3) Creditors whose claims are subject to filing shall be informed at the time of filing of the legal consequences of failure or omission to file.

Art. 83

1) At the hearing, the applications made and the claims to be considered ex officio, as well as the order and manner of their satisfaction, shall be discussed.

2) Objections raised against the payment of individual claims or their interest from the surplus income, against the order of payment requested, against the amount of the sums to be paid out or against the entitlement to receive the payments shall be referred to the courts only if the decision on the objection depends on the determination and establishment of disputed facts.

3) All creditors whose claims could be considered in the event of the loss of the disputed right from the surplus proceeds shall be entitled to file objections. The obligor may only object to the consideration of such claims for which there is no execution title.

4) The further procedure in the case of filing of objections, the legal consequences of the failure to file an action, the issuance of the distribution order, the payment of the allocated amounts to the entitled persons and the influence of pending objection proceedings on the execution of the distribution order shall be determined in accordance with the provisions established for the distribution of the highest bid.

Termination of forced administration Art. 84

1) The forced administration shall be discontinued ex officio when all claims, including ancillary charges, for the collection of which the forced administration was granted have been settled.

2) The court may order the discontinuation of the forced administration ex officio or upon application if the continuation of the forced administration would require special costs which cannot be met from the income from the real property and the executing creditor does not advance the necessary amount of money, or if income which could be used to satisfy the executing creditor cannot be expected at all or cannot be expected for a longer period of time.

3) The parties shall be heard prior to ex officio termination.

4) Furthermore, the forced administration may be discontinued at any time at the request of the creditor seeking enforcement. If receivership takes place simultaneously in favor of several creditors, the application for discontinuation of receivership filed by only one of them shall only have the effect that this creditor loses the rights and obligations of a debtor creditor, the priority notice of the receivership executed in his favor shall be cancelled and the claim of this creditor shall be taken into account in the future in the distribution of the proceeds only in accordance with its other security (Art. 76 para. 2 subpara. e and 80 subpara. c).

Art. 85

1) The forced administrator and all parties involved shall be notified of the discontinuation of a forced administration.

2) The court shall cancel the priority notice of the compulsory administration of the property in the land register, and shall also cancel the priority notice of the compulsory administration of the property in the land register. The court shall order the deletion from the register of the notice of forced administration.

The court shall order the administrator to hand over the property to the obligor, to notify those persons who have been ordered to pay the administrator in accordance with Art. 69, and to reimburse the obligor for the costs incurred.

final invoice. Any residual amount resulting from the final invoice shall be surrendered to the obligor.

Art. 86

Appeal

An appeal is inadmissible against the resolutions referred to in Articles 62 and 63, as well as against the resolutions by which

a) third persons are notified of the granting of forced administration and of the appointment of the administrator in accordance with Art. 69;

b) the extent of the residential premises to be given to the obligor is determined (Art. 67);

c) the administrator shall be given instructions on the manner of administration (Art. 68) and on the payment of the expenses referred to in Art. 76;

d) the court orders the correction of perceived deficiencies and irregularities in the management of the administrator and appoints a new administrator (Art. 73);

e) the timing of the distribution of the surplus income is determined (Art. 78).

3rd department foreclosure

Art. 87

Forced sale

1) In favor of an enforceable pecuniary claim, the compulsory sale of a property of the obligor may be granted upon the application of the operating creditor.

2) Retrieved

3) In addition to the petitioning creditor and the obligor, all persons for whom a personal right is registered in the land register or for whom claims secured by lien are liable shall be notified of the granting of the auction.

4) Contractual rights of first refusal cannot be exercised at the forced sale. Statutory rights of pre-emption may only be exercised at the auction itself and on the terms on which the property is awarded to the successful bidder. Agreements within the meaning of Art. 63 para. 1 of the Property Act granting preferential rights to the preemptors shall not be observed at the auction.

Art. 88

Curator

1) In compulsory auction proceedings, a curator shall be appointed to whom the summons shall be served for persons whose summons can probably not be issued in time or has been attempted in vain. If there is no reason to fear a conflict of interests, the same person may be appointed curator for several parties. The appointment of the curator may be announced by edict.

2) The curator shall represent the person for whom he is appointed until the latter appears himself or nominates another representative to the court, or his interests no longer require further representation.

3) If there are liens on the property for bearer bonds, a curator shall also be appointed to safeguard the rights of the creditors.

Art. 89

1) The court shall ex officio order that the initiation of the auction procedure in respect of the real property concerned be recorded in the land register. The name of the petitioning creditor and the fully enforceable claim shall be stated in the priority notice.

2) The priority notice of the commencement of the auction proceedings shall have the effect that the approved auction may be held against any subsequent purchaser of the real property, and that the creditor in whose favor the priority notice is made shall have priority with respect to the satisfaction of his enforceable claim, including ancillary fees, from the proceeds of the auction, over all persons who only later acquire rights in the real property under the register or obtain the auction of such real property. The priority of the right of satisfaction of the creditor concerned shall be determined by the date and time at which the request for execution of the priority notice is received by the Office of Justice.

has been received. If a lien was previously acquired for the enforceable claim, it is not the priority of the priority notice but the priority of the lien that is decisive.

3) If the auction procedure is impracticable according to the status of the land register, the court shall proceed in accordance with the provisions of Art. 64.

Art. 90

Accession

1) After the initiation of the auction proceedings has been registered in the land register, special auction proceedings may be instituted in respect of the same real property for the benefit of further enforceable claims as long as the auction proceedings are in progress.

no longer be initiated.

2) All creditors who, during the pendency of an auction procedure, are granted the forced sale of the same property, thereby accede to the auction procedure already commenced; they must accept it in the position it is in at the time of their accession.

3) From then on, the intervening creditors shall have the same rights as if the proceedings had been initiated at their request.

4) The court which authorizes the auction of the same property shall notify the creditor who has filed the application for the auction of the pending auction proceedings to which he has acceded. The court shall also inform the obligee and the creditors at whose request the auction proceedings have been instituted or who have previously acceded of any such accession.

Description and estimation

Art. 91

1) The court shall order the appraisal of the property to be auctioned; the appraisal shall not be carried out before the expiry of three weeks from the date of the legally binding grant of the auction. The obligor and the petitioning creditor shall be notified of the scheduled appraisal and of the time and place thereof.

1a) Locked house and apartment doors may be opened even if the property is occupied by a third party

and the doors are locked at the time of the estimate notified to the third party; Art. 13 par. 2 shall apply mutatis mutandis.

2) At the same time as the appraisal, the property belonging to the real estate (Art. 23 Property Law) shall be described and appraised in favor of the enforceable claim of the executing creditor.

Art. 92

1) The order of appraisal of the property may be dispensed with if the property was appraised on the occasion of earlier judicial proceedings, no more than two years have elapsed since then and there has been no substantial change in the nature of the property in the meantime. Subject to the same condition, a new description and appraisal of the appurtenances of a property may be dispensed with if neither the nature nor the extent of these appurtenances have changed significantly since then.

2) In such a case, the result of the previous description and appraisal shall be used as a basis for the auction procedure.

3) The adoption of the resolution shall be preceded by an agreement of both parties or, if there is a request, of the opponent of the applicant.

Art. 93

1) The bailiff shall be entrusted with the description and valuation. If necessary, the court shall entrust the valuation to an expert.

2) The valuation shall be carried out by establishing the market value.

3) In the appraisal of real property, the value of the real property shall be stated if the easements, encumbrances and reserved personal rights encumbering it are maintained, as well as its value without such encumbrances; in addition, the easements, encumbrances and reserved personal rights encumbering the real property shall be appraised separately and the capital amounts corresponding to them shall be stated in the appraisal report.

4) Retrieved

5) Retrieved

6) If there are encumbrances on a property which pass to the purchaser by operation of law (public-law encumbrances), only the value which the property would have if the encumbrance were maintained is to be stated. A separate appraisal of the right arising from the encumbrance is not required.

7) For the purpose of determining the value of the real property in the event of the maintenance of the aforementioned encumbrances, the resulting reduction in income, if the performance or toleration is limited to a certain number of years or to the lifetime of the entitled person, shall be capitalized in the former case according to the number of years remaining (in no case, however, according to a duration of more than twenty years), in the latter case according to a duration of already ten years, and the capital shall be deducted from the value of the real property determined without regard to the encumbrance; in the case of a perpetual charge, the value of the charge shall be deducted from the market value at twenty times the annual reduction in income.

8) The valuation of the rights arising from the encumbrances shall be based on the interest of the beneficiary in the maintenance of the encumbrance, capitalized in accordance with the provisions of subsection 7.

9) If there is more than one parcel of land to be appraised that is farmed as a whole, the appraisal shall indicate what the value of each parcel of land is in itself

and what the value of all the properties together as an economic entity is.

10) If a lien is registered for a claim on several properties (Art. 270 Property Law), the properties that are not auctioned must also be valued.

11) The description and appraisal of the real property shall be carried out in accordance with the provisions on the attachment of movable property.

12) The parties have the right to point out all circumstances that are essential for the determination of the appraisal value.

Art. 94

1) On the basis of the appraisal report submitted, the court shall determine the appraised value to be used as a basis for the execution proceedings, applying the principles of Sec. 272 Code of Civil Procedure. In this connection, the values of the easements, encumbrances and reserved personal rights, which have priority over the right of satisfaction or

The court shall, if necessary, conduct further investigations prior to its decision. If necessary, the court shall conduct further investigations before passing a resolution.

2) The decision on the determination of the appraised value shall be served on the petitioning creditor, the obligor and all persons for whom rights and encumbrances in rem are established on the real property. They shall be entitled to raise objections to the amount of the appraised value within 14 days. On the basis of such objections, the court shall, if necessary, make a final decision on the amount of the appraisal value after having arranged for supplements or improvements to the appraisal report. There shall be no appeal against this decision.

Art. 95

Auction conditions

The conditions specified in Articles 96 to 105 shall apply to the

execution of the forced sale.

Vadium

Art. 96

1) Each bidder shall provide a security (vadium) in the amount of one tenth of the appraised value of the land together with its appurtenances.

2) No security shall be required from persons bidding on behalf of the Land, a municipality or any other corporation, institution or foundation under public law.

3) The collateral can be cash, Liechtenstein securities or the guarantee of a Liechtenstein bank.

Art. 97

1) The vadium deposited by the highest bidder shall be held in judicial custody until the obligations incumbent on the successful bidder under the terms and conditions of the auction have been fulfilled in full or until the knockdown has been refused with final effect.

2) The security provided shall be returned to the other bidders at the end of the auction and this shall be mentioned in the minutes, together with the bidder concerned.

3) Any item deposited with the court as security for the Highest Bidder shall be liable as a pledge for all claims against the Highest Bidder arising from the auction from the time of its delivery.

Art. 98

Acceptance of loads

Easements, encumbrances and registered personal rights, which have priority over the satisfaction right or over the lien of the petitioning creditor, must be taken over by the purchaser without deduction from the highest bid, but the encumbrances following the petitioning creditor shall only be taken over insofar as they are covered in accordance with the order of priority to which they are entitled in the assets to be distributed. In the event that there is more than one debtor, only those encumbrances shall be taken over without deduction from the highest bid which precede the debtor creditor having the highest priority.

Art. 99

Lowest bid

1) Bids which do not reach the amount of any lien claims, including ancillary charges, ranking prior to the petitioning creditor and half of the appraised value of the property, including its appurtenances, may not be taken into account in the auction. In the case of more than one creditor, the calculation of the preceding lien claims shall be based on the creditor with the highest rank.

2) If the bid at the auction is lower than the lowest bid, the sale of the real estate shall not take place. Upon a request to be filed within two years, another auction shall be held. The new auction shall be held in accordance with the provisions applicable to the first auction.

Correction of the highest

bid Art. 100

1) The highest bid shall be deposited with the court within two months from the date on which the award becomes final. If the transfer of ownership is subject to the Real Estate Transactions Act, the period shall commence upon the legal validity of the

approval of the land transfer authorities. The amount to be paid shall be reduced by the amounts attributable to claims of lien creditors who are likely to be awarded from the highest bid and who agree to the assumption of the debt by the Purchaser or to claims, easements and encumbrances secured by lien which have to be assumed by the Purchaser against the highest bid. Arrears of pensions, maintenance payments and other recurring benefits, arrears of interest on the claims intended to be taken over as well as costs of litigation and execution may not be taken into account in this calculation.

2) The vadium deposited with the court shall also reduce the amount of the highest bid to be deposited.

3) The Purchaser shall pay interest on the highest bid, insofar as it is not to be set off against claims and encumbrances, at the statutory rate of interest from the date of the acceptance of the bid until the date of payment. This interest as well as the interest on the highest bid instalments paid in cash shall fall within the distribution mass.

4) The fees payable for the acquisition of the land may not be included in the highest bid.

5) With the consent of the creditor seeking enforcement and of the creditors secured by lien on the real property, the judge may, upon application, determine other provisions regarding the adjustment of the highest bid.

Art. 101

1) The Purchaser may terminate claims secured by lien taken over by him in credit against the highest bid on a six-month basis and repay them without regard to the provisions applicable to repayment under the contract.

2) If shorter periods of notice apply under the contract, these shall be to the benefit of the issuer.

Auction again

Art. 102

1) If the highest bid is not duly adjusted by the Purchaser in due time, the property shall be re-auctioned upon request at the expense and risk of the defaulting Purchaser. The

The application may be filed by the creditor seeking enforcement, by any creditor whose claim is secured by a lien on the real property, and by the obligor.

2) The re-auction shall not take place if the defaulting purchaser deposits the arrears of the highest bid instalments, which are to be adjusted by cash deposit, together with interest in favor of the court at the Landesbank and submits the relevant receipt to the court before the expiry of the period for appeal against the granting of the re-auction. The first auction shall cease to have effect upon the granting of the re-auction becoming final.

3) The re-auction shall be carried out by applying mutatis mutandis the provisions applicable to the first auction.

4) The new auction date shall also be notified to those persons for whom rights in rem and encumbrances have been created or rights of repurchase and rights of first refusal have been registered only after the first auction has been held.

5) The defaulting purchaser may not bid at the re-auction.

Art. 103

1) The defaulting Purchaser shall be liable for the loss of the highest bid resulting from the re-auction, for the costs of the re-auction and for all other damage caused by his default, both with the vadium and the highest bid instalments made and with his other assets.

2) The loss of the highest bid and the costs of the re-auction shall be determined ex officio by order of the court; insofar as these amounts cannot be adjusted from the vadium and the highest bid instalments paid, execution shall take place for their recovery after the order has become final. Such execution may be applied for at the court by the petitioning creditor as well as by any of the other persons entitled to the highest bid and may be carried out in favor of the distribution estate.

3) On the amount by which the highest bid achieved at the re-auction exceeds the

If the highest bid of the first auction is exceeded, the defaulting buyer has no claim.

4) If the re-auction is unsuccessful, the difference between the lowest bid (Art. 99) and the highest bid of the defaulting Purchaser shall be deemed to be a shortfall in the highest bid.

Transfer of risk, uses and encumbrances and handover of the property

Art. 104

1) The risk of the property sold at auction shall pass to the Purchaser on the day of the acceptance of the bid. This shall also apply if the transfer of ownership is subject to the Land Transfer Act. From that day on, he shall be entitled to all fruits and income from the land. On the other hand, from that day on, he shall bear the burdens connected with the ownership of the property, insofar as they are not extinguished by the auction procedure, as well as the taxes and public dues payable on the property, and shall pay interest on the debt amounts assumed in consideration of the highest bid.

2) The handing over of the real property as well as the sold appurtenances to the first bidder and the registration of his right of ownership in the land register shall take place only after all conditions of the auction have been fulfilled. The transfer of the real property shall be executed in accordance with the provisions of Art. 253. The costs of a forced eviction shall be determined by order of the court; the obligor shall be ordered to pay them to the purchaser.

Art. 105

1) If the award is legally annulled or if it loses its effectiveness as a result of the granting of a re-auction or the judicial acceptance of an overbid, the purchaser shall reimburse the fruits and income received. However, if the auction is not resumed due to his default, he may deduct the taxes and public dues paid by him in the meantime, the costs incurred in obtaining the fruits and income, and the interest on the highest bid instalments paid by the court, from the respective day of payment.

2) The restitution of the fruits and income received shall be ordered by the court upon the application of one of the persons referred to in Art. 102 par. 1; in this connection, the costs incurred by reason of the utilization of the fruits and income shall be borne by the person concerned.

to make the necessary arrangements. Prior to the issuance of the order, the former inheritor shall be consulted. After the decision has become final and absolute, the creditor who has filed the petition and any of the other persons who have been allocated the highest bid may file the

execution may be applied for against the assets of the former purchaser and executed in favor of the distribution estate.

3) The amounts refunded and the proceeds obtained for refunded fruits shall be taken into judicial custody.

Interim administration

Art. 106

1) As long as the real property sold at auction has not yet been delivered to the Purchaser, the petitioning creditor and any creditor secured by lien on the real property may file an application for an order of temporary administration of the real property sold at auction.

2) The initiation of such administration may also be requested by the Purchaser at the auction date or later, provided that he/she is not in default with the fulfillment of the auction conditions.

Art. 107

The provisions on compulsory administration shall apply mutatis mutandis to such temporary administration, with the following exceptions:

a) unless in individual cases there are objections to this with regard to the person of the purchaser or for other important reasons, the purchaser may be appointed as administrator;

b) the influence on the administration granted to the petitioning creditor shall be due to the same extent to the creditor who petitioned for the administration after the auction and, if he is not the administrator himself, to the purchaser, as long as he is not in default with the fulfillment of the conditions of the auction;

c) the administration ends with the final termination of the auction proceedings or with the transfer of the real estate to the purchaser (Art. 104, para. 2); if the court orders the transfer of the real estate to the purchaser, it shall issue the orders required by Art. 85;

d) from the proceeds only the costs of administration and the expenses referred to in Art. 76 para. 2 let. a to c, insofar as they become due during the administration; the other proceeds shall be deposited by the court and shall be handed over to the Purchaser only after all the conditions of the auction have been fulfilled; if the award is rescinded earlier by a final court decision or if it loses its validity as a result of the granting of the re-auction or the acceptance of an overbid by the court, the proceeds deposited by the court shall fall into the distribution estate;

e) In place of the Purchaser, another administrator may be appointed ex officio or upon request, if the Purchaser defaults in the fulfillment of the auction conditions or if the acceptance of the administration appears necessary or expedient for other serious reasons.

Art. 108

An administration ordered in accordance with Art. 106 shall continue until the transfer of the property to the new purchaser if the award is rescinded with final effect or if it loses its effectiveness as a result of the granting of a re-auction or the acceptance of an overbid by the court. The administration shall be taken over from the former purchaser. In place of the former administrator, the new purchaser may be appointed administrator at his request under the conditions specified in Art. 107(a).

Art. 109

1) A forced administration initiated in favor of a creditor before the date of the auction shall be transferred without interruption to an administration in favor of the successful bidder as of the date of the award of the bid (Art. 106 to 108). The administrator shall be notified of the award ex officio. On application, the purchaser may be appointed administrator in his place under the conditions specified in Art. 107(a).

2) The distribution of the proceeds attributable to the period prior to the day of the award shall be effected in accordance with the provisions of Articles 78 to 83; if the sale proceedings are discontinued prior to their conclusion, the distribution of the proceeds shall be effected for the benefit of the successful bidder without regard to any intervening administration.

Art. 110

Auction date

1) After the legally binding determination of the appraisal value, the court shall determine the auction date by public announcement (edict).

2) At the discretion of the court, the auction shall be scheduled for a period of two to three months. A period of at least six months must elapse between the granting of the auction and the date of the auction; however, this provision shall not apply to reauctions.

Auction Edict Art.

111

The auction edict must contain:

a) a clear designation of the real property to be auctioned, with a brief description of the appurtenances to be auctioned together with it, an indication of the value of the real property and the appurtenances, and, in the case of an auction of shares in real property, also an indication of the size of the share;

b) Time and place of the auction;

c) the notification that bids which do not reach the amount of any lien-secured claims, including ancillary charges, ranking prior to the petitioning creditor, and half of the appraised value of the real property, including its appurtenances, may not be considered at the auction;

d) notification that the conditions specified in Articles 96 to 105 of the Execution Code apply to the execution of the forced sale, and that the deeds, appraisal records, etc. relating to the real property may be inspected at the court;

e) a request to notify the court of any rights to the property that would render the auction inadmissible, at the latest before the auction begins, otherwise they can no longer be asserted to the detriment of a bona fide purchaser.

Art. 112

1) Copies of the edict of auction shall be delivered to the obligor, the creditor concerned, the competent tax authority, the municipality in which the real estate to be auctioned is located, and all persons for whom rights and encumbrances in rem exist on the real estate or on the rights liable on this real estate or for whom pre-emptive rights are registered. If a co-ownership share which is not structured as condominium ownership is auctioned off, a copy of the edict shall also be sent to each co-owner at the address indicated in the land register.

2) Creditors with claims secured by lien on the real property, with the exception of simultaneous lien creditors (Art. 270 Property Law) and creditors with conditional claims, shall be requested at the same time to state whether they agree to the assumption of the debt by the Purchaser with simultaneous release of the existing debtor.

3) Creditors for whom claims secured by lien on the property are liable, which take precedence over the satisfaction right or the lien of the petitioning creditor, are furthermore to be requested to notify the court of their claim including ancillary charges by the auction date, otherwise their claims would be determined on the basis of the files and under observation of the principles stated in Art. 117 para. 2.

4) The creditors for whose claims there is a statutory lien on the property to be auctioned without entry in the land register shall be requested to notify the court of their claims, including ancillary fees, by the date of the auction, failing which claims which are filed later would be adjusted only after the full satisfaction of the petitioning creditor from the assets of the auction sale.

5) The service of the auction edict shall be effected in accordance with the provisions applicable to the service of legal actions.

6) The auction edict shall be published in accordance with Art. 46. Publication abroad may be ordered if not enough interested parties are to be expected for the object to be auctioned in Switzerland. In addition, the date of the auction shall be announced in the municipality in which the property to be auctioned is located in the manner customary in the locality.

Art. 113

A copy of the edict of auction shall also be delivered to the persons in whose favor the transfer of rights in rem and encumbrances has been requested since the registration of the initiation of the forced sale.

Art. 114

1) In the period between the announcement and the commencement of the auction, the obligor shall allow prospective purchasers to inspect the property and its appurtenances. Third parties must also tolerate the inspection.

2) At the request of the petitioning creditor or of a party interested in bidding, the court shall fix specific days and hours for the inspection, taking into account the circumstances of the obligor and the requirements of undisturbed business operations. The obligor and third parties shall be notified of the inspection time.

3) Locked house and apartment doors may also be opened if the property is occupied by a third party and the doors are locked at the time of the inspection, which was announced to the third party. Art. 13 para. 2 shall apply mutatis mutandis.

Art. 115

1) The auction shall be held in public; as a rule, it shall be held at the place where the property to be auctioned is located. For important reasons, the auction may be held in the court building.

2) The judge shall be in charge of the hearing and the auction. He is authorized,

to make all orders necessary for the preservation of peace and order, as well as for the prevention of unauthorized appointments, intimidation and other prevention of bids, and to carry them out compulsorily, if necessary with the assistance of the security organs. If possible, he shall decide on all objections and motions raised during the auction at the hearing.

Art. 116

After the case has been called, the conditions of the auction shall be announced at the auction upon request. The judge shall then determine the claims of the creditors with regard to the correction of their claims and the

The auctioneer shall read out the declarations made by the purchaser on the assumption of the debt (Art. 112 par. 2) and the pledges filed by the creditors (Art. 112 par. 3 and 4). He shall also announce the order in which several plots of land belonging to the same debtor or shares in plots of land which are to be auctioned at the same time are to be offered for sale. Upon request, he shall also provide information on further circumstances concerning the property to be auctioned.

Load status

Art. 117

1) On the basis of the notifications submitted by the creditors pursuant to Art. 112 paras. 3 and 4 or, if no such notifications have been submitted, on the basis of the status of the land register and the files, the judge shall determine ex officio the total amount of the lien claims ranking prior to the satisfaction or lien rights of the petitioning creditor, taking into account any changes made at the auction (encumbrance status).

2) Unless otherwise stated in the declarations of the parties involved or in the files at hand, conditional claims shall be treated as unconditional and aged claims as due when determining the status of encumbrances; in the case of claims to recurring benefits, the current capital value of the subscription right shall be applied; interest-bearing claims shall have one year's interest arrears added to them, and in the case of rights to receive recurring benefits, one year's arrears of the benefits that have become due shall be assumed. Simultaneous mortgages shall be taken into account for each plot of land in accordance with the ratio specified in Art. 152, para. 2; the assessed values determined shall be taken as a basis instead of the remainders of the distribution masses.

3) Receivables of indeterminate amount are to be recognized according to the maximum amount stated.

4) Encumbrances and rights which are to be taken over by the successful bidder without deduction from the highest bid or which are to be extinguished after completion of the auction procedure without entitlement to compensation (Art. 98) shall not be taken into account in determining the encumbrance status.

Art. 118

The judge shall announce the amount determined in accordance with Art. 117 and the lowest bid (Art. 99) at the auction.

Art. 119

1) After the announcement of the lowest bid, bidding will be invited.

2) The judge conducting the auction may prescribe auction levels. The specified auction levels may not exceed 3% of the appraised value.

Art. 120

1) The obligor is excluded from bidding in his own name and in the name of third parties. The same shall apply to the judge presiding over the meeting, the secretary and the caller.

2) Bids of a representative may only be admitted if documentary evidence of the power of representation is furnished. If such proof is furnished to the judge before the auction begins, the judge may, upon application and for good cause shown, permit the name of the principal to be disclosed to the public only after the auction has closed.

3) Representatives of the obligor shall not be admitted to bid.

4) Bids that do not comply with the auction conditions, in particular bids from persons who have not paid the vadium required by the auction conditions, shall not be admitted.

5) Any bidder whose bid has been admitted shall remain bound by the same until a higher bid is submitted. The bidder shall be released from its obligation if the procedure is discontinued.

6) After the highest bid has been called out three times, the judge shall invite the holders of a statutory right of first refusal present or represented to pronounce on the exercise thereof. Until this has been done, the highest bidder shall remain bound by his bid.

Art. 121

1) The auction shall continue as long as higher bids are submitted.

A short period of consideration may be granted upon request.

2) The auction shall be closed if no higher bid is submitted despite two invitations.

3) Before the end of the auction, the judge shall announce the last bid once again. The end of the auction shall be announced.

Art. 122

Award of the contract

1) The highest bidder whose bid has been found admissible by the judge shall be knocked down immediately at the auction and this decision shall be announced. A written copy of the decision shall be delivered to the obligee, the creditor concerned and the highest bidder within eight days of the auction. If the transfer of ownership is subject to the Land Transfer Act, the award shall be made subject to reservation and shall be declared legally effective upon receipt of the approval of the land transfer authorities.

2) This copy shall specify the property sold at auction, the property to be transferred to the successful bidder, the successful bidder, the bid for which, and the conditions under which the bid was accepted. The description of the appurtenances may be made by reference to the description and valuation records kept by the court, and the conditions of the award may be made by reference to the conditions of the auction.

3) The award of the bid shall be announced within eight days after the date of the auction by publication in the Official Gazette. The announcement of the acceptance of the bid shall state the amount of the highest bid, the time limit for overbidding and the minimum amount of the admissible overbid.

4) The provision of paragraph 3 shall also apply if the award is granted only on the basis of an appeal.

5) If one of the entitled persons declares, after being requested to do so by the judge pursuant to Art. 120 para. 6, that he wishes to exercise the statutory right of first refusal to which he is entitled at the price offered, the bid shall be accepted.

Art. 123

Refusal of the surcharge

1) The decision to refuse the acceptance of the bid shall also be announced in the auction court and delivered within eight days to the persons referred to in Art. 122 par. 1.

2) After this decision has become final, the security provided by the highest bidder shall be returned and the auction proceedings shall be discontinued. The persons mentioned in para. 1 shall be notified thereof.

3) In the event of discontinuation, the creditor who has filed the petition shall not be entitled to reimbursement of the costs of the auction proceedings; several creditors who have filed the petition shall bear the costs in proportion to their claims.

Art. 124

1) The rights of the acquirer acquired by the final award of the auction cannot be challenged because the execution title on which the granting of the forced sale is based has been revoked or is subsequently revoked.

2) The Purchaser shall not be entitled to claim warranty on the grounds of inaccuracy of the information contained in the files concerning the auctioned real property or its accessories.

Art. 125

Minutes of the auction

1) The minutes of the auction shall state in particular:

a) the names of the judge, the secretary and the persons present who were to be notified of the auction;

b) the time of the beginning of the appointment, the invitation to submit bids and the closing of the auction;

c) the names of the bidders and the security provided by each of them;

d) all bids made at the auction, admitted or rejected by the judge;

e) the award decision announced in the appointment;

f) the provision of the vadium to the bidders.

2) The minutes must also be signed by the persons who participated in the auction file as bidders.

Overbid

Art. 126

1) If the highest bid for which the bid was accepted does not reach three quarters of the appraised value of the land and its appurtenances, the auction may be cancelled.

be rendered ineffective by an overbid.

2) Such an overbid shall be taken into consideration if the overbidder is not prevented from bidding at the auction and if he agrees to pay a price exceeding the previous highest bid by at least the fourth part and to comply with the conditions of the auction.

Art. 127

1) The overbid must be submitted to the court within 14 days after the announcement of the acceptance of the bid (Art. 122). At the same time, proof must be furnished to the court that the overbidder has secured the fourth part of the purchase price offered by him by judicial deposit of cash or Liechtenstein securities or by the guarantee of a Liechtenstein bank.

2) Withdrawal of the overbid is not permitted.

Art. 128

The Purchaser shall be notified of any overbid. He may invalidate the overbids made by increasing his highest bid to the amount of the highest overbid within three days after he has been notified of the last overbid received in due time. The declaration shall be made in writing or on the record and may not be withdrawn.

Art. 129

1) After expiry of the time limit set for the declaration of the successful bidder, the court shall decide on the acceptance of the overbids received. If the successful bidder increases the highest bid pursuant to Art. 128, all overbids shall be rejected. Otherwise, among several overbidders, the

In the event of equal bids, the winner shall be the one who has offered the highest price.

2) The successful bidder, the overbidder, the creditor seeking enforcement, the obligor as well as all persons who have filed an appeal against the acceptance of the bid preceding the overbid shall be notified of the decision and may appeal against it. Failure to challenge the court's acceptance of the bid by those who have filed an appeal against the award of the bid shall be deemed to be a withdrawal of such appeal.

Art. 130

1) When a court acceptance of an overbid becomes final, the earlier auction shall cease to be effective. The court shall ex officio accept the

The court shall cancel the previous acceptance of the bid and award the bid to the overbidder. This decision shall be notified in writing to the overbidder whose overbid has been accepted, to the obligor, to the creditor seeking enforcement and to the previous successful bidder within eight days after the acceptance of the overbid has become final (Art. 122 par. 2). Within the same period, the acceptance of the bid shall be announced by publication in the Official Gazette. No further overbid shall be admissible against the decision to accept the bid.

2) The overbidder whose overbid has been accepted shall be deemed to be the successful bidder from the day of the acceptance of the bid and shall fulfill all obligations incumbent upon the successful bidder under the provisions of this Act and the Conditions of Auction; on the other hand, he shall be entitled from that day to all benefits to which the successful bidder is entitled under the provisions of this Act or the Conditions of Auction from the day of the acceptance of the bid.

3) The vadium of the former successful bidder which is in the custody of the court, together with the accrued interest, the highest bid instalments already paid by him, together with the accrued interest, and the monies and securities paid by the non-admitted higher bidders shall be returned and bank deposits shall be released.

4) A temporary administration of the property granted under Art. 106 shall take place in favor of the overbidder from the time of the acceptance of the bid. If the property had already been transferred to the successful bidder, the court shall ex officio order provisional administration (Art. 107 et seq.).

Suspension and postponement of the auction proceedings

Art. 131

Except for the cases otherwise specified in this Act, the auction procedure shall be discontinued by resolution:

a) if a third party is willing to take over the property for a price that exceeds its appraised value by at least one quarter, and at the same time agrees to take into account all the assets that were considered to be upright when the appraised value was determined.

The obligor shall be obliged to take over all encumbrances brought into the company without deduction from this price and to bear all costs incurred by the obligor if this offer is approved by the persons referred to the highest bid who have appeared at the hearing on the offer and whose claims are not undoubtedly fully covered by the takeover price; an objection by the obligor shall not prevent the court from approving the application, but the obligor shall be obliged to pay all costs incurred by the obligor.

The provisions of Articles 140 to 165 shall apply to the distribution of the transfer price and to the entries in and deletions from the register;

b) if a pledgee redeems the enforceable claim in respect of which the auction has been granted, while at the same time reimbursing all costs incurred by the obligee, and applies for termination of the auction; such an application may also be filed by the debtor creditor who redeems the claim of all other debtor creditors while reimbursing the costs incurred by the obligee;

c) if the executing creditor refrains from continuing the execution before the beginning of the auction; a new auction may not be applied for on account of the executable claim of the executing creditor before the expiry of half a year since the cessation;

d) if, prior to the commencement of the auction, the obligor offers to satisfy in full all enforceable claims of all creditors, including ancillary charges, and to pay the costs of the auction proceedings which have accrued up to that time, hands over the sums of money required for this purpose to the judge presiding over the auction hearing or deposits them in court and requests that they be discontinued; if the costs of the auction proceedings have not yet been determined, an amount to be determined by the judge shall be handed over as security to cover them.

Art. 131a

Deferment of execution on account of a payment agreement under Art. 27a shall be possible until the commencement of the auction.

Art. 132

1) At the request of the obligor, instead of the auction proceedings, the forced administration of the real property in favor of the enforceable claim of the executing creditor may be ordered by a decision.

and the auction proceedings may be postponed if the average annual surplus income from the management of the real property to be auctioned is sufficient to cover the annuities or other principal payments agreed between the creditor and the debtor, including current interest.

2) The same may be done at the request of the obligor if, although the date of repayment of the enforceable claim was not agreed upon, such claim, including ancillary fees, is to be paid out of the expected surplus income in the course of

of a year can be repaid.

3) At the request of the obligor, the compulsory auction proceedings may be postponed for a maximum of seven months if he undertakes vis-à-vis the court to make monthly installment payments of at least one-eighth of the claim to be enforced, together with ancillary fees, to the petitioning creditor, and pays the first installment to the court at the same time as the request. If the claim to be enforced, including ancillary fees, amounts to 100 francs or less, the deferment may only be granted for partial payments of one quarter and for a maximum of three months. If the debtor fails to meet a partial payment deadline, the auction proceedings shall be continued at the request of the creditor seeking enforcement. A further postponement under this provision shall not be permissible.

4) A postponement of the compulsory auction proceedings pursuant to para. 3 may not be granted if it is not urgently required in the interest of the obligor or if it cannot be reasonably expected of the petitioning creditor under the circumstances.

5) The benefits of paragraph 3 do not apply to national and municipal taxes owed or to contributions owed to old-age and survivors' insurance, disability insurance, family equalization fund or unemployment insurance fund.

Art. 133

1) Applications for postponement of the auction proceedings based on Art. 132 paras. 1 and 2 must be filed within 14 days after notification of the obligor of the granting of the auction; applications under para. 3 may be filed until the date of the auction. Applications under Art. 131(a) which are not filed at least eight days before the scheduled auction date shall be rejected without further proceedings.

2) If the appraisal has not yet taken place at the time when the application for suspension or postponement is filed, the court may, upon application or ex officio, order that the appraisal shall not take place until a decision on the application has been made.

Art. 134

1) The applicant, the obligor, the creditor seeking to enforce the judgment and the persons referred to the highest bid whose rights or claims are to be suspended pursuant to Art. 132 paras. 1 and 2 shall be summoned to the hearing on a motion to suspend the judgment pursuant to Art. 131 letters a and b or on a motion to postpone the judgment pursuant to Art. 132 paras. 1 and 2.

are affected by the decision on the application according to the situation of the case. If the application is rejected, the applicant shall bear the costs of the hearing and of the setting aside which became necessary as a result of his application.

2) A decision on applications for suspension pursuant to Art. 131(c) and (d) shall be taken without oral proceedings. If necessary, the petitioning creditor shall also be heard on a petition for postponement pursuant to Art. 132 par. 3.

Art. 135

1) If an application is made for the taking over of the land (Art. 131 (a)), the auction proceedings shall, as soon as the security furnished by the applicant has been found by the court to be sufficient, be postponed in respect of the land to be taken over. The security provided shall, without prejudice to any claims against the applicant arising from the approved takeover, be forfeited in favor of the distribution estate if the applicant defaults in the payment of the takeover price and costs after his application has been approved. The provisions of Art. 103 para. 2 shall apply with regard to the collection of the takeover price together with interest.

2) After approval of the takeover and payment of the takeover price including additional fees, the court shall suspend the auction proceedings. In the event of default in payment of the takeover price, the suspended auction proceedings shall be resumed upon application or ex officio.

Art. 136

1) All parties involved shall be notified of any discontinuation or postponement of auction proceedings. At the same time, the creditor seeking enforcement shall be informed of the powers available to him under Art. 139 and of the time limit within which these powers are to be exercised.

2) After the announcement of the auction date, the suspension or deferral must also be publicly announced in the same manner as the announcement of the auction date.

Art. 137

1) If the discontinuation or postponement is for a reason that does not affect all creditors pursuing the auction proceedings in the same way (Art. 18 to 20, 21, 22, 27a, 123, 131 let. c, 132), the auction proceedings shall be continued for the benefit of the other pursuing creditors.

2) If, due to the withdrawal of a debtor creditor, the existing determination of the status of encumbrances no longer includes all the claims that are due to the now-

If the auction sale is preceded by an auction sale in which the debtor is the creditor with the highest priority, the court shall determine the missing items ex officio in due time before the auction sale.

Art. 138

1) After the expiry of 14 days from the legally binding discontinuation of the auction proceedings, the court shall ex officio arrange for the deletion of the entry in the land register of the initiation of the auction proceedings. The administrator of the real property appointed pursuant to Art. 106 or 130 shall also be notified of the legally effective discontinuation.

2) If the auction proceedings are discontinued only with regard to one or individual creditors, only those priority notices entered in the land register in favor of the creditor withdrawing from the auction proceedings shall be deleted.

Art. 139

1) Within the period specified in Art. 138, para. 1, all creditors in whose favor the commencement of auction proceedings has been registered in the land register (Art. 89) may apply to the court for the registration of a priority notice for their enforceable claims.

The lien on the property subject to execution shall be registered on the basis of the execution.

2) The fact that the property has been sold or encumbered by the obligor in the meantime shall not prevent such registration of the lien.

3) On the other hand, a petition filed pursuant to para. 1 may not be granted if the auction proceedings have been discontinued because execution proceedings in favor of the specific claim are inadmissible at all, because the execution title has been rescinded or declared invalid by a final court decision, or because the claim to be enforced has been corrected or denied to the creditor by a final court decision.

Distribution of Most

Bids Art. 140

1) At the latest after complete correction of the highest bid or the takeover price (Art. 131 let. a), the court shall convene a hearing to discuss the distribution of the highest bid or the takeover price.

2) The persons referred to in Art. 112 par. 1 and 113 shall be summoned to this hearing. Co-owners shall not be summoned.

3) The Purchaser shall be notified of the scheduling of the hearing, adding that he is free to attend the same.

4) The convening of the meeting shall also be announced by publication in the official gazette. A period of at least 14 days shall elapse between the publication in the Official Gazette and the date of the meeting.

Art. 141

The persons designated with their claims to the highest bid shall be requested at the hearing to declare their claims to capital, interest, recurring payments, costs and other ancillary claims before or at the hearing and to submit the documents serving as proof of their claims, if they are not already with the court, in original or certified copy at the latest at the hearing, otherwise their claims would only be taken into account in the distribution to the extent that they can be derived from the land register or the execution documents.

The application may also be made in writing. The registration may also be made in writing.

Art. 142

1) In the case of easements, encumbrances, registered inventory rights and other rights and encumbrances not to be taken over by the Purchaser according to the conditions of the auction and the result of the auction, the amount of the compensation claimed for non-transfer must be stated, but in the case of maximum mortgages (Art. 266 para. 2 Property Law) the amount for which satisfaction is claimed.

2) Any person who is willing to give up his secured right to payment of pensions and other recurring benefits and payments in exchange for a certain capital amount shall designate such amount.

3) After the end of the distribution hearing, an addition to the application is not permitted.

4) In the case of a maximum amount mortgage, the submission of the balance notification shall be sufficient to prove the amount outstanding at the time of the last balance notification that remained unchallenged by the obligor.

Art. 143

1) At the hearing, the persons present shall discuss the claims to be taken into account in the distribution of the highest bid and the order in which they are to be satisfied. The obligor shall present to the court or to one of the

The court shall be obliged to provide the persons present with the clarifications required for the examination of the correctness and ranking of the claims to be adjusted from the highest bid.

2) Claims that would not be eligible even if preceding disputed claims from the auction proceeds were to lapse are not to be included in the negotiation.

Art. 144

1) Against the consideration of filed claims or claims to be taken from the land register and the execution files in the distribution, against the amount of the capital and ancillary fees addressed and against the ranking requested for individual claims.

An objection may be raised by all entitled persons present at the hearing whose claims could be taken into account if the disputed right from the proceeds of the auction is eliminated. The obligor may only object to the consideration of such claims for which there is no execution title.

2) If an objection is raised, the judge shall, as far as possible, promote the achievement of an agreement. If such an agreement is not reached, all circumstances relevant to the court's decision shall be clarified by hearing the persons present who are affected by the objection.

3) The minutes of the hearing shall contain the essential content of the statements made by the parties which are relevant for the distribution.

Art. 145

1) After the results of this hearing, a decision on the distribution shall be made on the basis of the applications, the files of the auction procedure and the book statements supplemented up to the day of the publication of the award.

2) If the entitled persons concerned in the individual case are in agreement, the distribution shall be made in accordance with this agreement; otherwise, the following provisions shall be observed.

Art. 146

Distribution mass

Form the distribution mass:

a) the highest bid, the takeover price or the overbid, the amount given to increase the highest bid (Art. 128) and the interest thereon, insofar as the latter does not accrue to the purchaser in accordance with the provisions of this Act;

b) the proceeds of a temporary administration ordered during the auction proceedings (Art. 107 let. d);

c) the vadium of the defaulting purchaser and the highest bid instalments paid by the latter, insofar as they fall within the distribution estate in accordance with the provisions of this law, as well as the other compensation paid by the purchaser, including interest (Art. 103);

d) the refunds paid by the purchaser pursuant to Art. 105 and all other amounts flowing into the distribution fund pursuant to the provisions of this Act.

General principles of distribution

Art. 147

1) From the distribution mass are to be adjusted in the following order of priority:

a) if an administration has taken place during the auction proceedings in favor of the persons referred to the highest bid, the expenses and advances referred to in Art. 76, para. 2, subpara. d;

b) the claims, including ancillary charges, for which there is a statutory lien on the auctioned real estate, if they have been filed in due time (Art. 112 par. 4);

c) salaries and other emoluments of the personnel employed in the management of the real estate, which have been paid for the last six months prior to the date of the award;

d) the claims secured by lien on the real property, the claim of the creditor executing the execution which is not secured by lien, the cover for the easements and encumbrances to be assumed by the Purchaser against the highest bid, and the claims for compensation for registered civil rights as well as for other rights and encumbrances not to be assumed by the Purchaser according to the auction conditions and the result of the auction, all according to the ranking of the relevant entries in the books.

2) The court-ordered costs of proceedings and execution which have arisen as a result of the enforcement of one of the claims referred to in par. 1 letters b to d, and the interest, pensions, maintenance payments and other recurring benefits due under a contract or under the law and payable not more than three years before the date of the award shall enjoy the same priority as the capital or subscription rights. Art. 290, para. 1, item 3 of the Property Code remains reserved. The same priority as to the capital shall also be accorded to the claims

from a contract concluded in the event of early repayment of a claim secured by a book entry. If the distribution assets are insufficient, the ancillary charges shall be adjusted before the principal.

Art. 148

1) If the distribution fund has not been exhausted by the payments mentioned above, the interest, annuities, maintenance payments and other recurring payments due under a contract or under the law and in arrears for more than three years, insofar as they are subject to a lien, shall be adjusted from it according to the priority of the capital or subscription rights.

2) Any remainder of the distributive assets after adjustment of all such claims shall be allocated to the obligee.

Art. 149

1) In the event of insufficiencies of the distribution estate, the claims enjoying the same ranking, including ancillary charges, shall be adjusted in proportion to their total amounts.

2) Claims for the collection of which forced administration of the real property was ordered prior to the commencement of the auction proceedings shall be included in the ranking of the creditor's right of satisfaction pursuant to Art. 66 from the distribution estate, even though this creditor has neither secured the real property by way of lien nor joined the auction proceedings.

Art. 150

1) Claims to annual pensions, maintenance payments and other recurring payments secured by lien shall be adjusted from the distribution estate in such a way that first the benefits payable in arrears up to the date of the award (Art. 147 and 148) are paid and then the capital required to adjust the benefits payable from its interest from the date of the award is invested in an interest-bearing manner.

2) The capital released by the expiration of the subscription right shall, to the extent possible, be transferred in advance to the beneficiaries whose claims from the distribution fund are no longer fully satisfied and, in the absence of such beneficiaries, to the obligor, in accordance with the priority of their claims.

Art. 151

1) Claims secured by lien under a condition subsequent shall be adjusted by allocating the cash amount attributable to the claim in accordance with Art. 147 and 148; the creditor shall be required to repay the received for the

to ensure that the condition is fulfilled in the event of its occurrence.

2) If the security is refused, the amount required for the correction shall be invested in interest-bearing form for the period until the non-occurrence of the condition is certain. The interest accruing until then shall be allocated to the conditionally entitled creditor as substitute for the interest due to him under the contract, but if the claim is a non-interest-bearing claim, to the entitled persons no longer fully entitled from the distribution mass according to the ranking of their claims or, in the absence of such, to the obligor. The security shall be deemed to have been refused if the creditor does not declare his willingness to provide it at the last distribution meeting at the latest or if he does not provide the security offered in due time before the distribution decision takes legal effect.

3) In both cases, the occurrence of the condition within the meaning of Art. 150 para. 2 shall be taken into account accordingly in the distribution.

4) Claims in respect of which a notice of dispute or a priority notice of an action for cancellation has been entered in the land register shall be treated as claims subject to a condition precedent.

Art. 152

1) The amounts attributable from the distribution estate after cash adjustment of the ancillary charges due to the creditor pursuant to Articles 147 and 148 to claims secured by lien under a condition precedent shall be invested in an interest-bearing manner for the period until the occurrence of the condition.

2) The interest shall be allocated to the conditionally entitled creditor, but if the latter is not entitled to the interest, to the persons specified in Art. 151, para. 2. The provisions of Art. 150 para. 2 shall apply to the use of the capital released.

Art. 153

1) Claims for which a simultaneous mortgage has been created (Art. 270 Property Law) shall be adjusted by cash payment from the distribution estate (Arts. 147 and 148).

2) If all the properties with undivided liability for the claim are auctioned off, the individual distribution funds shall be used to satisfy the claims.

The claimant shall contribute to the distribution of the claim with that partial sum which relates to the claim including its ancillary charges as the remainder of the distribution mass remaining with each individual property after adjustment of the preceding claims relates to the sum of all these remainders.

3) If the creditor demands payment in a different ratio, the beneficiaries below who, as a result, receive less than if the

If the creditor would have taken his satisfaction pursuant to para. 2 from all the auctioned properties, he shall request that the amount which would have fallen to the undivided debtor according to the distribution provided for in para. 2 be transferred to him from the individual distribution funds to the extent that this is necessary to cover his shortfall.

4) If not all of the jointly mortgaged properties are put up for auction, the calculation of the compensation due to the following beneficiaries shall be based on the estimated values of all undividedly mortgaged properties instead of the residual amounts of the individual distribution masses. In this case, the claim for compensation of the following beneficiaries shall be registered in their favor on the non-amortized, jointly liable properties in the order of priority of the claim of the satisfied simultaneous lien creditor which has been redeemed in whole or in part and which is to be extinguished at the same time. The court shall order such registration upon application.

Art. 154

1) All other claims secured by lien shall be settled by cash payment. However, the creditor may still agree to the assumption of the debt as a credit against the highest bid by the successful bidder and to the release of the former debtor at the distribution hearing.

2) If claims secured by lien are adjusted by transfer, only the interest in arrears up to the date of the award and the other ancillary charges (Art. 147 and 148) shall be adjusted by cash payment from the distribution estate.

3) In the event of the adjustment of non-interest-bearing aged claims by cash payment, the amount attributable to the claim from the distribution fund shall be invested in an interest-bearing manner for the period until the due date. The interest accruing up to the due date shall be allocated to the beneficiaries of the distribution fund who are no longer fully entitled to it in accordance with the ranking of their claims, but in the absence of such beneficiaries to the obligor.

4) The Purchaser shall pay interest at the statutory rate on non-interest-bearing claims for which the highest bid has been accepted from the date of acceptance of the bid until the due date. This interest shall be applied in accordance with the provisions of the preceding paragraph.

Art. 155

1) If the lien for a maximum amount is registered on the real property (Art. 266 par. 2 Property Law), then the amounts registered up to the last distribution hearing shall be

to adjust the creditor's claims to capital and ancillary charges already accrued in accordance with the provisions otherwise applicable to claims of the same type secured by lien by means of cash payment (interest-bearing investment) or takeover.

2) The part of the specified maximum amount not used up by this shall be adjusted by allocating a corresponding cash amount from the distribution fund. This amount shall be invested in an interest-bearing manner. Without prejudice to the use of the deposited amount for new claims accruing to the creditor, the interest shall be allocated to the beneficiaries who are no longer fully entitled to it from the distribution estate in accordance with the order of priority of their claims or, in the absence of such, to the obligor.

Art. 156

1) The amount to be paid for easements and charges on real property of unlimited duration which the successful bidder has to take over in accordance with the conditions of the auction and the result of the auction shall be determined by the judge, taking into account the results of the valuation (Art. 93). In the case of easements and encumbrances entitling to recurring benefits, this amount shall be equal to the capital required to adjust the benefits forfeited from the day of the acceptance of the bid or their monetary value from the interest. The amount due on a charge taken over by the purchaser shall be paid to the latter.

2) In the case of easements and encumbrances of limited duration which the Purchaser assumes as a deduction from the highest bid, the cover capital shall be invested in an interest-bearing manner. Interest shall be due to the Purchaser for the duration of the encumbrance in question. With regard to the cover capital becoming free, the procedure pursuant to Art. 150 para. 2 shall be followed.

Art. 157

1) Easements and encumbrances which are no longer fully covered by the distribution estate shall be cancelled; they shall be replaced by a claim for compensation for the encumbrance not transferred. The compensation shall be determined by the judge and shall be adjusted by cash payment according to the sufficiency of the distribution estate in the order of priority to which the right that has been transferred was entitled.

2) The same shall apply with regard to claims for compensation for a pre-registered tenancy right not transferred to the acquirer.

Distribution resolution

Art. 158

1) The distribution order shall first show the total amount of the distribution estate. Then the cash amounts to be paid to the individual entitled persons or to be deposited for them, the encumbrances and debts assumed by the purchaser as a deduction from the highest bid, including ancillary charges, and the cover amounts corresponding to the encumbrances and debts assumed shall be listed in numerical order according to the ranking of the rights and claims to be satisfied or secured thereby, with the remark as to the extent to which the claims of the entitled persons to capital and ancillary charges have been settled.

2) The distribution order shall also specify how the interest on amounts invested fruitfully is to be used, how amounts becoming free are to be dealt with, what security is to be provided in the case of cash adjustment of claims subject to a condition subsequent, which entitled persons are entitled to compensation within the meaning of Art. 153, with what amount and in what order, and what portion of the estate remains with the obligor.

3) The distribution order shall be sent to all persons summoned to the hearing.

Art. 159

1) If the person or residence of a mortgagee is unknown under circumstances that entitle the mortgagee to request invalidation of this mortgage claim under Articles 303 to 306 and 352 of the Property Code, the distribution order shall also specify the claims that may be asserted in the event of invalidation under the mortgage claim in question.

The amount of the distribution mass attributable to the claim in question is to be adjusted.

2) The application for a declaration of invalidity may be filed not only by the purchaser but also by any creditor who, according to the distribution decision, is entitled to satisfaction from the amount released by the declaration of invalidity. This amount shall be invested with interest for the period of the cancellation proceedings. The interest accrued in the meantime shall be allocated to the persons entitled to the amount released in accordance with the order of priority of their claims for the payment of interest and redemption of the same.

Art. 160

1) If the decision on an objection raised at the distribution hearing (Art. 144) depends on the determination and establishment of disputed facts, the settlement of the objection shall be referred to the legal process in the distribution decision; otherwise, the objection shall be decided immediately in the distribution decision. Claims against which an appeal may be lodged shall be decided by the court.

The claims of the parties to the proceedings shall be provisionally treated in the distribution order as if they were undisputed with regard to the amount claimed and the asserted ranking.

2) Any person who, as a result of an objection, has been referred to legal proceedings must prove within one month after service of the distribution order that he has already instituted the legal proceedings necessary for the settlement of the objection, failing which the distribution order shall be executed at the request of any beneficiary affected by the objection without regard to the objection. This shall be announced in the distribution order.

3) The right of a person who has filed an objection to assert his special right by way of an action against persons who have obtained satisfaction on the basis of the distribution order shall not be forfeited either by the failure to observe the time limit set for filing the action or by the execution of the distribution order.

Art. 161

1) The claims raised by several persons in respect of the same claim may be asserted by them as joint litigants in a joint action.

2) The judgment rendered in the proceedings on an objection raised at the distribution hearing shall be effective for and against all creditors and beneficiaries involved as well as for and against the obligee (Section 14 of the Code of Civil Procedure).

Art. 162

1) In the judgment granting a raised objection, it shall be determined, even without a request to that effect, on the basis of the distribution order and the files of the distribution proceedings, to which creditor and in what amount the disputed part of the assets shall be paid out.

2) If, at the discretion of the court, such a determination is precluded by considerable difficulties, a new distribution procedure shall be ordered in the judgment and initiated ex officio after the judgment has become final. This new distribution shall be limited to the part of the estate affected by the objection.

Art. 163

1) If the objection to the crediting of a claim secured by a lien against the highest bid in the distribution decision, in the decision on an appeal filed against it or in the decision on the objection is not accepted, the lien shall be set off against the highest bid.

If the judgment is complied with, the court shall, after the judgment has become final and absolute, instruct the successful bidder to deposit the remainder of the highest bid, which shall be equal to the non-recoverable amount of the claim secured by lien, including ancillary charges, as well as the statutory interest thereon, with the court within 14 days from the date of the award.

2) On the basis of this order, execution on the assets of the Purchaser shall take place after the expiry of the time limit upon application for the collection of the remaining highest bid including interest. Each of the persons summoned to the distribution hearing shall be entitled to file an application.

3) The paid-up remainder of the highest bid shall be dealt with in accordance with Art. 161 par. 2.

Art. 164

Execution of the distribution decision

1) After the distribution decision has become final, the amounts transferred to the individual beneficiaries for cash payment shall be handed over, provided that no legal dispute is pending with regard to the same or the time limit set for filing the action has already expired fruitlessly.

2) To the extent that the distribution order cannot be executed due to pending litigation, the corresponding amounts shall remain in judicial custody until a final decision is reached.

Art. 165

Book entries and deletions

1) The Purchaser may apply to the court for the registration of his title to the auctioned real estate acquired by the knockdown, for the transfer of the rights connected with the title to the real estate and for the deletion of the notice of the commencement of the auction proceedings, provided that he proves that he has fulfilled all the conditions of the auction in due time and orderly manner, even before the distribution of the highest bid has been completed.

2) If investigations are necessary for the decision on this application, these shall be at the expense of the first party. If the application is granted, the court shall at the same time order the execution of the entries in the land register.

3) In all cases, a corresponding resolution shall be passed by the court after the decision on the distribution of the highest bid has become final.

4) Cancellation of the registered rights on the auctioned property, granted by the first-

The court may only grant the transfer of encumbrances and rights not taken over before the transfer decision has become final.

Art. 166

Auction of shares in real estate

Insofar as the law does not make a distinction, its provisions on the auctioning of real property shall also apply to the auctioning of individual shares in real property on which execution is being carried out.

Art. 167

Recourse

1) There shall be no appeal against resolutions by which

a) the registration of the commencement of the auction procedure in the land register (Art. 89);

b) pursuant to Art. 91, the description and appraisal of the property to be auctioned and the property appurtenances are ordered;

c) According to Art. 92 it is determined that a new description and appraisal does not have to take place;

d) according to Art. 106 the administration of the auctioned property is ordered;

e) the deferment of the appraisal is ordered within the meaning of Art. 133;

f) the deletion of the priority notice of the initiation of the auction procedure in the land register is ordered due to a legally binding discontinuation or due to the execution of the auction procedure.

2) A separate appeal shall not be admissible against the decision determining the number of experts to be involved in the valuation and appointing the experts, nor against the decisions taken and announced during the auction and the distribution day meeting.

2. title

Execution on the movable property

1. division execution on physical property

Art. 168

Execution on physical things

1) The execution on movable tangible property (movables) is carried out by seizure, appraisal and sale of the same.

2) The execution order also includes the order to record a list of assets.

Unattachable items

Art. 169

No execution may be levied against objects used for the worship of a church or religious community.

Art. 170

1) The following are also excluded from execution:

a) objects for personal or household use, if they correspond to a modest lifestyle of the obligor and the members of the family living with him/her in the same household, or if it is readily apparent that their realization would only generate proceeds out of all proportion to their value;

b) unless otherwise ordered for exceptional periods, the food and heating materials required for the obligated person and the family members living with him/her in the same household for a period of four weeks;

c) Animals kept in the domestic sphere and not for property or profit;

d) Pets and livestock, provided that they are indispensable for the nutrition of the obligated person and the family members living with him/her in the same household;

e) support in kind granted to the obligor in case of need from public or private funds;

f) in the case of persons personally pursuing an intellectual profession or preparing for such a profession, the items required for this purpose;

g) in the case of persons who derive their income from personal services, as well as in the case of small traders and small farmers, the items necessary for the exercise of the profession or for the personal continuation of the gainful activity, as well as the raw materials intended for processing, at the choice of the liable party, up to a maximum amount to be determined by the court;

h) cash, if given on the occasion of a state of emergency, as well as orders of the kind referred to in Art. 210;

i) In the case of persons whose cash withdrawals are by law unattachable or subject to limited attachment, that part of the cash found which corresponds to the unattachable cash withdrawals for the time

The amount of the income is equal to the amount of the income accruing from the date of the garnishment until the next payment date;

k) the equipment, containers and supplies essential to the operation of a pharmacy, without prejudice to the admissibility of the forced administration of this business;

l) Learning aids intended for use by the obligor and family members living in the same household at church or school;

m) the marriage or partnership ring of the obligated person, his letters and other writings, family pictures with the exception of frames, orders and decorations;

n) Aids to compensate for a physical, mental or psychological disability or sensory impairment and aids for the care of the obligor or family members living with him/her in the same household, as well as therapeutics and aids required as part of a medical therapy;

o) all other items declared unseizable in or by virtue of law.

2) The bailiff shall not seize objects of low value even if it is obvious that the continuation or enforcement of the seizure is not possible.

The court is of the opinion that the proceeds of the execution will not exceed the costs of the execution.

Art. 170a

Exchange garnishment

1) The bailiff may provisionally seize an unseizable item if its replacement by a substitute item is reasonable under the circumstances, in particular if the proceeds of realization will significantly exceed the value of a substitute item that meets the protected purpose of use.

2) The creditor seeking the attachment shall be notified of the attachment without delay. The bailiff shall also inform the creditor of the value of a replacement item or the amount of money required to obtain such a replacement item.

3) If, within 14 days from the date of service of the notice, but if the creditor is present at the attachment, the creditor does not agree to provide the obligee with such a substitute or with the amount required to provide a substitute, or if the creditor does not provide the obligee with such a substitute or with the amount required to provide a substitute on the date set by the court executor, the lien shall be extinguished.

4) If the creditor seeking enforcement has filed an enforcement complaint against the value of the substitute item notified by the bailiff or the amount of money required to obtain such substitute item within the time limit under para. 3, such time limit shall be interrupted until the decision on the enforcement complaint becomes final.

Art. 171

Property appurtenances

The appurtenances located on a plot of land (Art. 23 Property Law) may only be used in execution with this plot of land itself.

Art. 171a

New execution

An application for enforcement may be filed before the expiry of six months after an unsuccessful attempt at enforcement only if it is plausible that

it is made known that the obligor has seizable objects in the meantime or the creditor announces a new place of execution.

Art. 171b

General blocking period

An application for the granting of execution or for a new execution directed against an obligor in respect of whom execution could not be carried out in other proceedings within the last six months because no attachable property was found shall be granted, but shall not be executed until six months after the last unsuccessful attempt at execution, unless an earlier attempt at execution is promising. The creditor seeking enforcement shall be notified thereof. If the creditor who has filed the action proves that the debtor has seizable objects in the meantime, the execution shall be carried out before the expiry of this period.

Art. 172

Attachment and appraisal

1) The seizure of physical objects in the obligor's custody shall be effected by the bailiff recording and describing them in a record.

2) Furthermore, the seized property shall be valued ex officio by the bailiff, if necessary with the assistance of one or more experts.

3) The appraised value shall be stated in the attachment and appraisal report. In addition, a declaration shall be included in the record that the listed items were seized in favor of the enforceable claim of the creditor to be named. The claim shall be stated in the record according to principal and ancillary charges with reference to the execution title. The attachment may only be for a numerically determined sum of money; a numerical indication of the ancillary fees to be paid by the obligor is not necessary. The attachment and appraisal report shall state the name and place of residence of the creditor and obligor making the attachment and their representatives. The attachment and appraisal report shall be submitted to the court.

4) If, in the course of the attachment, third parties or the obligor claim rights to the items recorded in the record which would render the execution inadmissible, such claims shall be noted in the record of the attachment and appraisal. If the name and exact address of the third party are disclosed, the bailiff shall notify the third party of the attachment.

5) The order granting the attachment shall be served on the obligor when the attachment is executed. The executing creditor and the obligor shall be notified of the execution of the attachment, unless they were present or represented at the attachment.

Art. 172a

Inclusion of a list of assets

If the requirements of Article 29(2) are met, the obligor shall submit a list of assets to the bailiff at the place of execution and sign it. The creditor seeking enforcement may have the bailiff ask the obligor questions to ascertain the property to be enforced or, with the consent of the bailiff, may ask the obligor questions directly.

Art. 173

1) If the objects to be seized are not expressly stated in the execution warrant, the bailiff shall, when selecting the objects, take care that the creditor is helped to satisfy his claim by the shortest possible route. The needs of the obligee shall be taken into account as far as possible.

2) First of all, cash and securities are to be used, then things that are dispensable for the obligor, and then things that can be easily sold at safe prices.

Art. 174

The bailiff shall execute the orders assigned to him without delay and possibly according to the order of their assignment.

Art. 175

1) By means of the attachment, the executing creditor acquires a lien for its enforceable claim on the physical property recorded and described in the attachment and appraisal report.

2) The lien shall expire after two years if the sale proceedings have not been continued obediently.

3) If the attachment is effected simultaneously in favor of several creditors, the liens created thereby shall be equal in rank. Each of these creditors shall have the status of an enforcing creditor.

Connection garnishment

Art. 176

1) If physical objects are seized that have already been seized in favor of another fully enforceable claim, this must be noted on the seizure and appraisal record.

2) Each creditor in whose favor an attachment is made shall have the status of an enforcing creditor.

Art. 177

With the exception of cases of simultaneous attachment, the ranking of liens on movable tangible property acquired by judicial attachment shall be determined by the time of the description by way of lien.

Art. 178

Attachment Register

1) Every attachment shall be recorded in a register (attachment register) in the court registry, stating the reference number of the execution act, the creditor seeking the attachment, the obligor, the enforceable claim, the date of the attachment and the summary description of the attached objects. After termination of the execution, the entries shall be crossed out in red ink.

2) Information from the garnishment register shall be provided to all persons who credibly claim that they require such information for the initiation of legal proceedings or execution, for the assertion of objections, or for the enforcement of a judgment.

The court may not require the filing of an appeal against an execution that has already been instituted or for any other important reason.

Art. 179

1) A third party who is not in possession of the thing cannot object to the attachment because of a lien to which he is entitled. However, even before the due date of the claim for which the lien exists, he may assert his claim for preferential satisfaction from the proceeds of the thing in question by filing an action. If the action is brought against the creditor and the obligor, they shall be treated as co-defendants.

2) If the matter is sold in the course of execution proceedings before a final decision on the action is made and the plaintiff's claim is sufficiently substantiated, the court may, upon request, order the temporary deposit of the proceeds.

Custody Art.

180

1) The pledged items shall be taken into custody at the request of the creditor seeking enforcement; items suitable for judicial deposit may also be taken into custody ex officio. If immediate custody is not possible, measures may also be taken in preparation for custody to prevent the pledged property from being moved or disposed of.

2) The application for the initiation of custody may be combined with the application for the granting of the attachment. If the objects have to be brought to the custodian by means of transport, the custody shall only be executed if the creditor filing the action provides the means of transport.

3) If the attached property is suitable for this purpose, it shall be deposited with the court, otherwise it shall be handed over to a custodian to be appointed by the court at the risk of the creditor (§ 968 of the General Civil Code). In the latter case, with the consent of the debtor, the debtor creditor or, in the case of a majority of such creditors, one of them may also be appointed by the court as custodian. If the presumably realizable proceeds of the object are higher than the claim pursued, the consent of the obligor is required.

4) The costs of the custody shall be borne for the time being by the debtor creditor and, if there are several debtor creditors, by all of them in proportion to their enforceable claims.

5) The application for the initiation of an administrative procedure filed during the attachment procedure

The bailiff shall comply with a request for payment by court order without first obtaining a decision from the court.

6) The initiation of custody shall be made evident in the attachment and appraisal report, indicating the custodian.

Art. 181

The custodian shall be appointed by the bailiff. If the bailee has been appointed without the consent of the obligor and the debtor creditors, they shall be notified of the appointment of the bailee and the name of the bailee. They may apply to the court for the appointment of another custodian at any time, stating suitable reasons.

Art. 182

1) The bailiff shall take custody of any money found and, if the attachment is for the benefit of a single creditor, deliver it to that creditor against a receipt in accordance with the claim to be enforced. In this case, the removal of the money by the bailiff shall be deemed to be payment by the obligee.

2) For the calculation of the value of coins and foreign currency, the exchange rate of the attachment date shall be decisive.

3) If the attachment is for the benefit of more than one creditor (Article 175(3)), the money found shall be deposited with the court by the bailiff and distributed by the court separately or simultaneously with the proceeds of the attached property, depending on the nature of the case. Separate distribution shall be made in accordance with the provisions applicable to the distribution of the proceeds of sale.

4) If the obligee or any other person present at the time of the attachment claims that a circumstance exists the assertion of which may lead to the postponement of execution, the money found shall in any case first be deposited with the court and dealt with in accordance with the above provisions; however, it may not be deposited with the court before the expiration of eight days.

not be handed over. The bailiff shall draw the attention of those present to this time limit when making the seizure.

Art. 183

The same provisions shall apply to the attachment and safekeeping of the debtor's movable tangible property in the custody of the debtor creditor or a third person willing to surrender it.

Art. 184

Limitation of the seizure

If the debtor has in his custody a movable physical object of the debtor to which he has a lien or a right of retention for the claim to be enforced, the debtor may, to the extent that this claim is covered by the object, apply to the court for the restriction of the attachment to this object. If the lien or right of retention exists at the same time for another claim of the creditor seeking enforcement, the application shall only be granted if this claim is also covered by the object.

Sale

Art. 185

1) The attached property shall be sold at the request of one of the creditors for whose fully enforceable claim it was attached.

2) The application for granting the sale shall be combined with the application for granting the attachment. The court shall decide on these applications at the same time.

Art. 186

1) The sale of securities blocked or held as security in favor of the state or a municipality may only be approved once the obligation in question has been terminated and any claims for compensation have been determined by administrative means.

2) All persons who have acquired a lien on the security paper shall be notified of this determination.

Art. 187

1) Prior to the entry into force of the attachment authorization, the sale may only be effected if items have been attached which, by their nature, are subject to deterioration if kept for a longer period of time, or if the attached items would lose considerable value if the sale were postponed, and the creditor seeking the attachment provides security for all disadvantages incurred by the obligor as a result of the earlier sale.

2) The sale may not take place before the provision of the security to be determined by the court.

Art. 188

1) After the sale has been approved, as long as the sales procedure is in progress

If the sale has not been completed by the end of the period in question, a special sale procedure may no longer be initiated in respect of the same items for the benefit of further enforceable claims.

2) All creditors who, during the pendency of a sale proceeding, are granted the sale of the same property, including property attached in their favor, shall thereby accede to the sale proceeding already commenced and shall accept the same in the situation in which it is at the time of their accession.

3) The intervening creditors shall have the same rights from the time of their intervening as if the proceedings had been commenced at their request.

Sale from free hand Art.

189

1) The court shall arrange for the sale of seized property, in particular securities which have a stock exchange price or are freely traded, by a bank; other securities shall be sold by public auction. If such a sale is approved, the court shall, upon application, determine the price below which the sale may not be made and the time within which the sale is to be effected.

2) If the security is in registered form, the court shall obtain the transcription into the name of the purchaser and shall make all arrangements necessary for the purpose of the

The debtor is obliged to make the necessary declarations with legal effect in place of the obligor for the purpose of the sale.

Art. 190

The provision of Art. 513 of the Property Law on the legal protection of lost property sold at public auction shall also apply to the sale by private treaty pursuant to Art. 189 and to the transfer of the property to the creditor (Art. 201).

Art. 191

1) All other seized items, if they are subject to sale at all, shall be sold by public auction by the bailiff.

2) Securities which have been ordered to be sold by private sale pursuant to Art. 189 shall also be sold by public sale at the request of the creditor if they have not been sold by private sale within the time limit set by the court (Art. 189 par. 1).

Art. 192

1) If someone registers at least 14 days before the auction date under

If the debtor declares his willingness to take over the seized objects in their entirety or larger parts thereof for a price which exceeds their estimated value by at least one quarter, and to bear all execution costs incurred up to that point and chargeable to the debtor, in addition to any appraisal costs, without deduction from the takeover price, the court may grant this application after hearing the debtor. A prerequisite for this is that the creditor making the request and those persons who have acquired a lien on these objects but whose claims are not undoubtedly fully covered by the takeover price agree.

2) The provisions of Art. 135 shall apply to the further proceedings, including the postponement and termination of the auction.

Auction date

Art. 193

1) The date of the auction shall be determined by the bailiff, unless the court orders otherwise. The announcement of the auction shall be made by edict. In addition to stating the place and time of the auction, the edict shall specify the type of property to be auctioned. If the items can be inspected before the auction, the location of the items shall be indicated.

2) The obligor and the creditors who have filed the petition shall be notified of the scheduling of the auction by delivery of a copy of the edict.

Art. 194

A period of at least 30 days must elapse between the attachment and the auction. This period may be shortened if circumstances exist for which the sale of the pledge may be permitted under Art. 187 before the attachment becomes final or if the longer storage of the pledge would cause disproportionate costs.

Art. 195

The auction shall be held at the place where the seized property is located, unless the parties agree on another place or the court, at the request of the obligee or the creditor seeking enforcement, permits the property to be auctioned at another place in order to obtain higher proceeds. This applies in particular to objects of great value, such as

Gold and silver objects, other valuables, art objects, collections and the like.

Art. 196

1) At the auction, the pledged items shall be offered for sale individually or, if larger quantities of similar items are to be sold, also by lots, stating the estimated value and the lowest bid.

2) The use of an exclamation marker may be omitted.

3) The bidders do not have to pay a vadium.

Art. 197

Callout price

Bids which do not reach at least half of the starting price may not be considered at the auction. At the request of the petitioning creditor and with the consent of the other creditors to be notified of the auction (Art. 35), an amount exceeding half of the starting price may also be determined as the lowest bid by the court prior to the auction.

Art. 198

Surcharge

1) The lot shall be knocked down to the highest bidder if, notwithstanding two invitations to the bidders, no higher bid is submitted. Moreover, the provisions of Art. 119 par. 1, Art. 120 par. 1, 3 and 5 and Art. 121 par. 1 and 3 shall also apply to the auction of movable property.

2) The highest bidder may be granted a payment period of eight days in the case of items referred to in the last sentence of Art. 195(1). Other

Items are sold only against cash payment. A confirmation of purchase shall be issued to the purchaser upon request.

3) The items are to be handed over to the highest bidder only after payment. He shall take them over and remove them immediately thereafter. The highest bidder shall not be entitled to any warranty on account of any defect in the items sold.

4) If the highest bidder has not paid the purchase price payable in cash immediately upon request, or otherwise by the end of the auction, the auction may be continued on the basis of the bid preceding the bid of the highest bidder, if this is feasible under the circumstances; otherwise the auction may be continued on the basis of the bid of the highest bidder.

the item awarded to him shall be put up for bid again at a new date. The highest bidder shall not be admitted to bid at the new auction; he shall be liable for any shortfall without being able to claim the additional proceeds. Art. 103 par. 2 shall apply to the recovery of the shortfall from the purchase price.

Art. 199

1) The auction shall be closed as soon as the proceeds obtained are sufficient to satisfy the enforceable claim of all creditors executing by sale and to cover all ancillary fees and the costs of the execution.

2) The provisions of Art. 125 para. 1 letters a and b shall apply mutatis mutandis to the minutes to be drawn up at the auction. In addition, the minutes shall state, in addition to the starting prices, the highest bids obtained and the purchasers.

Art. 200

Not found seized property

If the attached objects are not found on the spot during the transfer or the auction, the obligor shall indicate to the court or the bailiff where these objects are located. The bailiff shall request the obligor to do so. Articles 29(1), 31 and 32(2) shall apply. If it cannot be ascertained in this way where the property is located, or if the obligor has moved and taken the property with him and the bailiff cannot ascertain by reasonable inquiries where the obligor is, the execution shall not be continued in respect of the property not found until the creditor gives notice,

where these items are located. The bailiff must inform the creditor concerned of this.

Other realization of attached property Art. 201

1) The court may, if this is obviously to the advantage of all parties involved, at the request of the creditor or of the debtor, allow the attached property to be disposed of in a manner other than by public auction, provided that the property is not a security (Art. 189) and there is no request for takeover under Art. 192; however, the request must be made no later than three days before the date of the auction. The sale by private treaty

Moreover, the auction may only be held if the nominated purchaser gives an assurance that he will pay the specified purchase price. The auction date shall then be postponed. The sale by private treaty is only permissible against cash payment.

2) The court may also, ex officio, or upon application, order that property for which the lowest bid was not achieved at the auction be disposed of in a manner other than by public auction. However, the value may not fall below half of the estimated value. If the sale by private sale is ordered, the creditor may be required to notify the bailiff of the names of buyers within 14 days of service of the decision ordering the sale by private sale. If the creditor fails to do so and the sale is not effected within this period, even to other purchasers who report to the bailiff, the sale proceedings shall be discontinued. The provision of Article 131(c) shall apply. The order to discontinue the sale may not be appealed against, and the order shall not be served; this shall be announced at the time of the order. The non-auctioned items may also be transferred to the ownership of the petitioning creditor, who has the sole lien on them, at his request at half the appraised value on deduction of his claim.

Art. 202

Upon request, the court may permit pledged items of lesser value that have been approved for sale to be sold without prior special notice of their sale at an auction held against another party.

The property may be auctioned off at an auction scheduled and announced by the obligor or for the benefit of another creditor.

Art. 203

1) With regard to the waiver of execution and the discontinuation of sales proceedings, Art. 131 c) and d), Art. 132 paras. 3, 4 and 5, Art. 134 para. 2 and Art. 137 para. 1 shall apply mutatis mutandis.

2) In the event of the continuation of the sale proceedings pursuant to Art. 137 para. 1, the creditors against whom the ground for discontinuance or annulment operates shall be satisfied from the proceeds of the sale in accordance with any lien to which they may be entitled (Art. 206 para. 3).

3) Only the obligor and the debtor creditors shall be notified of the discontinuation of the sale proceedings.

Use of the proceeds from the sale

Art. 204

1) From the proceeds obtained at the auction, including the security forfeited pursuant to Art. 192 and the compensation paid by the defaulting highest bidder pursuant to Art. 198, the bailiff shall, if the execution is only in favor of the creditor who, according to the contents of the attachment file, has the sole lien on the sold items, transfer to that creditor the amount required to satisfy the enforceable claim, including ancillary fees, after deduction of the auction and appraisal costs.

2) In the case of interest-bearing claims, interest shall be calculated up to the date of the auction, unless it is time-barred.

3) The delivery of these amounts to the creditor who has filed the claim shall be deemed to be a payment by the obligor.

4) Any remainder shall be surrendered to the obligor unless a subsequent pledgee has seized it in the meantime.

Art. 205

1) If the creditor seeking enforcement seeks reimbursement of the costs of enforcement not yet determined by the court, he shall at the same time submit a claim for reimbursement to the court.

The costs shall be determined by the court. The costs shall be determined by the court.

2) The bailiff shall retain the amount required by the creditor to cover the costs referred to and deposit it at the court registry. The same shall apply to the amount retained by the bailiff to cover auction costs and expert fees.

3) If the deposited sums are not exhausted by the costs awarded to the creditor by the court or by the auction and appraisal costs determined by the court, the remaining amount shall be used for the further satisfaction of the creditor or after full settlement of his claims within the meaning of Art. 204, last paragraph.

4) The request for the reimbursement of costs must be made by the creditor who has filed the petition, otherwise it will be excluded, before the end of the auction.

Art. 206

1) If, according to the contents of the seizure file, the creditor seeking the attachment is not entitled to the sole lien or if the auction has taken place for the benefit of several creditors concerned, the proceeds shall be deposited by the bailiff in the court registry and distributed by the court.

2) If the proceeds have been invested fruitfully up to the time of distribution, the interest shall be added to the distribution estate; likewise, the security forfeited pursuant to Art. 192 and the compensation paid by the defaulting highest bidder pursuant to Art. 198 shall be included in the distribution estate.

3) If necessary, the court shall convene a distribution hearing ex officio. The obligor and all creditors whose lien has not already expired pursuant to Art. 175 (2) and who are not yet fully satisfied as shown in the attachment files shall be summoned to the hearing. The creditors shall at the same time be requested to lodge their claims to capital, interest, costs and other ancillary claims before or at the hearing and to submit the original or certified copies of the documents serving as proof of their claims, if these are not already with the court, at the latest at the hearing, failing which their claims would only be taken into account in the distribution to the extent that execution by auction has been granted in their favor. A subsequent discontinuation of the sale proceedings and the

The postponement of execution due to a payment agreement pursuant to Art. 27a shall prevent consideration, as shall the circumstance that the attached objects were not initially found and that the objects found later were auctioned at the request of another petitioning creditor. The creditors must be informed of this in the request.

Art. 207

1) In distributing the proceeds, the court shall apply Articles 143 to 145, 150 to 152, 154 para. 3, 158, 160 to 162 and 164 mutatis mutandis.

2) The costs of the appraisal and of the auction shall first be adjusted from the distribution mass and then the lien claims filed in due time as well as the enforceable claims for the collection of which the auction was granted. The amount of the claims shall be calculated in accordance with the filing and its supporting documents as well as in accordance with the court orders of execution.

3) Notwithstanding the priority established for individual claims by the existence of a statutory or contractual lien, the order of priority to be assessed according to the judicial attachment shall be decisive for the payment of the claims referred to above.

4) The principles set forth in Articles 147, 148, 149, para. 1, and 150 shall apply to the adjustment of interest, recurring payments, and litigation and execution costs.

Art. 208

The provisions of Articles 204 to 207 shall apply mutatis mutandis to the use of the proceeds obtained from a sale by private contract. In this case, the request for reimbursement of costs must be made by the debtor creditor within the period stipulated in Art. 48 par. 2, unless otherwise excluded. Before the expiry of this period, nothing of the proceeds obtained may be handed over to the obligor.

Art. 209

Recourse

Decisions ordering the safekeeping of seized objects (Art. 180), the auctioning at another place (Art. 195), or

If the court orders the inclusion of the pledged items in the auction approved in respect of other pledged items (Art. 202), or against the decision fixing the date of the auction (Art. 193), no appeal shall lie.

Division 2 Execution on monetary claims

Art. 210

Execution on monetary claims

1) The following are unattachable claims

a) Support and benefits provided by the state, municipalities and other public institutions in case of need, illness or death;

b) allowances and grants for the maintenance of the family and the upbringing and education of children, if they are not claimed by the member of the family for whom they are intended in order to obtain legal maintenance;

c) Pain and suffering allowances and lump sums owed as compensation for bodily injury or impairment of health to the person concerned or, in the event of his death, to his family;

d) other benefits declared unattachable in or by virtue of law.

2) The claims referred to in subparagraph (c) may exceptionally be declared attachable at the request of the debtor creditor to the maximum extent provided for in Art. 211 if this is necessary to avoid particular hardship for the creditor and is not contrary to the overriding interests of the debtor.

Restricted attachable claims Art.

211

1) Entitlements to wages, salaries, pensions and all other income based on existing or existing service or employment relationships shall be subject to execution to the extent to be determined by the Government by ordinance; in particular, it shall regulate the calculation of the attachable income, the minimum amount that may not be garnished, and

its increase in the event of maintenance being granted, as well as the value of benefits in kind

2) In the case of execution on a claim representing the remuneration for a period of more than one month, first the amount exempt from execution attributable to one month and then the sum of the amounts exempt from execution attributable to the whole period shall be determined. This sum shall remain with the obligee.

Art. 211a

Aggregation; contributions in kind

1) If the obligor has several restrictedly attachable pecuniary claims or restrictedly attachable pecuniary claims and claims to benefits in kind against a third-party debtor, the third-party debtor shall add them together.

2) If the obligor has limited attachable pecuniary claims or limited attachable pecuniary claims and claims for benefits in kind against different third-party debtors, the court shall, upon application, order the aggregation of such claims.

3) In the event of the aggregation of several restrictedly attachable pecuniary claims against different third-party debtors, the unattachable basic amounts shall be granted first and foremost for the claim that forms the essential basis of the obligor's livelihood. The court shall designate the garnishee who is to grant the unattachable basic amounts.

4) In the event of the aggregation of restrictedly attachable pecuniary claims with claims to benefits in kind, the unattachable exemption amount of the total claim shall be reduced by the value of the benefits in kind remaining to the obligor. However, at least half of the amounts withdrawn from execution under Article 211(1) must remain unattached for the obligor.

5) The court has determined the value of the benefits in kind when aggregating

a) according to para. 1 upon request,

b) in accordance with para. 2 ex officio at the same time as the order of aggregation.

to be determined by free conviction within the meaning of Section 273 of the Code of Civil Procedure.

Art. 211b

Concealed remuneration

1) If the obligor performs work for the third-party debtor in a permanent relationship, which is usually remunerated in terms of type and scope, without consideration or for a disproportionately low consideration, a reasonable remuneration shall be deemed to be owed in the relationship between the creditor seeking enforcement and the third-party debtor.

2) When assessing the remuneration, particular attention must be paid to

a) the nature of the work performance,

b) the family or other relationship between the third-party debtor and the obligor, and

c) the economic capacity of the third-party debtor

to be taken into consideration. The economic existence of the third-party debtor must not be impaired. The remuneration shall be deemed to have been agreed as of the date of the attachment.

Art. 212

Other recurring income of the obligor may, upon his request, be declared subject to limited attachment under Art. 211 if he certifies that he is obliged to cover the living expenses of himself and his family with such income.

Art. 213

If a non-recurrently payable remuneration for work or services personally rendered is attached and the obligor certifies that he cannot expect any further income for a certain period of time, he may, upon application, be left with as much as he would be left with for this period of time under the application of the attachment restriction of Art. 211. The decision shall take into account the economic circumstances of the debtor, in particular his other earning potential. The request of the obligor shall be rejected to the extent that it is opposed by overriding interests of the debtor creditor.

Art. 214

Increase of the unattachable amount; change of the conditions of unattachability

1) Upon request, the court shall increase the unattachable allowance appropriately if this is necessary with regard to

a) significant additional expenses of the obligor, in particular due to helplessness,

frailty or illness of the obligor or his dependent family members, or

b) unavoidable housing costs that are unreasonably high in relation to the amount that the obligor has left for living expenses, or

c) special expenses of the obligated party that are factually related to his professional practice, or

d) an emergency of the obligor as a result of a misfortune or a death, or

e) particularly extensive legal maintenance obligations of the obligor

is urgently required and there is no risk that the creditor seeking enforcement could be seriously harmed as a result.

2) The court shall, upon request, amend the orders determining the unattachable allowance accordingly if:

a) the circumstances relevant for the calculation of the unattachable allowance have changed; or

b) these circumstances were not fully known to the court when the resolution was adopted.

Art. 214a

Account protection

1) If restrictedly attachable monetary claims are transferred to the obligor's account with a bank, an attachment of the credit balance shall be set aside by the court at the request of the obligor to the extent that the credit balance corresponds to the part of the income not subject to attachment for the period from the attachment to the next payment date.

2) If a credit balance of an obligor who is a natural person and which has been attached at a bank is transferred to the creditor who is the subject of the debt collection, the creditor may not transfer the credit balance until 14 days after service of the transfer order on the obligor.

third party debtor from the credit balance to the debtor creditor or the amount may be deposited.

3) The court shall release in advance the part of the credit balance which the obligee urgently needs until the next payment date in order to cover his necessary maintenance and to meet his current statutory maintenance obligations. The part of the credit balance released in advance may not exceed the

amount that is expected to be owed to the obligor pursuant to subsection 1. The obligor shall establish to the satisfaction of the court that restricted attachable claims have been transferred to the account and that the requirements of sentence 1 have been met. The creditor making the request shall not be consulted if the obligor cannot reasonably be expected to accept the postponement involved.

Art. 214b

Provisions for the calculation by the third-party debtor

1) The payment by the third-party debtor shall have the effect of discharging the debt if it is neither intentional nor due to gross negligence. This is in any case the case if the third-party debtor pays according to the content of the decision that determines the unattachable allowance.

2) When taking into account the maintenance obligations, the third-party debtor shall assume the information provided by the obligee as long as he is not aware of its incorrectness.

3) When taking into account contributions in kind, the third-party debtor shall proceed on the basis of the value to be determined by the government by decree.

Art. 214c

Decision of the court; eligibility to file an application

1) The court shall, upon request, in the cases referred to in subparagraphs (a) and (b), decide on the basis of free conviction within the meaning of Section 273 of the Code of Civil Procedure,

a) whether maintenance obligations are to be taken into account when calculating the unattachable allowance or

b) whether and to what extent a reference or part of a reference is attachable or

c) whether a lien has actually been created on the salary claim or another claim consisting of continuous payments, the attachment of which has been granted by the court.

2) The third-party debtor may retain the amounts covered by an application under subsection (1) until the court's final decision.

3) In addition to the parties, the following are entitled to file an application:

a) the garnishee for an application under par. 1 and for an amendment of the decisions determining the unattachable allowance under Art. 214 par. 2;

b) a third party to whom the obligor must provide legal maintenance, for an application under subsection 1(a), for an increase in the unattachable amount under Art. 214(1), and for an amendment to the resolutions determining the unattachable allowance under Art. 214(2);

c) a debtor creditor of other claims who succeeds a debtor creditor who is executing for a claim under Art. 215 par. 1, for an application under Art. 214 par. 2.

In such cases, each party shall bear its own costs.

4) The parties shall be heard before a decision is taken on applications under para. 1, for aggregation and determination of the value of benefits in kind under Art. 211a, for increase of the unattachable amount under Art. 214 para. 1, for reduction of the minimum unattachable amount and for amendment of the decisions determining the unattachable exemption under Art. 214 para. 2 (Art. 34 para. 1). In these proceedings, the creditor seeking reimbursement may claim reimbursement of his costs only in accordance with the provisions of the Code of Civil Procedure and only to the extent that the debtor does not consent to the application. This also applies mutatis mutandis to a claim by the obligor for reimbursement of costs.

Art. 214d

Statement of the outstanding receivable

1) The garnishee shall be entitled not to take into account the prohibition of payment in the case of salary claims or other claims consisting in continuous payments after full payment of the fixed amounts specified in the execution order until he receives a list of the outstanding claim against the obligor from the creditor who is executing the order; this list shall also be sent to the obligor. The garnishee shall give the creditor at least four weeks' prior written notice that he will exercise this right. If the third party debtor does not receive a list of the outstanding claim, the execution of the order shall be initiated at his request.

to discontinue the execution. Before the decision is made, the creditor who has filed the petition must be consulted (Art. 34 par. 1).

2) Within four weeks after the written request of the debtor, the creditor shall send to the debtor a receipt for the amounts received and the amount of the outstanding claim. The statement of the amount of the outstanding claim shall also be sent to the third-party debtor. The obligee may request a new statement only after one year has elapsed or after the fixed amounts have been paid. If the creditor fails to comply with the request, the court shall, at the request of the obligee, discontinue the execution. Prior to the decision, the creditor who has filed the petition shall be heard (Art. 34 par. 1).

3) In the cases of paras. 1 and 2, the third-party debtor may pay in discharge of debt in accordance with the statement of the amount of the outstanding claim.

4) The obligation of the creditor to send a receipt and a statement of the amount of the outstanding claim pursuant to paras. 1 and 2 shall not apply if the execution is conducted only for the collection of current statutory maintenance or other recurring benefits.

Art. 215

Special features of executions for maintenance claims

1) In the case of execution for

a) of a legal claim to maintenance,

b) of a statutory maintenance claim that has passed to a third party,

c) a claim for reimbursement of expenses which the obligor would have had to incur himself on the basis of a statutory duty to maintain (§ 1042 ABGB), as well as on account of

d) of the costs of proceedings and execution together with all interest incurred in enforcing a claim pursuant to subparagraphs a to c above,

the obligor shall not be entitled to an increase in the unseizable minimum amount for those persons who execute execution for such claim.

2) Upon request, the court:

a) to reduce the unattachable minimum amount pursuant to par. 1 and Art. 211 par. 1, in particular if current statutory maintenance claims cannot be fully recovered by execution;

b) to declare that a maintenance obligation is not to be taken into account insofar as its amount does not reach the unattachable increase amount granted for this purpose.

3) However, in the cases referred to in subsection 2 or in the event of a reduction of the unattachable amount within the meaning of Article 214, subsection 2, the obligor shall be left with as much as he needs for his necessary maintenance and for the fulfillment of his current legal maintenance obligations.

Art. 215a

Special features of executions for recurring benefits

1) Execution on account of claims for recurring benefits falling due in the future is only permitted in the case of claims for

a) according to Art. 215 par. 1 or

b) to recurring benefits payable to the injured person as a result of bodily injury or damage to health, or to his surviving dependents as a result of death,

if, moreover, execution is granted at the same time for claims of this kind that are already due.

2) The execution under para. 1 shall be discontinued at the request of the obligor if he:

a) has paid all claims due; and

b) certifies that he will meet his payment obligation in the future. This can be assumed, in particular, if he the receivables for the next two months:

1. either also already paid; or

2. in favor of the creditor. Before the decision is made, the creditor making the collection must be consulted (Art. 34(1)).

3) At the request of the creditor seeking enforcement, the court shall, in the event of a renewed grant of enforcement, declare that the lien shall have the lien rank originally established, the date of which shall be specified by the court.

Art. 216

An agreement by which a claim is given the status of a claim of a different kind, either at the time of its creation or subsequently, in order to avoid its execution in whole or in part, has no legal effect.

Attachme

nt Art.

217

1) Execution of the obligor's pecuniary claims shall be effected by attachment and transfer. Unless the provisions of Article 218 apply, the attachment shall be effected by the court ordering the third-party debtor to pay the debtor. At the same time, the debtor himself shall be prohibited from disposing of his claim and of any pledge on it, and in particular from collecting the claim. In the case of monetary claims subject to limited attachment, the debtor shall be ordered to inform the garnishee without delay of any maintenance obligations and the income of the dependants.

2) Both the third-party debtor and the obligor shall be informed that the creditor has acquired a lien on the claim in question.

has. The service of the payment prohibition shall be effected in accordance with the provisions on the service of legal actions.

3) The attachment shall be deemed to have been effected upon delivery of the payment prohibition to the third-party debtor.

4) The third-party debtor may contest the payment prohibition by means of an appeal.

Art. 217a Unknown

third-party debtor

1) If the creditor claims that the obligor is entitled to claims within the meaning of Article 211(1), but does not know the third party debtor(s), the following peculiarities apply:

a) The third party debtor does not have to be specified in the execution application, the claim does not have to be specified. However, the date of birth of the obligor must be stated.

b) The court shall ascertain by means of a query in the Central Register of Persons whether, according to the data stored therein, the obligated person in

is in a legal relationship from which he may be entitled to claims within the meaning of Art. 211(1) and, if so, with whom. If this inquiry does not reveal a third party debtor, the court shall ascertain from the Office of National Economy whether the debtor receives unemployment insurance benefits.

c) If these inquiries reveal one or more possible third-party debtors, the court shall proceed with the notifications to the obligor and the third-party debtor(s) provided for in Art. 217.

2) An application for enforcement under para. 1 may be repeated before the expiry of one year after its filing only if it is shown to the satisfaction of the court that the obligee has in the meantime acquired such a claim.

3) The municipalities shall provide information on the date of birth of the debtor named in the execution order from the register of residents to persons who submit to them a copy of an execution order or a photocopy thereof.

Art. 218

1) The attachment of claims arising from bills of exchange, checks and other securities, without which the claim cannot be enforced, is effected by the bailiff taking possession of these documents, recording a record of the attachment, and depositing them with the court.

2) The provisions of Art. 176 apply to a later attachment of the same claim in favor of another creditor.

Art. 219

1) Presentations, protests, notifications and other acts for the preservation or exercise of the rights under the papers referred to in Art. 218 shall, as long as the paper is held by the court, be made by the court in place of the obligee.

2) In case of imminent danger, the claim due shall be collected. The amounts received shall be deposited with the court; the lien established on the claim for the creditor seeking enforcement shall extend to these amounts received.

3) If the collection of the claim appears necessary to interrupt the statute of limitations or to avoid other disadvantages, the

The court shall appoint a curator for this purpose ex officio or upon application.

Art. 220

A pledge created for the garnished claim shall be taken into custody at the request of the creditor concerned (Art. 180). The application for the attachment may be filed together with the application for the attachment of the claim or separately after the attachment has been granted.

Art. 221

1) The lien acquired through the attachment of a salary claim or another claim consisting of continuous payments shall also extend to the payments falling due after the attachment, and the lien acquired on an interest-bearing claim shall extend to the interest falling due after the attachment.

2) In particular, the attachment of employment income shall also affect income received by the obligor as a result of an increase in remuneration or termination of employment. However, this provision shall not apply in the event of a change of employer.

Art. 222

1) If the attachment of the same claim is obtained by several creditors at different times, the time at which the document was taken into custody by the bailiff or the later attachment was granted shall be decisive for the assessment of the priority of the rights acquired thereby in the case of claims arising from the documents referred to in Article 218.

2) In all other cases, the ranking of the liens shall be based on the

Dates on which the payment prohibitions issued in favor of the individual creditors reached the third-party debtor.

3) If possession of the documents referred to in para. 1 is taken at the same time for the benefit of several creditors, or if several bans on payment are imposed on the third-party debtor on the same day, the liens thus created shall rank pari passu with each other. In the event of insufficiency of the attached claim, the claims to be enforced shall then be

The amount of the remuneration, including ancillary fees, is to be adjusted in proportion to their total amounts.

Art. 222a

Attachment of a transferred or pledged claim

1) The judicial lien does not cover a claim to the extent that it was transferred prior to its creation.

2) If the claim was attached prior to the creation of a judicial lien, this shall not prevent the creation of a judicial lien. Art. 222 paras. 2 and 3 on the ranking of liens shall apply mutatis mutandis. In the case of a salary claim or another claim consisting of continuous payments, the contractual lien covers only the payments that become due as soon as the claim is asserted in court or a claim for realization exists and the third party debtor has been notified of the assertion in court or the claim for realization. The third party debtor has to make payments on the basis of the contractual lien only as soon as its creditor has a claim for realization and this has been notified to the third party debtor. Prior to this, the third-party debtor is obliged, at the request of a creditor, to deposit the payments covered by the contractual lien with the court in accordance with their due date.

3) The fact that a judicial lien expires under Art. 215a par. 2 is irrelevant under par. 1 and 2 as soon as it is revived.

Art. 223

Third party debtor declaration

1) Unless otherwise requested by the debtor creditor, the court shall, at the same time as issuing the payment prohibition, order the third-party debtor to make a statement to that effect within four weeks:

a) whether and to what extent he recognizes the garnished claim as justified and is prepared to make payment;

b) whether and on what consideration its payment obligation was dependent;

c) whether and what claims other persons have on the garnished claim, in particular those under Art. 222a;

d) whether and for which claims in favor of other creditors a lien exists on the claim, even if the proceedings pursuant to Art. 215a par. 2 have been instituted;

e) the maintenance obligations disclosed by the obligee.

2) The third-party debtor shall send his declaration to the court. He shall also be entitled to record his declaration before the court. A copy of this record shall be sent ex officio to the debtor creditor.

3) If the third-party debtor has culpably not fulfilled his obligations under para. 1, or has fulfilled them intentionally or grossly negligently incorrectly or incompletely, the third-party debtor shall be ordered to pay the costs of the proceedings despite having prevailed in the third-party proceedings (Art. 229). § Section 43 para. 2 ZPO applies mutatis mutandis. Furthermore, the third-party debtor shall be liable to the debtor creditor for the damage caused by the fact that he culpably did not fulfill his obligations at all, or did so intentionally or grossly negligently, incorrectly or incompletely. These consequences must be disclosed to the garnishee when the order is served.

4) If a recurring claim has been garnished, the garnishee shall notify the creditor of the continuing termination of the legal relationship underlying the claim within one week after the end of the month following the month in which the legal relationship was terminated.

5) The costs incurred by the third-party debtor in making the declaration shall be borne by the debtor creditor for the time being; the court shall order him to reimburse the third-party debtor. The amounts awarded shall be determined ex officio as costs of the execution proceedings. Several debtor creditors shall bear the costs in equal shares.

Transfer Art.

224

1) The attached monetary claim shall be transferred to the debtor creditor for collection or in lieu of payment upon request in accordance with the lien established for him up to the amount of the enforceable claim.

2) The request for transfer shall be combined with the request for granting the attachment. The court shall decide on these applications at the same time.

Art. 225

1) If the claim is based on a document referred to in Art. 218, the transfer shall be permitted only in the total amount of the attached claim and, if the latter exceeds the amount of the enforceable claim, only if security is provided by the creditor enforcing the transfer for the surplus. The same shall apply if the attached claim is not divisible for other reasons with regard to the transfer or enforcement.

2) Similarly, if the pledged claim is partially exempt from execution or if it was previously pledged for the benefit of another creditor, the creditor requesting the transfer shall provide security that the amount exempt from execution or due to the preceding pledgee will be handed over to the obligee or the preceding pledgee after the sufficiency of the receipt.

3) Among several petitioning creditors seeking transfer by offering the same security, preference shall be given to the creditor in whose favor the claim was previously seized, but if the security offered is not the same, to the creditor offering better security. If only one of the creditors is prepared to provide security, the claim shall be transferred to that creditor without regard to the ranking of his lien.

Art. 226

1) The transfer shall be effected by delivery of the order granting the request for transfer to the garnishee, but in the case of claims arising from the documents referred to in Art. 218 by delivery of the document accompanied by the required written declaration of transfer to the creditor to whom the claim has been transferred. This declaration of transfer shall be made by the court.

2) Insofar as a claim has been transferred to a creditor for collection, a new transfer to another creditor is not permitted.

Art. 227

1) The debtor shall provide the creditor to whom the claim has been transferred with the information necessary for the assertion of the transferred claim and shall surrender to him the documents relating to the claim. If the transfer relates to a part of the

If the creditor's claim is limited to the amount of the garnished claim, the creditor shall, upon request, provide security for the return of the documents relating to the entire claim.

2) At the request of the creditor, the debtor may be enforced against the debtor by way of execution (Art. 251 and

252) may be obtained. The creditor may demand the surrender of the documents from third parties by means of an action.

3) The court shall indicate the transfer on the documents issued to the creditor.

Art. 228

Deposit with court

1) If the claim, the attachment and transfer of which has been pronounced, albeit subject to previously acquired rights of third parties, is claimed not only by the creditor concerned but also by other persons, the third-party debtor shall, if the factual and legal situation is unclear, be authorized and, at the request of a creditor, obliged to deposit the amount of the claim, together with ancillary charges, with the court for the benefit of all these persons in accordance with their due date. Such application shall be decided by order after the third party debtor has been consulted (Art. 34 par. 1).

2) The amounts deposited by the court shall be distributed. For this purpose, Art. 206 and 207 shall apply with the proviso that creditors shall be understood to include not only debtor creditors but also those who have rights to the claim as specified in Art. 222a.

3) If actions have been brought against the garnishee for payment of the claim, the garnishee may apply to the trial court for release from the litigation after the payment has been effected.

4) The authority of the third-party debtor under para. 1 does not exist insofar as he has a right of application under Art. 214c.

Transfer for collection

Art. 229

1) The transfer for collection authorizes the creditor to demand from the garnishee, on behalf of the obligee, payment of the amount specified in the transfer order in accordance with the provisions of the law.

The debtor is entitled to request the legal status of the garnished claim and the occurrence of its due date, to bring about the occurrence of the due date by means of a reminder or notice of termination, to make all presentations, protests, notifications and other actions necessary for the preservation and exercise of the right to claim, to receive payment to satisfy his claim and to offset it, to enforce the claim against the garnishee, and to demand the payment of the garnishee's debt.

The debtor shall be entitled to sue the debtor on behalf of the debtor and to enforce the lien on the transferred claim. However, the order of transfer does not authorize the creditor to settle the claim transferred for collection on behalf of the obligee, to waive the debt of the third party debtor or to transfer the decision on the legal status of the claim to arbitrators.

2) Objections arising from the legal relationship between the creditor and the third party debtor cannot be raised against the action brought by the creditor as a result of the transfer.

3) An assignment of the transferred claim made by the obligee shall have no effect on the creditor's powers established by the transfer.

Art. 230

1) If the obligation of the garnishee to perform is dependent on the surrender of property as consideration and if such property is in the possession of the obligee, the latter shall surrender it to the garnishee at the request of the creditor to whom the claim has been assigned for collection for the purpose of surrendering it to the garnishee.

2) The creditor may effect such surrender by way of execution (Art. 251 and 252) if the obligation to make counter-performance has been established by a judgment obtained against the garnishee or against the obligee or is evidenced by documentary evidence.

3) Before the decision on the application, the obligor must be consulted.

Art. 231

1) The debtor creditor who sues for the transferred claim shall give notice of the dispute to the obligee in court if the obligee's place of residence is known and located in the country.

2) Any creditor for whom the claim filed has also been garnished may join the lawsuit as an intervening party at his own expense. The decision made in this legal dispute on the claim asserted in the action shall be effective for and against all creditors in whose favor the attachment of the claim is made.

3) Delay in the collection of a debt transferred for collection and failure to serve a notice of dispute shall render the debtor creditor,

The debtor shall be liable for any damage caused to the debtor and other creditors enforcing the same claim.

4) In the event of delay in collection, any other creditor enforcing the same claim may also apply for the transfer of the claim to the defaulting creditor to be cancelled and for a curator to be appointed for the purpose of collection of the garnished claim. Prior to the decision on such application, the creditor to whom the claim has been transferred shall be heard.

Art. 231a

In the event of postponement of an execution for the collection of a claim for recurring benefits due to a payment agreement under Art. 27a, acts of execution that have already been executed shall be revoked. The lien remains intact.

Art. 232

1) The payment by the third-party debtor shall discharge the claim of the debtor creditor up to the amount due to him in accordance with his lien.

2) The creditor who has received the additional amount shall, against restitution of the security provided by him, either deliver it directly to the pledgees entitled to receive it or deposit it in court or hand it over to the obligor if he is entitled to part of the payment due to partial exemption of the claim from execution or if the amount received is not claimed by anyone else.

3) The third party debtor shall be released from his liability in proportion to the payment made by him to the creditor.

Collection by a curator Art. 233

1) If the transfer for collection cannot take place because none of the creditors making the collection provides the security required under Art. 225, or if the transfer must be rescinded because of refusal to provide the security specified in Art. 227, a curator shall be appointed by the court upon application for the collection of the garnished claim.

2) Furthermore, a curator may be appointed for the collection of the claim if the same claim is to be collected in partial amounts from different creditors.

and they do not agree on the appointment of a joint proxy.

Art. 234

1) The curator appointed by the court under the provisions of this Act (Arts. 219, 231 and 233) to collect an attached claim shall have all the rights granted by law to the creditor to whom the claim has been transferred for collection. The court shall supervise the activities of the curator and insist on the expeditious execution of the order given.

2) The amounts paid by the third-party debtor shall be deposited by the court and distributed in accordance with Articles 206 and 207. In this connection, the costs awarded to the curator in the proceedings against the third-party debtor shall be included in the distribution mass and the costs incurred by the appointment and activity of the curator shall be adjusted in the same way as the costs of the auction proceedings before all other claims.

Execution of claims secured by book entries Art. 235

1) If execution is levied on claims for which a lien has been registered in the land register on a plot of land or a share in a plot of land, the lien must be entered in the land register in order for the claim to be seized. If a lien is recorded in the land register in favor of the claim to be enforced, the lien must be recorded in the land register.

If a lien on the claim secured by a book entry has been registered on the basis of an earlier order, it shall suffice to record the enforceability in the book entry for the purpose of attachment.

2) When registering the lien, it shall be stated that the same is granted by the court for the purpose of execution of an enforceable pecuniary claim.

3) At the same time as granting the registration of the lien or the reservation of enforceability, the court shall issue to the obligee and the third-party debtor the prohibitions specified in Art. 217.

Art. 236

1) The transfer of a claim secured by book entry for collection shall be recorded ex officio in the land register.

2) In addition to the rights set forth in Art. 228, the creditor who has filed the action shall in this case be entitled to obtain the registration of the notice of termination and of the mortgage claim and to make all declarations on behalf of the debtor which are necessary for the registration of the deletion of the property transferred for the debtor.

lien registered in respect of the claim. Such declarations of cancellation shall require the approval of the court in order to be effective.

3rd department

Execution on claims for surrender and performance of physical things

Execution on claims for surrender and performance of physical things Art. 237

1) The attachment of the obligor's claims for the surrender or performance of physical objects shall be executed in accordance with the provisions of Articles 217 to 220.

2) The provisions of Articles 222 to 234 shall apply mutatis mutandis to the further steps of execution, taking into account the following provisions.

Art. 238

1) If a claim for the surrender or performance of movable tangible property has been transferred for collection, the third-party debtor shall surrender the property to the bailiff after the claim has become due.

2) The provisions on the sale of pledged movable property shall apply to the sale of the provided property.

3) The enforceable pecuniary claim of the creditor seeking enforcement and the pecuniary claims of the other creditors who have acquired a lien on the same claim shall be satisfied from the proceeds of the sale in accordance with the provisions of Articles 204 to 207.

Art. 239

1) In the event of the transfer of a claim of the obligor which is directed to the performance of an immovable object, such object must be handed over by the garnishee to an administrator to be appointed by the court at the request of the creditor seeking enforcement after the claim has become due.

2) In order to satisfy his enforceable pecuniary claim, the creditor seeking enforcement shall execute the property handed over to the administrator in accordance with the provisions enacted for the execution of immovable property by way of compulsory administration or compulsory sale, without the obligor's entry in the register being required for the compulsory sale; if the creditor seeking enforcement obtains compulsory administration, both he and the administrator may request the entry in the register of the obligor's right of ownership.

3) If the creditor seeking enforcement fails to file the applications required for the initiation of forced administration or forced sale within one month after the transfer of the property to the administrator, the execution shall be discontinued ex officio.

Art. 240

The provision of Art. 227 shall also apply with respect to claims for surrender and performance of physical objects. If the thing to be delivered is not suitable for judicial delivery, the third-party debtor must apply to the court for the appointment of a custodian or administrator and surrender the thing to the latter.

4th department

Execution on other property rights

Execution on other property rights Art.

241

The debtor's claims to recurring non-monetary benefits are unseizable to the extent that they are intended to provide the debtor with the essential necessities of life. Articles 210 to 216 apply mutatis mutandis.

Art. 242

1) For the purpose of execution on property rights which are not claims, the court shall, at the request of the creditor seeking execution, order the obligor to refrain from any disposition of the right (attachment). If, by virtue of this right, a certain person is obliged to perform, the attachment shall not be deemed to have been effected until this third person has also been served with the court's prohibition to perform to the obligor. Insofar as the nature of the matter makes it feasible, a description of the right being enforced by way of a lien (Art. 172) may also be made.

2) The manner of realization of the right shall be determined by the court at the request of the debtor creditor after hearing the debtor and all creditors in whose favor the attachment was levied.

Art. 243

The sale of an alienable right by public auction shall be conducted in accordance with the provisions on the sale of attached movable property, and the distribution of the proceeds shall be conducted by applying mutatis mutandis the provisions of Articles 204 to 207.

Art. 244

1) If, by virtue of the attached right, the obligee is entitled to claim the delivery of an estate or the division thereof and the separation of the share due to him, the court may, upon application, authorize the debtor creditor to assert this right of the obligee on his behalf and for this purpose to

to request the division of the property or the initiation of proceedings for the division of the property in accordance with the provisions of civil law, to give notice of termination and to make any other declarations required for the exercise and utilization of the attached right on behalf of the debtor. This authorization also gives the creditor the right to sue for the attached right or individual claims arising from it (Art. 228).

2) The assets thus seized shall, according to the nature of their various components, be used by way of one of the types of execution permitted by this Act for the satisfaction of the creditor seeking satisfaction.

Art. 245

In the case of rights granting the repeated receipt of fruits or other usable use of movable or immovable property for the benefit of the creditor, in the case of trade licenses, hunting and fishing rights
The court may, at the request of the creditor seeking compulsory administration, grant compulsory administration in respect of real property and the like. The provisions on the forced administration of real property shall apply mutatis mutandis.

Art. 246

1) If this appears to be more advantageous in order to avoid significant administrative costs or for other reasons, liquidation by lease may be ordered upon application instead of forced administration.

2) The lease may be granted by public auction to the highest bidder. With regard to the auction, the provisions on the auction of seized movable property shall apply mutatis mutandis; the distribution of the lease instalments to be paid in court shall be effected in accordance with the provisions on the distribution of the surplus income resulting from forced administration.

Art. 247

1) On industrial and factory undertakings, trading companies and similar

In the case of economic undertakings, execution may, upon request, be carried out by compulsory administration (Art. 245) or by leasing (Art. 246).

2) If the exercise of a trade or the operation of another business by a deputy requires the approval of the government and if, as a result of the granting of forced administration, the management is to be transferred to the administrator himself, the court's decision on the appointment of the administrator shall be submitted to the government for approval before being served on the parties involved.

3) The same shall apply to the decision to lease a trade, if the lease is subject to the government's approval.

Art. 248

1) In the case of companies whose name is entered in the Commercial Register, the granting of forced administration and the name of the administrator must be noted in the Register and made known.

2) The administrator shall sign in person in court.

Art. 249

By virtue of his appointment, the administrator shall be authorized to perform all transactions and legal acts which the operation of an enterprise of the type to be administered usually entails.

Art. 250

1) An appeal is not admissible against resolutions that have been

a) prohibit the obligor from disposing of the attached right and the pledge created for the attached claim after the attachment has been granted (Art. 217 and 242);

b) order the creditor to provide security in accordance with Art. 225 and 227;

c) appoint a curator for the collection of a transferred claim in accordance with Articles 219, 230 and 233.

2) The provisions of Article 209 shall apply with regard to decisions ordering the safekeeping of objects or appointing a depositary.

3. Section

Execution for the purpose of obtaining acts or omissions

Execution for the purpose of obtaining acts or omissions

Art. 251

1) If the obligor has to hand over certain movable property or movable property of a certain kind and if such property is in his custody, the bailiff shall, by order of the court, take it away from the obligor and hand it over to the creditor against acknowledgement of receipt.

2) This provision shall also apply if the obligor is required to deliver securities or a certain quantity of fungible property.

Art. 252

1) In the same way, execution may be carried out in favor of a claim for the surrender of movable property if the property to be surrendered is in the custody of a third party willing to surrender it.

2) If the third party refuses to surrender the property, the creditor concerned may apply to the court for the obligor's claim for surrender of the property against the owner of the property to be transferred to him. The provisions enacted for the transfer of monetary claims for confiscation shall apply mutatis mutandis to such transfer.

Art. 253

Transfer or evacuation of immovable property

1) If a plot of land or part thereof is to be surrendered or vacated, the bailiff shall arrange for the necessary removal of persons and movable property and shall put the creditor seeking enforcement in possession of the plot of land or part thereof. If property is also to be handed over, Art. 251 shall apply.

2) Movable property to be removed, which is not the subject of execution, shall be handed over by the bailiff to the obligee or his authorized representative, or, if this is not possible, the bailiff shall hand it over to the obligee or his authorized representative.

is possible, at the expense of the obligor. The persons for whom the items have been seized or who may otherwise claim them shall be notified thereof. If the obligor does not pay the costs of safekeeping and no one asserts rights to the objects, they shall be sold for the account of the obligor after prior warning. The proceeds remaining after deduction of the costs of safekeeping and sale shall be deposited with the court on behalf of the obligor.

Art. 254

Granting or cancellation of book rights

1) The execution of a claim for the granting, transfer, restriction or cancellation of a right recorded in the land register shall be effected by the relevant entry in the land register.

2) On the basis of the execution title, the creditor may demand the registration as owner of the real property or share of real property awarded to him or the transfer to his person of a right in the land register awarded to him, even though the obligor has not yet been registered as owner of the real property or the right in the land register. However, it is a prerequisite that the creditor proves that the obligor has acquired the right outside the register.

3) If, on the basis of the execution title, entries are to be made in respect of shares in real property of the obligor in respect of which the obligor has not yet been registered as owner, or if rights of the obligor are to be encumbered which have not yet been registered in respect of the obligor, the executing creditor may, at the same time as the execution, request the entry in the land register of the ownership or the relevant right in the land register in favor of the obligor, providing evidence of the acquisition of rights by the obligor.

Art. 255

Cancellation of joint ownership

The cancellation of co-ownership ordered by an enforceable title is governed by Art. 30 Property Law.

Art. 255a

Auction of a common property

The provisions on compulsory sale of real property shall apply mutatis mutandis to the enforcement of the claim of judicial sale of a community real property for the purpose of division, with the following deviations:

a) The rights and obligations granted to the creditor or obligor in the proceedings shall apply to all co-owners.

b) The execution order shall be served on the person entitled to pre-emption; he shall be summoned to attend the auction.

c) Persons entitled in rem are not parties to the proceedings. They are not to be included in the

They are not to be summoned to hearings; resolutions are not to be served on them.

d) The hiring according to Art. 21 para. 1 let. f also requires the consent of the obligated party.

e) Art. 48 shall not apply in the partition proceedings. The cash expenses incurred shall be divided between the parties in proportion to their co-ownership shares; cash expenses which a party has provisionally disputed to an extent exceeding this shall be reimbursed to him upon his request insofar as they were necessary for the realization of the right.

Art. 255b Auction conditions

1) The party requesting the execution may, together with the application for execution, and the obligated party may, within 14 days after service of the execution order, submit conditions for the sale of the property which deviate from the statutory provisions governing the forced sale. A hearing shall be held on this matter, to which all co-owners shall be summoned. The court shall approve these auction conditions if all other co-owners agree and if they do not contain any impermissible or invalid provisions.

2) The rights of persons entitled in rem shall remain unaffected by the auction. These encumbrances shall be assumed by the Purchaser without deduction from the highest bid, even if they are not covered by the highest bid. A registered right of re-purchase shall also remain unaffected. § Section 1408 ABGB shall apply. Deviations therefrom are inadmissible.

3) The lowest bid shall be the appraised value. The auction conditions may provide otherwise, but not less than three quarters of the appraised value.

4) An appraisal is not required if the co-owners agree on an auction price prior to the appraisal date. The auction deed shall indicate that no appraisal has been made. In all other respects, the auction price shall take the place of the appraised value insofar as the appraised value is used as a basis in statutory provisions.

Art. 255c

Auction

The following applies to the auction:

a) The time limit of Art. 110 par. 2 does not apply.

b) The obligor is not excluded from bidding.

c) If no bid is submitted at the auction, the court shall fix a time limit, which shall be at least four but not more than eight weeks, within which written bids are to be submitted to the court. This shall be announced in the daily schedule and made public. Art. 111 shall be applied.

d) The written bids may be one-fourth lower than the appraised value. The written bid shall be submitted in a sealed envelope. The contents thereof shall be exempt from inspection until opened by the judge. Immediately after the expiry of the time limit, but in no case before this time, the judge shall open all the envelopes received in person at a public hearing and invite the bidder with the highest bid to pay the premium within 14 days. If the bid is submitted in time, this bidder shall be awarded the contract by resolution.

Art. 255d

Distribution

The highest bid shall be divided according to the agreement of the parties. If the parties do not agree, the court shall decide thereon by judgment after oral proceedings. The provisions governing civil court proceedings shall apply to the proceedings.

Obtaining other acts Art. 256

1) If the obligee is required to perform an act which may be performed by a third party, the court shall, upon request, authorize the creditor to have the act performed at the expense of the obligee.

2) At the same time, the creditor may request that the debtor be ordered to pay the costs incurred in performing the act. The order granting such application shall be enforceable against the assets of the obligee.

Art. 257

1) The right to perform an act which cannot be performed by a third party and the performance of which depends exclusively on the will of the obligor shall be enforced by the obligor being required by the court, upon application, to perform the act by means of fines or by imprisonment.

2) The execution shall begin with the threat of the disadvantage to be applied in case of default. After the fruitless expiry of the time limit granted in this order for the performance of the act, the threatened means of coercion shall be enforced at the request of the enforcing creditor and at the same time a more severe means of coercion shall be threatened, in each case setting a new time limit for the performance owed. The enforcement of the same shall be effected only upon the application of the creditor seeking enforcement.

Art. 258

Obtaining acquiescence and forbearance

1) Execution against a person obliged to refrain from an act or to tolerate the performance of an act shall be effected by the imposition of fines or imprisonment by the court on application for each infringement after the execution has been granted. In the event of repeated application, such fines or imprisonment shall be increased in proportion to the fine or imprisonment first imposed.

2) At the request of the creditor, the court may order the debtor to provide security for the damage caused by further infringement. The amount and nature of the security to be provided and the period for which it is to be liable shall be determined. Article 256(2) shall apply to the enforcement of this order.

Fines and imprisonment

Art. 259

1) The fine threatened in a single penalty order may not exceed the amount of 1,000 francs and the total amount of fines imposed against the obligor may not exceed the sum of 10,000 francs.

2) Imprisonment may be imposed in the individual penalty order only in the maximum period of two mo- nates and in total only in the maximum period of one year.

Art. 260

1) If, in the case of Art. 258, the proceedings of the obligee have brought about a change contrary to the rights of the enforcing creditor, the court shall, upon application, authorize the enforcing creditor to have the former situation restored at the risk and expense of the obligee.

2) The order determining the costs of such restoration shall be enforceable against the assets of the obligee.

Art. 261

If the obligor opposes the performance of an act that he is obligated to perform under Art.

260

(1), the bailiff shall ensure the elimination of the resistance at the request of the creditor seeking enforcement. If necessary, he may call upon the assistance of security organs.

Art. 262

Before issuing the judicial decisions and orders referred to in Articles 256 to 261, the obligor may be heard, unless there is danger.

Art. 263

Fines shall be paid to the municipality in which the obligor resides and shall be allocated by the municipality to any existing fund for the poor. However, if the obligor has no known residence in the country, the fines shall be paid to the country.

Art. 264

The arrest shall be made by a security body on the basis of an arrest warrant issued by the court, which shall specify in particular the reason for the arrest. The arrest warrant must be served on the person subject to the arrest at the time of arrest.

Art. 265

The detention shall be executed in the prison of the regional court, separately from remand and sentenced prisoners. It may not be executed as long as it would significantly endanger the health of the obligated person, and shall be revoked if such danger arises.

Art. 266

The execution of the detention shall not be made dependent on the payment of an advance on costs.

Art. 267

Issuance of a declaration of intent

1) If, according to the contents of the execution title, the obligee is required to make a declaration of intent, such declaration shall be deemed to have been made as soon as the judgment has become final or another execution title of the same contents entitles the obligee to apply for the granting of execution.

2) Insofar as the obligation to make the declaration of intent is dependent on a consideration, the legal consequence referred to in para. 1 shall only occur upon the provision of the consideration by the debtor creditor.

Art. 268

Interest

1) Articles 251 to 269 shall not affect the right of the creditor to claim payment of the interest for non-performance of the obligation incumbent on the debtor or compensation for the damage caused thereby.

2) These claims may be asserted at any time by waiving the continuation of the initiated execution proceedings or by filing a lawsuit after the execution proceedings have failed.

Art. 269

Execution costs

1) The granting of execution for the purpose of realizing claims for the surrender or transfer of property, for acts or omissions shall include the granting of execution in favor of the costs incurred by the operating creditor as a result of the execution proceedings.

2) The debtor shall specify the assets of the debtor to be used to cover the costs and the means of execution to be applied within the meaning of Art. 33 already in the first application for execution.

Part 2

Legal Assurance

Legal Assurance

Art. 270

1) Interim injunctions may be issued both prior to the commencement of litigation and during the same, as well as during execution proceedings, in order to secure the right of a party upon application.

2) Upon application of an administrative authority, temporary injunctions may also be issued to secure claims under public law.

3) Claims which are to be asserted in extrajudicial proceedings may also be secured ex officio by means of an interim injunction.

4) The admissibility of preliminary injunctions shall not be excluded by the fact that the claim of the applying party (applicant for security) is an aged or conditional claim, unless the conditional claim does not have a present asset value due to the remote possibility of occurrence of the condition.

Art. 271

1) As a rule, the court shall be responsible for granting temporary injunctions, for the orders necessary for their implementation and for other applications and negotiations arising from such injunctions.

2) The court shall also be entitled to hear and decide all disputes arising in the course of and on the occasion of security proceedings, unless such disputes are to be settled in administrative proceedings.

Art. 272

1) In urgent cases, the creditor may also request the head of the municipality responsible for the debtor to temporarily order security measures, such as the seizure of movable property, the taking of money or the maintenance of a temporary condition,

the municipal councils, the municipal sergeant-at-arms, police officers or the bailiff of the court are approached.

2) If the request does not appear to them to be manifestly inadmissible, these officials are obliged to order and execute the requested protective measures. They shall immediately notify the applicant for security and the court of the ordered and executed security measure; in addition, they shall issue a confirmation to the applicant for security of the order and execution of the security measure.

3) The court shall review the security measures ordered by the officials referred to in para. 1 for their legal admissibility and, if they are unlawful, shall annul them.

4) Within two days after the notification (para. 2), the applicant for security shall apply to the court for the issuance of a temporary injunction, failing which the temporary security measures shall cease to be valid. This application shall be decided upon in accordance with the following provisions.

Art. 273

Insofar as the execution is inadmissible, the safeguarding of rights is also inadmissible.

Security messenger

Art. 274

1) Interim injunctions are inadmissible for the purpose of securing pecuniary claims if the party can obtain execution against the debtor's assets for the same purpose.

2) Otherwise, interim injunctions (security orders) may be issued to secure pecuniary claims if it is probable that without them the debtor would be able to frustrate or impede the recovery of the pecuniary claim by actions such as damaging, destroying, concealing or disposing of property, by disposing of or otherwise disposing of items of his property, in particular by agreements made with third parties in this respect or by omissions (grounds for security).

3) A reason for security shall also exist in particular if the debtor

a) has no fixed abode;

b) with the intention of evading the fulfillment of his obligation, makes arrangements to escape or flees;

c) does not reside in Liechtenstein or if otherwise the execution title would have to be enforced abroad.

4) A protective order may not be issued if the claimant is already sufficiently covered by a lien or right of retention or if, in view of the general financial situation of the debtor residing in Austria, the court otherwise deems the claimant to be sufficiently covered.

Art. 275

1) In particular, the following may be ordered to secure monetary claims:

a) the seizure, custody and administration of movable physical property of the debtor and the judicial deposit of money;

b) the court prohibition of alienation or pledging of movable tangible property with the effect that an alienation or pledging in violation of the prohibition is invalid unless the bona fide acquirer is protected under the provisions of property law;

c) the court's prohibition of third parties if the debtor has a monetary claim or a claim for performance or surrender of other things against a third party, including the collateral taker itself.

2) The prohibition of third parties shall be enforced by prohibiting the debtor from disposing of the claim and, in particular, from collecting it, and by ordering the third party not to pay the amount owed to the collateral taker in the event of his own liability and not to surrender the items to which the collateral taker is entitled or to do anything else in relation to them which could frustrate or considerably impede the execution of the monetary claim or of the items owed or to be surrendered, until further order of the court. By virtue of this prohibition, the claimant acquires the following rights to the secured assets

receivables or claims of the collateral opponent a lien.

3) In the case of real property and registered rights, a prohibition of sale, encumbrance or pledge (restriction of disposal) may be issued or the registration of a lien or compulsory administration may be ordered in order to secure a monetary claim.

Official

orders Art.

276

1) Interim injunctions (Amtsbe- fehle) may be issued to secure other claims:

a) if it is probable that the judicial prosecution or realization of the claim would otherwise be frustrated or considerably impeded, in particular by a change in the existing situation; such impediment shall be deemed to exist if the execution title would have to be enforced abroad;

b) even if there is no reason to fear that the legal proceedings will be endangered or thwarted, to regulate the relationship of the parties to the subject matter of the dispute, namely to regulate the status of the property or to maintain a different factual condition of a thing or a legal relationship, if such measures appear necessary at the discretion of the court to prevent imminent violence, to avert imminent irreparable damage or other serious disadvantage, or for other reasons (interim measures).

2) In all other respects, the grounds of security under Art. 274 paras. 2 and 3 shall apply mutatis mutandis.

Art. 277

1) Means of security which the court may order on application, depending on the nature of the purpose to be achieved in the individual case, are in particular:

a) the judicial deposit of movable property in the debtor's custody, the surrender or performance of which is the object of the claim asserted by the claimant or already awarded to him, or, if the property is not suitable for judicial deposit, the ordering of safekeeping in accordance with Art. 180;

b) the administration of the movable property referred to in subparagraph (a) or of the immovable property or rights to which the claim asserted by the claimant or already granted to him relates;

c) the authorization of the applicant for security to retain the debtor's items in its custody to which a claim asserted by it or already granted to it relates until a final decision on this claim has been made;

d) an order addressed to the debtor (collateral opponent) to perform individual acts which appear necessary for the preservation of the objects specified in letters a and b or for the preservation of the present condition;

e) the prohibition of individual detrimental actions directed at the opposing party or of making certain or all changes to the objects referred to in letters a and b above;

f) the court prohibition of the sale, encumbrance or pledge of real property or rights entered in the land register and to which the claim asserted by the claimant or already granted to him relates (restraint on disposal);

g) the court prohibition of third parties if the opposing party has a claim against a third person for performance or surrender of items to which the claim asserted by the person seeking security or already awarded to him relates; claims of the opposing party against the person seeking security may also be subject to prohibition (second prohibition);

h) the ordering of precautionary measures in the context of divorce or separation proceedings or proceedings for the judicial dissolution of a registered partnership.

2) The prohibition of third parties under subparagraph (g) shall be enforced by prohibiting the defendant from disposing of his claim against the third party and, in particular, from receiving those things in the event of his own liability and, at the same time, by ordering the third party, until further order of the court, neither to hand over the things due to the defendant nor to do anything else which could frustrate or significantly impede the execution thereof.

Protection from violence in the

family Art. 277a

General

1) The court shall order a person who, by physically assaulting or threatening to physically assault a close relative, by violating sexual self-determination, by threatening to violate sexual self-determination, or by engaging in any other conduct that significantly impairs the mental health of a close relative, to cease living with that person.

unreasonable, at his or her request or at the request of his or her legal representative.

1. to leave the dwelling and its immediate surroundings and/or

2. prohibit entry into the apartment and its immediate surroundings,

if the dwelling serves the satisfaction of the applicant's housing needs.

2) The court shall, at the request of a person who makes it unacceptable for a close relative to continue to live with him or her as a result of a physical assault, a threat of such assault, a violation of sexual self-determination, a threat of such assault, or other conduct that significantly impairs his or her mental health, order the court to

1. prohibit the stay in places to be specified and/or

2. to avoid meeting and contacting the person making the request,

insofar as this is not contrary to the serious interests of the defendant.

3) Close relatives within the meaning of paras. 1 and 2 are:

1.

a) Spouses, registered partners and de facto life partners,

b) Siblings and relatives in the direct line, including elective and foster children, as well as elective and foster parents,

c) the spouses, registered partners and de facto life partners of the persons mentioned under b),

2.

a) Relatives in the direct line, including the elective and foster children and the elective and foster parents, the spouse, registered partner or de facto life partner, as well as

b) Siblings of the spouse, registered partner or de facto life partner,

if they live or have lived in the same household as the defendant within the three months preceding the filing of the application.

4) A temporary injunction under subsection (1) or (2) may be issued irrespective of the continuation of the domestic partnership of the parties and also without connection with proceedings for separation, divorce or annulment of marriage, a

proceedings for dissolution or annulment of the registered partnership or proceedings for clarification of the right to use the dwelling, but as long as such proceedings are not pending, the time for which such an order is made shall not exceed three months in total.

Art. 277b

Procedure and order

1) The hearing of the defendant prior to the issuance of the temporary injunction pursuant to Art. 277a par. 1 shall be dispensed with in particular if there is an imminent threat of further danger from the defendant. In this context, the report of the regional police, which the court has to provide ex officio, shall be taken into account; the regional police shall be obliged to send such reports to the regional court without delay. However, if the application is filed without unnecessary delay after a ban on entering the premises (Art. 24g (8) Police Act), it shall be served on the defendant without delay.

2) The order to leave the home shall be served on the defendant by the bailiff at the time of execution, unless the person making the request requests otherwise. This date shall be notified to the person making the request.

3) The content of an order ruling on an application for a temporary injunction under Art. 277a and of an order revoking a temporary injunction shall also be subject to the following conditions

1. the state police,

2. notify the Office of Social Services immediately if one of the parties is a minor.

4) If the defendant has notified the National Police of a place of delivery on the occasion of a removal pursuant to Art. 24g para. 4 Police Act, this place of delivery shall be deemed to be the place of delivery for the judicial proceedings. If the defendant has failed to make such a notification despite being informed of the legal consequences, the provisions applicable to the service of legal actions shall apply.

Art. 277c

Enforcement

1) Interim injunctions pursuant to Art. 277a par. 1 shall be immediately enforced ex officio.

2) The bailiff shall order the defendant out of the apartment and

to take away all keys to the apartment and existing weapons and to deposit them with the court. He shall give the defendant the opportunity to take his personal valuables and documents as well as those things that serve his sole personal use or the exercise of his profession.

3) If the defendant is not present at the time of execution, the bailiff shall, at his request, give him the opportunity within two days to collect his belongings as defined in paragraph 2 from the apartment. The bailiff shall inform the defendant of this right by leaving a notice on the door of the apartment.

4) The court may also entrust the National Police with the execution of a temporary injunction under Art. 277a. In any case, the regional police, as the executing body, shall be obliged, at the request of the person filing the application, to establish the situation corresponding to a temporary injunction under Article 277a(1) by means of direct command and coercive power and to report this to the regional court.

Protection against invasion of privacy

Art. 277d

1) The right to refrain from invasion of privacy can be secured in particular by the following means:

1. Prohibition of personal contact and persecution of the opponent of the security,

2. Prohibition of contact by letter, telephone or other means,

3. Prohibition to stay in places to be designated,

4. Prohibition of disclosure and dissemination of personal data and photographs of the opposing party,

5. Prohibition to order goods or services from a third party using personal data of the opposing party,

6. Prohibition to induce a third party to enter into contacts with the collateral opponent.

2) The court may entrust the national police with the execution of temporary injunctions under par. 1 fig. 1 and 3. Art. 277c par. 4 shall apply mutatis mutandis. In all other respects, temporary injunctions under paragraph 1 shall be enforced in accordance with the provisions of the Third Section.

3) The following shall be applicable to temporary injunctions pursuant to par. 1 fig. 1 and 2 as well as fig. 4 to 6

Art. 284 par. 2 and par. 4 shall not apply. The period for which such a temporary injunction is issued shall not exceed one year.

Art. 278

1) The administration referred to in Articles 275(3) and 277(1)(b) shall be carried out in respect of immovable property by applying mutatis mutandis the provisions issued on the forced administration of immovable property, but in all other cases in accordance with Articles 245 and 247 to 249 or by applying these provisions mutatis mutandis.

2) The movable property to be kept or administered shall be taken away from the opposing party by the bailiff and handed over to the custodian or administrator.

3) The surplus earnings resulting from the settlement of all costs and expenses to be adjusted from the proceeds shall be handed over to the opposing party, unless the rights of third parties conflict with this. If the ownership of the object is disputed, the surplus proceeds shall be deposited with the court.

Art. 279

1) If the defendant is required to perform or refrain from performing certain acts and changes, the provisions of Articles 256 to 262 shall apply mutatis mutandis to the execution of these official orders.

2) The prohibition of the sale, encumbrance or pledge of real property and rights recorded in the land register shall be recorded ex officio in the land register (restriction on disposal).

3) Entries made after the execution of this priority notice on the basis of a voluntary disposition made by the opposing party contrary to the prohibition shall only confer a right on the applicant for security in the event that the claim made by him to the property or the right in the land register is rejected by a final court decision.

Art. 280

1) The prohibition referred to in Article 277(1)(g) shall become effective against the owner of the property only upon service on him.

2) From then on, he shall be liable for all damage caused by the failure to comply with the court order, but may release himself from this liability by obtaining the property affected by the order from the court or by handing it over to a custodian or administrator to be appointed by the court at his request.

3) These provisions apply in the same way to the third-party debtor or the owner of the property if the court prohibition pursuant to Art. 275 para. 1 let. c has been issued.

Art. 281

1) Only arrest and detention may be used to secure the person of the person being detained. Arrest may be ordered only if the person against whom security is sought is a fugitive or is suspected of absconding and there is reason to fear that his absconding would frustrate the realization of the rights of the person against whom security is sought; moreover, the person against whom security is sought must not be adequately secured in any other way. The arrest and detention of the person seeking security cannot be ordered for the purpose of securing pecuniary claims.

2) With respect to the admissibility of detention in custody and the execution of such detention, the provisions of Art. 259 paras. 2 and 264 to 266 shall apply.

Art. 282

Application for a preliminary injunction; prima facie case

1) The application for the issuance of a protective order or an official order may be filed separately or combined with a lawsuit, a request for the issuance of a payment order or any other application.

2) With the filed application, the applicant for security has

a) the disposition requested by him and the assets to which it is to apply;

b) the period for which the order is to be valid, and

c) precisely describe the claim asserted by him or already awarded to him, and

d) to state truthfully and in detail the facts on which the application is based.

3) If the application is not accompanied by the necessary certificates in documentary form, the facts substantiating the application and, unless a decision granting the claim has already been made, the claim asserted by the applicant for security and the ground for security must be made credible at the request of the court.

4) In the case of claims, the amount of money owed or the monetary value of the item otherwise to be provided and, in the event that the claimant instead of the

If the court declares that it is content with the provision of a certain sum of money or other security in the form of a court order, the court shall specify this security.

Art. 283

Security deposit

1) The court may order a temporary injunction in the event of insufficient certification of the claim asserted by the secured party, if the disadvantages threatening the opposing party as a result can be compensated by monetary compensation and the secured party provides security for this purpose to be determined by the court at its own discretion.

2) The court may, depending on the circumstances, make the granting of an interim injunction dependent on such a security deposit,

although the applicant for security has provided the required certificates in a sufficient manner.

3) The granting or maintenance of an interim injunction may be made dependent on the provision of security if the party seeking security is a party liable to provide security for the costs of the proceedings under the Code of Civil Procedure.

4) In such cases, the execution of the order may not be commenced until proof has been provided that the security has been furnished.

5) The opposing party shall obtain a lien on the security provided.

6) The granting of an interim injunction pursuant to Art. 277a or 277d may not be made dependent on the provision of security.

Art. 284

Content of the security bid or official order

1) The order granting the temporary restraining order shall contain in particular:

a) the inscription "Sicherungsbot" or "Amtsbefehl";

b) the name, occupation and place of residence of the applicant for security and the opposing party and their representatives;

c) the claim for the protection of which the temporary injunction is issued;

d) the security reason (Art. 274 and 276);

e) the security measures (Art. 275 and 277);

f) in the case of an order for the judicial deposit of property or the performance of acts, the period within which the opposing party must comply with the order;

g) if this is sufficient to secure the secured party according to the nature of the case, a sum of money or other security by the judicial deposit of which the execution of the granted order is suspended and the opposing party is entitled to apply for the cancellation of the already executed order;

h) if necessary, the security to be provided by the applicant for security (Art. 283);

i) the period for which the temporary restraining order is issued;

j) the reference to any liability for damages on the part of the party seeking security;

k) the reasoning;

l) the instructions on how to appeal.

2) If a temporary injunction is granted before the right claimed by the claimant becomes due or otherwise before the commencement of civil proceedings, non-contentious proceedings, administrative proceedings or execution proceedings, the decision shall set a time limit of 14 days for the commencement of the legal proceedings.

3) If an objection is raised in the debt collection proceedings, the claimant shall file an action within 14 days of being notified of the objection or shall request the opening of proceedings; if the request to open proceedings is rejected, the action shall be filed within 14 days of the decision becoming final.

4) After fruitless expiry of the time limit, the order made shall be revoked upon application or ex officio.

5) The time for which the temporary injunction was granted may be extended upon request.

Art. 285

Multiple dispositions

1) Upon application, several orders may be issued at the same time in favor of the same claim in a protective order or official order if this appears necessary to the court according to the nature of the case for the full achievement of the purpose of the protective order.

2) Among several orders which are equally applicable in the individual case, the one shall be granted which, in order to avoid the consequences of the particular circumstances, is

The most suitable method is the one that is most suitable for the risk to be worried about and is least burdensome for the opposing party.

Art. 286

Costs

1) Interim injunctions shall always be issued and executed at the expense of the party seeking security, without prejudice to any claim to reimbursement of such costs to which it may be entitled.

2) This shall also apply in particular to the costs of urgent measures taken by the head of the municipality and other official bodies (Art. 272) and the

costs of deposit, custody or administration of prohibited objects (Art. 280).

3) When a protective order or an official order is issued, the applicant for security may be ordered to deposit the amount of money required for the execution of the issued orders with the court in advance. The execution of the order may not be commenced before the deposit of this sum of money.

4) In proceedings for interim measures pursuant to Art. 277a and 277d para. 1 items 1 and 2 and items 4 to 6, the obligation to reimburse costs shall be governed by the provisions of the Code of Civil Procedure.

Art. 287

Claim for damages

1) If the claimant is denied the claim for which a protective order or an official order has been issued, if his claim otherwise proves to be unjustified or if he fails to meet the deadline set for justification (Art. 284), the claimant shall compensate the opposing party for all pecuniary disadvantages caused to him by the temporary injunction. The amount of the compensation shall be determined by the court by order upon application after free conviction (section 273 of the Code of Civil Procedure). This order shall be enforceable against the assets of the party seeking the protective order after it has become final and absolute.

2) If the interim injunction has been obtained in an obviously wilful manner, the applicant for security shall, moreover, at the request of the opposing party, be imposed a penalty for wilfulness of up to 1,000 Swiss francs, to be assessed by the court with due regard to the particular circumstances of the individual case.

Art. 288

Deliveries

1) The provisions applicable to the service of legal actions shall apply to the service of security letters and official orders on the opposing party, the third party debtor and the owner of the objects subject to the prohibition.

2) In the case of a detention order, service of the temporary restraining order on the person to be detained shall be effected at the time of his or her arrest.

3) In urgent cases, prior to service, the court may issue a telephonic or telegraphic order to the officials referred to in Art. 272 to execute the protective measures.

Art. 289

Inadmissibility of the execution

The execution of a granted order shall be inadmissible, unless it has been postponed due to an appeal filed, if more than one month has elapsed since the day on which the grant was announced or notified to the applicant for security by delivery of the order.

Art. 290

Opposition proceedings

1) The party against whom an interlocutory injunction has been granted may appeal against it and, if it has not been heard before the decision is taken, may also lodge an objection.

2) The filing of an objection does not suspend the execution of the order.

3) The following provisions apply to the objection procedure:

a) The objection must be filed in writing or orally with the court within 14 days of service of the temporary restraining order;

b) The opposition shall state the facts which justify the inadmissibility or inappropriateness of the temporary restraining order, the motions based thereon and the evidence;

c) an oral hearing must be scheduled on the objection, at which the circumstances presented by the parties must be made credible (Art. 273 of the Code of Civil Procedure) and the court must decide on the admissibility and appropriateness of the temporary injunction by way of an order;

d) the court may make the confirmation, modification or revocation of the temporary injunction conditional upon the provision of security to be determined by the court in its discretion;

e) If the objection is upheld, it shall be declared that the party seeking security shall reimburse the opposing party for the costs of the objection proceedings; if, on the other hand, the objection is not upheld, the party seeking security shall not be awarded costs for the time being (Art. 286), but a decision on these costs shall be taken after the conclusion of the proceedings on the merits.

Revocation or limitation of an injunction Art. 291

1) Except in the case of annulment of an order made, as referred to in Art. 284 par. 4, annulment or restriction may be applied for even after an objection raised under Art. 290 has been rejected:

a) if the order has been executed to a greater extent than is necessary to secure the claimant;

b) if, in the meantime, the circumstances on the basis of which the temporary injunction was granted have changed to such an extent that the continuation of this injunction is no longer required to secure the applicant for security;

c) if the opposing party has exercised the right reserved to him (Art. 284 para. 1 let.

(g) or has furnished such other security as the court may deem sufficient, and has produced evidence thereof;

d) if the claim of the claimant for security has been corrected or has been denied by a final court decision or if its extinction has been established by a final court decision;

e) when the time for which the temporary injunction was granted has expired.

2) The court shall decide on such applications by way of an order, if necessary on the basis of an oral hearing.

Art. 292

Security provided by the applicant for security to cover costs or claims for damages (Art. 283 and 290) may be returned to him only after the expiry of 14 days from the entry into force of the order revoking the temporary injunction.

Art. 293

Arrangement with regard to things in custody

1) If, in order to avoid a considerable reduction in value, disproportionate costs or other disadvantages, or in order to achieve an advantage in the event of a loss in value, the

If the court finds it necessary or useful to make any orders in respect of the property taken into its custody, these may be granted by the court on application.

2) If both parties do not agree on the disposition to be made, the court shall order what is necessary according to the nature of the case, taking into account the rights of the owner.

3) In particularly urgent cases, such an order may be issued without hearing the opposing party. This shall apply in particular to acts necessary for the preservation or exercise of the rights arising from the documents referred to in Article 218.

Special safeguards for existing contracts Art.

294

1) In order to secure the legal right of retention of the lessor under § 1090 Art. 53 and 54 ABGB, the lessor may demand the recording of the retention description of the items brought in by the lessee.

2) The application may be filed with the filing of the action or the application for an order for payment, or later with a special pleading.

3) The court shall order the retention description without hearing the tenant by way of an order and shall arrange for its execution by the bailiff. The order shall be served on the tenant at the time of execution.

Art. 295

1) The statutory right of retention shall expire if the items are removed prior to their retention description, unless this occurs as a result of a court order and the lessor registers its right with the court within three days after the execution.

2) If the tenant wants to move out or move things without the interest having been paid or secured, the lessor may demand the

The owner may retain things at his own risk and for this purpose call upon the help of the head of the municipality, a municipal council, a municipality woman or a police officer, but he must within three days request that the things be seized or surrendered.

3) If a third party's right is claimed in one of the described items, Art. 20 applies.

Art. 296

In all other respects, the following provisions shall apply to the security of rent and lease payment claims and to the security of the legal right of retention of the lessor

on legal security (Articles 270 to 293).

Art. 297

Unless otherwise provided for in Articles 270 to 296, the provisions on enforcement proceedings (Articles 1 to 269) shall apply mutatis mutandis in the proceedings for the protection of rights.

Art. 298

The special safeguards in the land register proceedings and in the probate proceedings remain reserved.

IX.regulation (FpfBV)

from 1 July 2008

On the Determination of the Amounts Exempt from Attachment in Executions on Income from Work and Services

Pursuant to Art. 211 (1) of the Act of November 24, 1971 on Execution and Legal Security Proceedings (Execution Code), LGBl. 1972 No. 321, the Government decrees:

Art. 1

Unattachable minimum amounts

In the case of execution on income within the meaning of Art. 211 (1) of the Code of Execution, the following minimum amounts shall be unseizable:

a) if paid for months: 1980 francs per month;

b) when paid for weeks: 495 francs per week;

c) in case of payment for days: 70 francs per day.

Art. 2

Increase for maintenance

1) If the obligor grants maintenance to his spouse, a former spouse, a registered partner, a former registered partner or a legitimate or illegitimate child, the unseizable amount shall be increased:

a) by 803 francs a month, 202 francs a week and 26 francs a day in the case of maintenance payments to a spouse or registered partner;

b) for child support payments per child by 542 francs per month, 149 francs per week and 20 francs per day.

2) The unattachable amount may not exceed the maintenance actually paid.

Art. 3

Deductions

When calculating the garnishable income, deduct:

a) the remuneration withdrawn from attachment pursuant to Art. 210 of the Execution Code;

b) Contributions that must be paid directly from the obligor's income under social security and tax regulations;

c) Contributions made by the obligated person to health insurance funds for himself or for his family members within the scope of the statutory minimum benefits;

d) Contributions made by the obligor to his employer's employee benefit plans.

Art. 4

Contributions in kind

The value of benefits in kind under Art. 211 par. 1 of the Execution Code shall be per day:

a) for free accommodation and full board: 28 francs;

b) for free accommodation: 10 francs;

c) for morning meal: 4 francs;

d) for lunch: 8 francs;

e) for dinner: 8 francs.

Art. 5

Repeal of previous law

The Ordinance of December 10, 1996, on the Determination of Amounts Exempt from Attachment in Executions on Income from Employment and Services, LGBl. 1997 No. 6, is repealed.

Art. 6

Entry into force

This Regulation shall enter into force on August 1, 2008.

X. Ordinance (GFerV)

of 13 October 1987 on

judicial vacations

Based on Section 222 of the Act of December 10, 1912 on Judicial Proceedings in Civil Disputes (Code of Civil Procedure), LGBl. 1912 No. 9/11, as amended by the Act of May 20, 1987, LGBl. 1987 No. 27, the Government decrees:

Art. 1

In summer, the court vacations begin on July 15 and last until August 25 of each year. At Christmas and New Year's Day, they begin on December 24 of each year and last until January 6 of the following year.

Art. 2

The ordinance of July 2, 1943, LGBl. 1943 No. 15, is repealed.

Art. 3

This Ordinance shall enter into force on the day of its promulgation.

XI. Rules of Procedure for the Princely District Court in Vaduz

from 31 December 1969

Pursuant to § 27 of the Court Organization Act of April 7, 1922, LGBl. 1922 No. 161, the Government decrees:

I. Distribution of business at the regional

court Art. 1

1) The district judges appointed to the district court shall distribute the judicial business annually by December 15 at the latest for the coming calendar year. In doing so, care shall be taken to ensure that the workload is as even as possible and that the individual district judges are involved in all branches of the administration of justice.

2) In the assignment of business, the substitution during vacation or short-term prevention of each district judge shall be regulated only with regard to such business that does not tolerate any postponement.

3) In the event of a district judge being prevented from serving for a longer period of time, the distribution of business shall also be changed during the year.

4) If a resolution on the allocation of business is not passed in time, the old allocation of business shall remain in force until the new one comes into effect.

Art. 2

1) The annual allocation of business shall be decided by the district judges by a simple majority of votes. In the event of a tie, the district court board of directors shall have the casting vote.

2) If the distribution of business has been decided by a majority of votes, the district judges who have been outvoted shall have the right to challenge the decision on the distribution of business within fourteen days of the adoption of the decision by filing a written complaint with the President of the Supreme Court. The President of the Supreme Court shall make the final decision on the appeal after hearing all the District Judges.

Art. 3

1) The applicable distribution of business shall be summarized in an overview. The overview shall show in a simple and clear form the individual business groups, the numbers of the divisions, the names of the district court board, the district court judges and the clerical staff, the designation of the offices assigned to these persons and to the individual divisions, the office to which the parties shall address oral submissions, as well as the hours and days designated for such submissions (Art. 10 par. 1).

2) The schedule shall be posted on the court board and shall be kept current by recording all changes.

II. Structure and principles of the judicial service The

district court board of directors

Art. 4

1) A district judge shall be appointed to the board of the district court. The procedure shall be governed by the Act on the Appointment of Judges.

2) In the event that the head of the regional court is prevented from serving, the most senior regional court judge shall be appointed to represent him.

Art. 5

1) The President of the Regional Court shall be responsible for the administration of justice, shall represent the Regional Court externally and shall perform the duties assigned to it by law and by these Rules.

2) The District Court Board shall have overall supervision of the District Court Clerk's Office and shall exercise disciplinary authority over all non-judicial personnel in the first instance.

Art. 6

The district court executive committee shall hold joint meetings with the other district judges to promote uniformity in the administration of justice and to bring about a uniform procedure in the handling of the rules of procedure.

Public library Art. 7

1) A public library shall be established at the district court. The district court board shall supervise the public library; it may delegate such supervision to a district judge.

2) The head of the district court or the district judge appointed by him shall issue rules for the use of the public library. These regulations shall be published on a notice board.

Vacation plans Art. 8

1) The district court director or a district court judge appointed by him shall prepare a list of the annual vacations of the judicial and non-judicial staff of the district court and of the offices attached thereto, in each of which

which the individual vacation wishes are to be noted.

2) The district court board shall then draw up vacation plans and allocate a specific vacation period to each individual in these plans. In doing so, it shall observe the extent of the statutory vacation entitlements and take into account the wishes as well as the functions and seniority of the individual.

3) The granting of a leave of absence does not preclude an amending order required by special considerations of the service. However, the start and continuation of the leave must be made possible as soon as the service permits.

Service releases

Art. 9

1) The District Court Board is authorized to grant time off from work for valid reasons up to a maximum of five working days per calendar year.

2) Service leave in excess of that specified in the first paragraph shall require the approval of the Government.

3) Service leave shall not be counted toward statutory leave.

4) A record must be kept of the time off from work. Communication with parties, days of proceedings, official dress

Art. 10

1) The head of the district court shall, in agreement with the government and the other district judges, determine the time and extent of the party proceedings.

2) The district court executive committee, in consultation with the other district court judges, shall determine the trial days.

3) At all hearings before the court, the judges and the public prosecutor shall wear the official dress. For the pronouncement of judgment and the taking of oaths, the judges and all persons present shall rise, and those wearing the official dress shall cover their heads.

The district court registry Art. 11

1) The court registry existing at the Regional Court (§ 9 of the Court Organization Act) is managed in three departments under the supervision of a head of registry.

2) The first division (civil division) shall be responsible for all business assigned to it by law or by order of the competent district judge for the area of the

and non-contentious jurisdiction, including legal assistance in civil matters.

3) The second division (Criminal Division) is responsible for the same business in the area of criminal jurisdiction, including mutual legal assistance in criminal matters.

4) The third department (Execution Department) is responsible for business arising from debt collection, termination, execution, bankruptcy and composition (settlement) proceedings.

5) The accounting, the incoming service and the court archives are provided for the whole district court undividedly.

Art. 12

1) Each department of the court registry shall be managed by a court official as the head of the department under the supervision of the head of the registry. The head of the registry may also be the head of a department.

2) In case of doubt as to whether a case belongs to one of the three divisions (Art. 11), the head of the regional court shall decide after consultation with the other regional judges.

Art. 13

1) The head of the court registry (head of the registry) is appointed by the government on the proposal of the regional court board.

2) The Head of the Registry shall be subject to the supervision and disciplinary authority of the President of the Regional Court. He shall follow the instructions given by the district judges in their individual cases.

3) The executive committee of the Regional Court shall, after hearing the Regional Judges concerned, take the final decision on any representations against general instructions or instructions of the Regional Judges which contradict instructions issued previously or from other sources. In matters of fundamental importance, all district judges shall be heard.

Art. 14

1) The head of the registry shall ensure the orderly, expedient and prompt conduct of business in the individual departments. In agreement with the district judges, he shall be responsible for the assignment of work and the supervision of the entire chancery staff. After hearing the head of the registry, the district court board shall make the final decision on any objections to the instructions or orders of the head of the registry.

2) The Head of the Registry shall be responsible for the permanent provision of the clerk's service of the District Court, the High Court and the Supreme Court. He has the

To enable the secretary, through appropriate training, to write the minutes of the hearings and deliberations independently.

Art. 15

1) An undivided accounting system shall be established for the district court and an accounting officer shall be appointed by the district court board.

2) A separate account sheet marked with the file number shall be opened for each case arising. The invoice status must be evident from this at all times. In addition, a general ledger must be kept in accordance with commercial principles.

3) Monies deposited in the court registry or security deposits of all kinds, if they exceed the amount of 500 Swiss francs, must be transferred to a separate deposit account at the Liechtensteinische Landesbank within five days after they have been deposited and must be recorded in the account sheet.

4) Securities and valuables must be placed in safe custody without delay.

5) The accounting officer shall prepare a carbon-copy deposit receipt for advances on costs and other funds deposited, or, in the case of cash deposits, have the depositor prepare a carbon-copy deposit receipt and submit a carbon copy to the competent department of the court registry for filing.

6) The parties are to be encouraged to handle payment transactions without cash wherever possible. For this purpose, a separate postal checking account and a current account shall be opened for the Court Registry with the Liechtensteinische Landesbank. The authority to sign for all accounts maintained by the court registry shall be re-granted by the head of the provincial court after consultation with the government.

Art. 16

1) The payment of court costs and fees shall be verified by the accounting officer at the end of each case on the basis of the account sheet on file.

2) Outstanding amounts shall be collected ex officio by the parties liable to pay in accordance with the statutory provisions.

3) Surplus amounts shall be paid without delay to the parties in whose favor a balance remains after settlement.

Art. 17

1) In order to take over the documents received by the district court, the district court board shall designate an official of the chancery staff who shall be responsible for the service of the receiving office undividedly for the whole district court.

2) All documents and all copies and half-scripts shall be stamped with the entry stamp immediately after receipt at the entry office. The absence of copies, half copies or enclosures mentioned in the submission, as well as the fact that the submission has been received opened or damaged, shall be indicated on the document (court document) remaining at the Regional Court next to the entry stamp.

3) Documents sent by mail shall bear, in addition to the postmark, an indication of the postmark. If the postmark is unclear, it must be indicated by a note on the court document and the envelope must be placed in the case file.

4) Documents addressed to a judge in person shall be stamped by the clerk of the court registry and handed over to the judge without being opened. All other documents and files shall be forwarded without delay to the competent department of the court registry.

Art. 18

1) The court registry shall keep records of all files it receives.

2) The Civil Division shall keep one entry register each on

a) civil disputes (lawsuits, opening of legal proceedings, legal security cases, disputed judicial notices),

b) Probate cases,

c) Guardianship cases, incapacitations and guardianships,

d) wills made or deposited in court,

e) Certifications,

f) Legal assistance in civil matters,

g) Appeals in land registry cases,

h) other cases assigned to the division (Nz register) and

i) Dispatches of own civil files (register of departures).

3) In addition, an alpha- betic register of names shall be kept of the cases referred to in par. 2 letters a to d.

4) The Criminal Division shall keep a register of each of the following

a) Crimes and misdemeanors after the seizure of the matter,

b) Transgressions after the seizure of the matter,

c) Criminal cases of all kinds by the name of the accused,

d) Legal aid in criminal cases after the case has arisen and

e) Dispatches of own criminal files (departure registers).

5) The execution department shall keep one entry register each on

a) Payment orders (debt collection) and executions of all kinds,

b) Bankruptcies,

c) Discounts (compensations),

d) Retention Descriptions,

e) judicial terminations and

f) Dispatches of own files of the execution department (register of departures).

6) In addition, the enforcement department shall keep an alphabetical register of the names of the legal cases referred to in subsection 5(a) to (e) and of the oaths of disclosure taken in the course of enforcement proceedings.

7) A consecutive number beginning with one each year, the date on which the case arose, the names of the parties, the nature of the case, the date and the manner in which the case was disposed of, and, if necessary, the transfer of the case to another register or to another department shall be entered in all the registers of entries.

8) Entries in the register shall be made regularly and without delay. Art. 19

1) The Criminal Division is responsible for keeping the criminal register (Art. 11 Para. 3).

2) The criminal record shall be kept in card form.

Art. 20

1) The file number and the name of the case must appear on the outside of the file covers or file envelopes.

2) The enclosures are to be collected in a document folder, which is to be attached to the file.

Art. 21

1) The individual items of business shall be filed in the order in which they were received and shall be given consecutive serial numbers and page numbers.

2) In civil and execution cases, enclosures filed by the plaintiff or petitioner shall be designated by capital letters, enclosures filed by the defendant or petitioner shall be designated by consecutive Arabic numerals, and enclosures filed by third persons shall be designated by Roman numerals.

3) In criminal cases, the enclosures inserted in the file shall be designated with consecutive Arabic numerals.

Art. 22

1) The files that accumulate in the court registry must be given a file number consisting of an abbreviated subject name, a sequential number and a brief indication of the year in which the file was created.

2) The following letters shall be used as abbreviated subject names:

1) In civil cases

C for lawsuits, legal openings, legal security cases and disputed judicial terminations,

A for probate cases,

P for guardianship matters, incapacitations and guardianships, T for wills made and deposited in court,

Gb for appeals in land registry cases, Rz for legal aid in civil cases, and

Nz for civil law business items that are not to be classified under any of the above abbreviated subject designations and are not to be included in the file of a pending civil case.

2) In criminal cases

U for misdemeanor cases,

Vr for felony and misdemeanor cases, Rs for legal aid in criminal cases, and

Ns for criminal business items that are not to be classified under any of the above abbreviated subject headings and are also not to be included in the file of a pending criminal case.

3) In execution cases

E for payment orders and executions of all kinds, S for

bankruptcies, Sa for estates (settlements),

R for retention descriptions,

K for court-ordered terminations, as long as they are not disputed, and

Ne for business items under execution law that do not fall under any of the above abbreviated

The Company shall not be liable for any loss or damage arising out of or in connection with the use of the information contained in this Prospectus.

3) In the event of transfer or assignment of a file already designated in accordance with the preceding paragraphs to another department of the Registry, the file number on the cover or envelope of the file shall be crossed out and the file shall be continued under the changed file number. The new file number shall be noted in the first register.

Art. 23

1) The summonses and notifications ordered by the court shall be carried out by the head of the department or by a chancery officer authorized by him using existing forms.

2) The proofs of service shall be filed after the original of the settlement or shall be kept collected in an envelope at the end of the file.

3) Proofs of service that are irrelevant to the further proceedings and unnecessarily burden the file, such as those relating to summonses that have been complied with, shall be destroyed.

Art. 24

1) All files accumulated in the court registry shall be stored in the common court archives by year and by consecutive file number after the case has become final. The files may be destroyed no earlier than 35 years after the last decision rendered in the case has become final.

2) The documents deposited by the parties or by third persons shall be returned to the depositor upon request against acknowledgement of receipt after final settlement of the case or in case of suspension or interruption of proceedings. The acknowledgement of receipt shall be kept in the file instead of the document handed over.

Art. 25

1) The entire court registry shall be subject to inspection by the district court board at least once each year.

2) The board of the district court shall take the urgent measures required by the results of the inspection without delay. Insofar as the measures do not fall within the sphere of action of the district court board, it shall initiate them by means of appropriate applications.

3) The result of the inspection has been submitted by the District Court Board to the President of the

The court must be notified in writing within one month.

Art. 26

The files on cases in which appeals have been filed shall, if the appeal has not already been dismissed by the district judge, be submitted to the president of the appellate court called upon to render a decision, together with a submission report, without delay after all appeals and counter-appeals have been filed, or otherwise after expiration of the time limits open to all parties for filing or executing appeals or counter-appeals.

Art. 27

1) The report of the Regional Court shall contain the case, the decision appealed against, its serial number, the name of the appeal and of the party appearing as the appellant.

2) Preliminary files attached to the file shall be cited in the submission report.

Art. 28

1) Notifications and summonses ordered by the presiding officer of the appellate court shall be made by the head of the division or by a registrar authorized to do so without delay.

2) The members of the collegiate courts shall be summoned to the meetings and hearings with the announcement of the agenda in due time so that, as a rule, they are in possession of the summons at least ten days before the date of the meeting.

Art. 29

1) In addition to the copies intended for the parties and for the file, the appellate courts shall attach to their decisions an additional copy of the decision, which shall be kept by the registry of the court for the collection of decisions.

2) The district court board shall decide on the type and scope of publication of appellate decisions after consultation with the president of the Supreme Court or the higher court.

Art. 30

The duties assigned to the divisions of the Court Registry with respect to the business of the Regional Court shall be performed by them, mutatis mutandis, also when they act for the collegiate courts or appellate courts, unless otherwise ordered.

III. Final provisions

Art. 31

1) This Ordinance, with the exception of Articles 11, 12 and 15 paras. 1 and 2, shall enter into force on 1 January 2014.

January 1970. Articles 11, 12 and 15 paras. 1 and 2 shall be enacted by the Government by publication in the Provincial Law Gazette as soon as the spatial and personnel requirements for their implementation have been met.

2) Until the entry into force of the Articles referred to in Paragraph 1, the provisions of Articles 3(1), 14(1), 15(5), 16(1), 18(1) to (6), 19(1), 22(3) shall apply,
Article 23, paragraph 1, Article 28, paragraph 1, and Article 30 shall apply mutatis mutandis to the clerks of the undivided court registry employed in the relevant business group.

3) Cases pending at the time of the entry into force of the Ordinance shall be continued and disposed of by those district judges who have been

have processed beforehand. Deviating agreements among the district judges remain reserved.

4) Files and registers concerning pending cases may be completed as before, even after the entry into force of the Regulation.

XII. Court Fees Act (GGG)

from 4 May 2017

on the fees of the courts and appeal commissions

I. General provisions Art. 1

Subject matter and scope

1) This Act regulates the fees for the use of the activities of the following courts and commissions, including the inputs addressed to them:

a) of the ordinary courts;

b) of the State Court;

c) of the Administrative Court;

d) of the Complaints Commissions within the meaning of Article 78(3) of the Constitution (hereinafter referred to as the Complaints Commissions).

2) Unless expressly provided otherwise, courts within the meaning of this Act shall also include the Appeals Commissions.

Art. 2

Designations

The designations of persons, professions and functions used in this Act shall apply to persons of male and female gender.

Art. 3

Origin of the entitlement to fees

The State's entitlement to the fee shall be established unless otherwise provided hereinafter:

a) with the delivery or receipt by the court of the following submissions:

1. Actions or counterclaims of the civil court proceedings of first instance;

2. Actions to set aside an arbitral award and actions for a declaration of the existence or non-existence of an arbitral award;

3. Appeal documents and appeals from civil and criminal proceedings of second and third instance, as well as proceedings before the State Court, the Administrative Court or the Appeals Commissions;

4. pleadings in civil court proceedings if the cause of action is extended; if the cause of action is extended without the court having previously been notified of the extension of the cause of action in a pleading, any additional fee shall accrue from the commencement of the recording;

5. Requests to summon the opposing party pursuant to Section 227 (1) of the Code of Civil Procedure, written requests for the issuance of a conditional payment order (Sections 577 et seq. of the Code of Civil Procedure) or a legal bid (Section 593 of the Code of Civil Procedure), requests pursuant to

§ Section 567 of the Code of Civil Procedure (ZPO), applications for judicial notices of termination (Sections 560 et seq. of the Code of Civil Procedure), applications for the issuance of a bill of exchange or check order or a payment order pursuant to Section 548 of the Code of Civil Procedure;

6. Applications of the procedure for issuing temporary injunctions (Art.

270 et seq. EO) or applications for execution, applications for description by way of lien (Art. 294 (2) EO) or opposition, impugnation and excision actions (Arts. 18 to 20 EO);

7. petitions initiating proceedings of the non-contentious proceedings (Art. 20 par. 1 AussStrG) as well as probate proceedings initiated upon petition (Art. 143 par. 2 AussStrG) and non-contentious proceedings initiated upon petition under the personal and corporate law;

8. written private charges as well as subsidiary charges;

b) with the notarization by the court of settlements concluded before the commencement of proceedings;

c) with the service of the decision of the non-contentious proceedings, the bankruptcy proceedings, insofar as the petition for the opening of bankruptcy proceedings is filed by a creditor of the debtor, and the reorganization proceedings;

d) with the legal effect of the decision determining the obligation to reimburse costs in the of- ficial criminal proceedings of first instance;

e) with the beginning of the minutes in the case of applications for minutes;

f) with initiation or production by the party in the case of transcripts (copies, photocopies, printouts);

g) with the beginning of all other official acts and procedures.

Art. 4

Fee determination

1) The amount to be used as a basis for determining the fee (assessment basis) shall be determined in accordance with the special provisions of this Act.

2) The calculated assessment basis and fee shall be rounded up to the next higher franc amount.

3) If an amount in foreign currency forms the basis for assessment, the corresponding amount in Swiss francs must be determined at the current daily exchange rate published by SIX Ltd on the day on which the fee claim arises.

Art. 5

Fee decision

1) The following decisions are to be made under this Act:

a) Determination of the existence or non-existence of a claimed fee exemption;

b) Determination and setting of the fee to be paid;

c) Determination of an advance to be paid for the fee;

d) Determination that a submission is considered withdrawn.

2) Decisions pursuant to paragraph 1 letters a to c are incumbent:

a) in the case of fees for proceedings before the ordinary courts of the Central Services Department established at the Regional Court;

b) in the case of fees for proceedings before the State Court, the Administrative Court or the Complaints Commissions, to the single judge or single member declared competent by them.

3) decisions pursuant to subsection 1(d):

a) for proceedings before the Regional Court, the Rechtspfleger or single judge responsible for the handling of the case;

b) for proceedings before the State Court, the Administrative Court, the Supreme Court, the High Court or the Appeals Commissions, the single judge or single member declared competent by them.

4) If in the course of the proceedings it is established that the fee or an advance payment for the fee is incorrectly determined or otherwise adjusted, the court may correct the determination ex officio or upon the request of the person liable for the fee or his opponent.

5) A legally binding decision on fees shall constitute an executory title within the meaning of the Execution Code.

Fee payment

Art. 6

a) Method of payment

1) Unless otherwise specified, the fee is payable only once, regardless of whether the submission contains several applications or whether the submission relates to several persons.

2) If a party's fee petition is set aside for improvement and resubmitted, no further fee shall be payable in respect thereof.

3) The fees may be paid in cash, by bank transfer or, depending on the technical possibilities, by using bank cards with ATM function or credit cards, by direct debit or by collection.

4) The debit in accordance with paragraph 3 shall be made from the securities account held with the court. Debited fees that are not or not in the debited amount

owed shall be reimbursed by the court. If a deposit does not have sufficient funds to pay a fee, the court shall notify the de- pot holder thereof. If the deposit is not replenished by at least the outstanding amount within two weeks from the date of such notification, the court shall declare the petition withdrawn.

5) Collection under subsection 3 requires that the court is authorized to collect the fees to an account and that the entry contains the indication of the account from which the fees are to be collected and, if applicable, the maximum amount to be debited. The indication of the account from which the fees are to be collected or the address code under which an account for the collection of the fees is stored shall be deemed to be consent to the collection of the fees.

Art. 7

b) Date of payment

1) If the claim to a fee arises upon presentation or receipt of the petition by the court and the fee is not paid or not paid in full within four weeks of the claim arising, the petition shall be declared withdrawn by the court if the person liable to pay the fee is not exempt from paying the fee. However, this shall have no effect on the claim on which the petition is based. If, after expiry of the time limit, only an amount of up to 100 francs is outstanding, the court may schedule a hearing, in which case the missing amount must be paid in cash at the beginning of the hearing, or set a reasonable grace period for payment of the fee or issue a payment order. Otherwise, the fee paid in part shall be refunded by the court.

2) The payment order pursuant to paragraph 1 shall contain a detailed list of the amounts owed and a request to pay the amount in question within the period specified in the payment order.

to be paid within a period of two weeks. In addition to the fee owed, an additional amount of 25 Swiss francs shall be charged in the payment order. After expiry of the payment deadline, a payment order is immediately enforceable. There is no right of appeal against the issuance of a payment order. However, the debtor may, if he considers himself aggrieved by the content of the payment order, request its correction within the payment period set for him, stating the reasons. A request for correction shall be granted without further ado if it concerns a manifest inaccuracy. In all other cases

cases, the President of the Regional Court, the President of the State Court, the President of the Administrative Court or the President of the respective Appeals Commission shall make the final decision on the application for rectification.

3) The term referred to in para. 1 shall be extended in the case referred to in Art. 9 para. 2 AussStrG until the time when the court has requested the party to state the claim in numerical form.

4) The court may shorten the term of payment under para. 1, continue the proceedings before the fee is paid and waive the prior collection of the fee.

5) If the entitlement to the fee does not arise upon delivery or receipt of the petition by the court, a reasonable advance payment of the fee (Art. 9) shall be made. This does not apply to:

a) official acts or decisions under Art. 37; in this case, the fee shall be paid immediately to the court;

b) the official criminal proceedings.

Art. 8

c) Deferral, forbearance and waiver

1) At the request of the debtor, the prescribed period for payment may be extended or payment in instalments may be granted if collection would be associated with particular hardship for the debtor and does not appear to be endangered by the deferral. If payment by instalments is granted, a forfeited instalment shall be deemed to have been forfeited if it is not paid on time.

2) Fees may be waived in whole or in part at the request of the payer if the collection would be associated with particular hardship for the payer.

3) The President of the Regional Court, the President of the State Court, the President of the Administrative Court, the President of the Supreme Court and the President of the Supreme Court shall decide on applications for deferral or remission of fees.

Court of Appeal or the President of the respective Appeals Commission final- valid.

4) The President of the Regional Court, the President of the State Court, the President of the Administrative Court or the President of the respective Appeals Commission may refrain from the official collection of fees if, according to the circumstances known to the court, success in the execution proceedings is not to be expected.

Art. 9

d) Advance for fees

1) In the cases referred to in Art. 7 par. 5, the court shall perform the requested official act or render a decision only after the advance payment has been made.

2) If it becomes apparent in the course of the proceedings that the advance paid is insufficient, the court shall require that it be supplemented.

3) If the advance under par. 1 or the supplement under par. 2 is not paid within a term determined by the court, the application for performance of an official act or for rendering a decision shall be declared withdrawn.

4) After completion of the procedure, the advance payment is offset against the effective fee.

Payment obligation

Art. 10

a) Principle

1) The obligation to pay applies, unless special provisions exist:

a) the intervening party in the case of submissions and the motions for minutes replacing them;

b) in the case of certifications, copies and official confirmations, the person who requests them or in whose interest they are issued, or in the case of copies, the person who produces them;

c) in the case of settlements concluded prior to the commencement of proceedings, the parties shall each pay half, irrespective of any conflicting party agreements;

d) in the case of other official acts or proceedings, the person who initiated them or in whose interest they take place.

2) If the obligation to pay the same amount of fees applies to two or more persons, they shall be liable for payment jointly and severally.

3) If a petition subject to a fee is filed by one or more parties subject to a fee and exempt from a fee, the

party liable to pay the fee shall pay the full amount of the fee. The same shall apply to decisions subject to a fee or official acts in which parties subject to a fee and parties exempt from a fee participate, provided that such official acts were initiated by a joint request of these parties or they are jointly liable to pay.

4) In the case of personal exemption from fees, the opponent shall be obliged to pay the fee which the person exempted from fees would have had to pay, insofar as the costs of the proceedings are imposed on him or insofar as he has assumed the costs by settlement. In case of doubt, half of the fee shall be collected.

Art. 11

b) Probate proceedings

1) In probate proceedings, Art. 10, para. 2, shall not apply if the testator has imposed the payment of fees on a person.

2) A fee shall be charged for the probate of an estate, the transfer of the same to legatees or the delivery pursuant to Art. 150 AussStrG.

3) Prior to payment or securing of the fee, a decree of inheritance may not be executed and the transfer of any estate property to heirs or legatees may not be approved.

4) To secure the fee, there is a statutory lien on all assets of the estate.

Art. 12

c) Execution proceedings

1) If, in execution proceedings, the creditor seeking enforcement is exempt from payment of the fee, the order granting enforcement shall at the same time order the obligee to pay the fee which the person exempt from payment would have had to pay; such order shall be enforceable immediately.

2) The execution shall also be carried out for the collection of the fee; the claim for the fee shall have priority over the claim pursued.

Art. 13

d) Insolvency proceedings

1) In insolvency proceedings, the state's claim to the fee is to be treated as a claim against the estate.

2) The fee shall be collected from the intervening party if:

a) the insolvency proceedings are terminated for lack of assets to cover costs; or

b) the application for commencement of insolvency proceedings is rejected or dismissed.

Art. 14

e) Restructuring proceedings with self-administration

In reorganization proceedings with self-administration, the fee shall be paid or secured by the debtor prior to confirmation of the reorganization plan.

Fee exemption

Art. 15

a) Principle

Repealed

Art. 16

b) Personal fee exemption

1) Exempt from the obligation to pay fees are:

a) parties on an interim basis if they have been granted this under the provisions of the ZPO on procedural assistance;

b) the Principality of Liechtenstein and all domestic corporations, institutions and foundations under public law, insofar as they are involved in proceedings as a party in pursuit of their statutory or governmental duties;

c) the Reigning Prince and the members of the Princely Family;

d) the Liechtenstein Public Prosecutor's Office;

e) the insolvency administrator, insofar as he does not appear as plaintiff or applicant in the relevant proceedings;

f) officially appointed trustees or administrators, with the exception of cases under Art. 141, para. 1 PGR.

2) Personal exemption from fees shall accrue only to the party to whom it is granted and shall not pass to successors in title.

Art. 17

c) Material exemption from fees

1) Exempt from the obligation to pay fees are:

a) all submissions, official acts and decisions of the non-contentious proceedings for which no assessment basis is provided under this Act; however, the obligation to reimburse costs arising from publications as well as costs for experts or interpreters to be consulted shall remain unaffected;

b) granted procedural assistance applications to the extent of their interim exemption from the court fee;

c) all fee matters under this Act.

2) In the event of a judgment of waiver, acknowledgment or default, an appropriate part of the fee shall be refunded by the court. The appropriate part of the fee shall be determined in the respective judgment. The same shall apply to decisions by which:

a) the petition is rejected due to inadmissibility of the legal action, lack of jurisdiction of the court, pendency of the dispute, legally decided dispute or due to premature filing of the divorce petition (§ 592 ZPO);

b) the petition on grounds of pauperism or the action is declared withdrawn pursuant to Section 529 of the Code of Civil Procedure;

c) the input is withdrawn.

II. Assessment bases

A. Civil court proceedings of first instance

Art. 18

Principle

1) Unless otherwise stipulated below, the basis of assessment shall be the value of the subject matter of the dispute at the time the claim for payment arose. Accretion, fruits, interest, damages and costs that are asserted as ancillary claims shall not be taken into account in the calculation of the value.

2) In cases where the subject matter of the dispute is not a monetary amount, the plaintiff shall state this value in the complaint or in the petition initiating the proceedings. This shall also apply in particular to actions for the performance of work and other personal services, for acquiescence or forbearance and for the issuance of declarations of intent.

3) If the basis of assessment is not stated or is stated in such a way that it obviously does not correspond to the actual circumstances, it shall be determined by the court at its own discretion, if necessary after carrying out investigations.

There is no right of appeal against such a decision.

4) If the defendant finds the valuation of the subject matter of the dispute by the plaintiff too high or too low, he may object to the valuation at the latest at the first hearing of the oral proceedings. In the absence of an agreement of the parties, the court shall, if possible, without further investigation and without substantially delaying the settlement or causing costs, value the subject matter of the dispute within the limits of the amounts claimed by the parties. This decision shall not be subject to appeal. In determining the amount in dispute, the court shall also not be bound by concordant statements of value by the parties.

5) Several claims asserted by a single party or by joint litigants in civil proceedings shall be aggregated; the sum of the claims asserted shall constitute a single basis for assessment for the entire proceedings, unless otherwise provided below.

6) If the same claim is asserted by or against several persons who are jointly entitled to the claim or for which they are jointly liable, the value shall be based on the amount of the simple claim.

7) If only part of a monetary claim is sought, only the part sued for shall be used as the basis for determining the fee.

Art. 19

Special procedural provisions

1) If claims are asserted for the payment of maintenance or pension contributions, the amount in dispute shall be twice the annual amount thereof, or three times the annual amount in the case of pensions for physical damage suffered or for the death of a person. If such a claim is asserted for a shorter period, the total amount asserted shall be the amount in dispute.

2) In proceedings for an increase or reduction of maintenance payments, the amount in dispute shall be twice the annual amount of the requested increase or reduction, and in the case of a claim for temporary maintenance, twice the annual amount.

3) If future maintenance and maintenance already due are claimed jointly, the amount for future maintenance and the amount claimed for the past shall be added together.

4) For actions to set aside an arbitral award (section 628 of the Code of Civil Procedure), the value of the subject matter of the dispute decided in the arbitral award shall be decisive. For an

only partial challenge of an arbitral award by an action for setting aside and for the bringing of actions for setting aside by both sides Art. 22 para. 2 shall apply mutatis mutandis. If an action for setting aside relates only to the decision of the arbitral tribunal on its competence (Art. 628 para. 1 second sentence of the Code of Civil Procedure), the plaintiff shall, in deviation from the rule of the first sentence, state the amount in dispute in the action for setting aside; if he fails to state an assessment, Art. 18 para. 3 shall apply. For an action for a declaration of the existence of an arbitral award (section 629 of the Code of Civil Procedure), the value of the subject matter of the dispute decided by the arbitral award shall be decisive; for an action for a declaration of the non-existence of an arbitral award (section 629 of the Code of Civil Procedure), the value of the dispute on which, according to the allegations of the action, no arbitral award has been made shall be decisive.

Art. 20

Evaluation of individual disputes

The assessment base is 3,000 francs for:

a) disputes under labor law, unless the subject matter of the action is a monetary amount, either in a claim for payment or in another claim, such as a claim for a declaratory judgment or injunctive relief;

b) judicial terminations of inventory contracts and orders to hand over or take over inventory objects;

c) disputes concerning the existence of the company, unless the subject matter of the action is a monetary amount, whether in a claim for performance or in another claim, such as a claim for a declaratory judgment or injunctive relief;

d) Disputes concerning only the ranking of claims in execution proceedings and insolvency proceedings;

e) in matrimonial and family law proceedings as well as in proceedings concerning the registered partnership, apart from any associated claims of a pecuniary nature;

f) Ownership Protection Procedures.

Art. 21

Changes in value

1) The assessment basis remains the same for the entire procedure.

2) If, however, the amount in dispute is changed as a result of an extension of the claim or is increased by a judicial determination of the amount in dispute, or if the subject of the settlement is a payment the value of which exceeds the amount claimed in the action, the payment is to be made by the court.

The fee shall be calculated on the basis of the higher amount in dispute. The fee already paid shall be included.

3) The amount in dispute for the fees shall not be changed if the claim is withdrawn or limited or if a partial or interlocutory judgment is rendered.

B. Civil court appeal proceedings as well as proceedings on nullity or reopening actions

Art. 22

Principle

1) The assessment basis is the same as in the previous procedure.

2) However, if the appeal proceedings or the proceedings on an action for revision or annulment concern only a part of the original subject-matter of the dispute, only the value of this part shall be decisive for the calculation in these proceedings. If this part does not consist of a monetary amount, it shall be valued in the petition. If a valuation is omitted or if it obviously does not correspond to the actual circumstances, the assessment of the fee shall be based on the entire original amount in dispute.

3) In the case of mutual appeals, the fees shall be calculated separately according to the requests of each of the two parties to the dispute and shall be paid by the respective appellant.

4) In the case of an appeal on costs, the amount in dispute shall be 1,000 francs, but never more than half of the original amount in dispute.

C. Out-of-court proceedings Art. 23

Welfare proceedings concerning maintenance between parents and children

1) The basis of assessment for the maintenance claim awarded for the past is the amount awarded.

2) For the award of future maintenance, one times the annual benefit shall be taken as the basis of assessment; however, if the claim is awarded for a period shorter than one year, the total amount of the benefits awarded shall serve as the basis of assessment.

3) In case of joint award of future maintenance and maintenance already due, the amount for future maintenance and the amount awarded for the past shall be added together.

Art. 24

Probate proceedings

1) In probate proceedings, a fee shall be collected on the basis of the value of the estate.

2) In determining the net estate, real estate is generally to be taken into account at its estimated tax value. In this case, however, estate liabilities secured in the land register may only be deducted up to the amount of the assessed tax value of the property in question.

3) If the heirs demand full deduction of the estate liabilities secured in the land register, the encumbered properties shall be taken into account at their official appraisal value.

Art. 25

Commercial register matters

In commercial register matters, the object shall be valued at the statutory share capital if the application does not indicate any other value.

D. Execution and Legal Security Proceedings Art. 26

Principle

1) The basis of assessment in execution proceedings is the amount of the claim to be enforced, in legal security proceedings the amount of the claim to be secured.

2) The provisions for the civil court proceedings of first instance shall apply mutatis mutandis to the valuation of the claim. If the proceedings have been preceded by civil court proceedings concerning the same claim, the value in dispute in these proceedings shall remain decisive for the valuation of the claim to be enforced or secured. If, however, the execution or legal security proceedings relate only to a part of the original matter in dispute, only the value of this part shall be decisive for the calculation in these proceedings. If this part does not consist of a monetary amount, it shall be valued in the submission. If a valuation is omitted or if it obviously does not correspond

the actual circumstances, the assessment of the fee shall be based on the entire original amount in dispute. Legal costs or ancillary fees shall only be taken into account if they alone form the subject matter of the claim to be enforced or secured.

3) A change in the basis of assessment for the fees does not occur if

the proceedings are limited to a part of the enforceable claim or the claim to be secured.

E. Criminal proceedings Art. 27

Private and Subsidiary Prosecution

The following amounts shall be used as the basis for determining the amount in dispute in private and subsidiary proceedings:

a) 1,000 francs for violations;

b) for misdemeanor 5 000 francs;

c) for crimes 20 000 francs.

F. Proceedings before the State Court Art. 28

Principle

1) The basis of assessment in the proceedings before the State Court shall be the same as in the previous proceedings.

2) However, if the proceedings before the State Court concern only a part of the original subject matter of the dispute, only the value of this part shall be decisive for the calculation in these proceedings. If this part does not consist of a monetary amount, it shall be valued in the submission.

3) If the basis of assessment is not stated or is stated in such a way that it obviously does not correspond to the actual circumstances, it shall be determined by the Constitutional Court at its own discretion, at most after carrying out surveys. There shall be no right of appeal against such a decision.

G. Proceedings before the Administrative Tribunal and the Complaints Commissions Art. 29

Evaluation of individual disputes

The basis of assessment in proceedings before the Administrative Court or the Appeals Commissions shall be at:

a) Administrative cases of very minor importance: 1 000 francs;

b) Administrative cases of minor importance: 10,000 francs;

c) Administrative cases of increased importance: 50,000 francs;

d) Administrative cases of medium importance: 100,000 francs;

e) Administrative cases of far greater importance: 500,000 francs;

f) Administrative cases of high importance: 1 000 000 francs;

g) Administrative cases of very great importance: over 1 000 000 francs.

III. Fees Art.

30

Calculation

1) Unless otherwise specified below, the fee shall be determined within the scope of the assessment bases according to the fee table in the Annex.

2) Two times the fee under paragraph 1 shall be charged for the following submissions:

a) Appeals or revisions of the civil appellate process;

b) second- or third-instance appeals in non-contentious cases;

c) Applications for the granting of forced administration or forced sale of real estate as well as second- or third-instance appeals in execution matters;

d) second- or third-instance appeals in cases of legal protection and judicial review.

3) In the case of appeals in debt collection proceedings and execution proceedings shall be raised:

a) up to an amount in dispute of 5,000 francs, one times the fee pursuant to para. 1;

b) up to an amount in dispute of 50,000 francs, two and a half times the fee pursuant to para. 1;

c) from an amount in dispute of 50,000 francs, six times the fee under para. 1. Art.

31.

Probate proceedings

1) In probate proceedings the fee is:

a) if the estate is devolved to the spouse, registered partner, parents, descendants or adopted children of the deceased: 2 ‰ of the net estate;

b) in case of inheritance to siblings of the decedent or their descendants: 3 ‰. of the net estate;

c) in case of inheritance to other blood relatives of the deceased: 5 ‰ of the net estate lasses;

d) in the case of inheritance to other persons: 10 ‰ of the net estate;

e) but in any case at least 100 francs.

2) Church as well as non-profit public institutions are descendants of the

decedent shall be treated

as equal.

Art. 32

Execution proceedings

The fee in execution proceedings shall be charged irrespective of whether a decision is made on only one or on several applications for execution.

Art. 33

Insolvency proceedings

1) For the implementation of the insolvency proceedings the fee for confirming the insolvency proceedings is

gation of a reorganization plan 5 ‰ of the parties affected by the proceedings.

liabilities of the debtor, otherwise 2 ‰ of the liquidation proceeds of the in-

solvency mass, but at least 200 francs.

2) An appropriate fee shall also be charged if the proceedings are terminated prior to the completion of the realization of assets or if the petition for commencement of insolvency proceedings is rejected or dismissed.

Art. 34

Criminal proceedings

1) In the case of first-instance criminal proceedings initiated at the request of the public prosecutor's office, the fees shall be calculated taking into account the scope and expense of the criminal proceedings:

a) in proceedings before the single judge for misdemeanors and certain offenses under sections 317 et seq. of the Code of Criminal Procedure: 100 to 5,000 francs;

b) in proceedings before the single judge pursuant to §§ 312 et seq. StPO: 250 to 10,000 francs;

c) in proceedings before the criminal court: 500 to 20,000 francs.

2) The fees pursuant to subsection 1 shall cover all expenses for service of process, summonses, travel expenses and daily allowances of the court persons and the public prosecutor, but not the costs listed in § 301 subsection 1 items 2, 3, 4, 5 and 7 of the Code of Criminal Procedure as well as any other cash expenses incurred as a result of criminal proceedings.

3) In private and subsidiary prosecution proceedings, the private prosecutor shall collect the fees established for contentious civil proceedings.

4) In criminal appeal proceedings, the fees are 800 to 1,000 Swiss francs, taking into account the scope and expense.

Art. 35

Proceedings before the State Court

1) For appeals to the State Court, twice the fee due for contentious civil proceedings shall be collected.

2) For an application for the granting of suspensive effect or a request for the ordering of precautionary measures, twice the fee due for legal safeguarding or legal opening proceedings shall be charged.

Art. 36

Proceedings before the Administrative Court and the Complaints Commissions

For appeals to the Administrative Court or the Appeals Commissions, three times the fee for a non-contentious procedure shall be charged.

Art. 37

Fees for other official judicial acts and decisions

1) The following fees shall be collected for other official acts or decisions of the court:

a) for the drawing up of public deeds, a fee of 1% of the value of the declaration or legal transaction to be notarized, subject to a minimum of 100 francs and a maximum of 10,000 francs;

b) a fee of 500 francs for the drawing up of a will and an administration fee of 100 francs for the judicial custody of a testamentary disposition;

c) for the recording of bill protests a fee in the amount of 1

% of the protested bill amount, but not more than 1,000 francs;

d) for the judicial custody or deposit of a movable item, a custody fee in the amount of 1% of the value of the item held in custody, but not less than CHF 50;

e) for official confirmations of any kind 20 francs per confirmation, regardless of the number of copies. This does not apply to confirmations of legal effect in criminal proceedings that are terminated in a way other than by discontinuation pursuant to Section 22b of the Code of Criminal Procedure or other than by a convicting finding;

f) for the certification of a signature 10 francs;

g) for the certification of copies 5 francs per page;

h) for criminal records certificates 20 francs per certificate;

i) for an extract from the seizure register 20 francs;

k) a fee of 150 francs for the notarization of a health care proxy pursuant to Section 284b (2) ABGB and for each additional notarization;

l) for the establishment of a health care proxy pursuant to Section 284b (3) ABGB and each amendment a fee of 500 francs;

m) an administrative fee of 100 francs for the registration of a health care proxy, including its entry into force, a guardianship order or an amendment or revocation of a health care proxy or guardianship order in the Central Register of Representation (Section 284e ABGB);

n) for the issuance of a document confirming the effectiveness of a power of attorney for health care (§ 284f para. 2 ABGB) 50 francs;

o) a fee of 500 francs for the establishment of a living will in accordance with Art. 6 PatVG;

p) for the registration of an advance directive in the Central Patient Decree Register (Art. 14 PatVG) an administrative fee of 100 francs;

q) for transcripts (copies, photocopies, printouts) 1 franc per page or part thereof.

2) The fee prescribed for the debt collection procedure shall be collected:

a) for the issuance of a legal interdict pursuant to sections 593a et seq. of the Code of Civil Procedure;

b) for the issuance of a surrender or takeover order pursuant to Section 567 of the Code of Civil Procedure;

c) for the granting of a judicial termination;

d) for the approval of a lien description.

3) The double fee of the fee prescribed for the debt collection procedure shall be collected:

a) for the issuance of a bill of exchange or check payment order;

b) for the issuance of a payment order under section 548 of the Code of Civil Procedure.

IV. Legal remedies

Art. 38

Complaint

1) Decisions pursuant to Art. 5 par. 2 and 3 and Art. 17 par. 2 may be appealed.

a written appeal may be lodged within two weeks from the date of service or announcement of the decision. The appeal shall not have a suspensive effect. Decisions on appeals shall be final.

2) The handling of appeals against decisions under Art. 5 para. 2 and under Art. 17 para. 2 shall be incumbent upon:

a) in the case of the ordinary courts, to the respective president;

b) the State Court, the Administrative Court or the Complaints Commissions to the Senate responsible for the handling of the case. If a member of the Senate is biased in the case due to a previous fee decision, the other members of the Senate shall decide on the appeal.

3) Appeals against decisions under Art. 5(3)(a) shall be heard by the Supreme Court, and appeals against decisions under Art. 5(3)(b) shall be heard by the senate of the respective court or the respective appeal commission responsible for the handling of the case. If a member of the senate is prejudiced in the matter due to a prior fee decision, the other members of the senate shall decide on the appeal.

V. Limitation

Art. 39

Principle

1) The state's right to payment of fees and the right to reimbursement of incorrectly calculated fees are subject to a five-year statute of limitations.

2) The limitation periods shall commence at the end of the year in which the claim for fees arose and the person liable for payment was determined, but at the earliest with the legally binding termination of the proceedings.

3) The statute of limitations shall be interrupted by the demand for payment, the filing of a request for deferment or forbearance and by any collection action.

VI. Transitional and final provisions Art. 40

Repeal of previous law

The Act of May 30, 1974, on Court Fees (Court Fees Act, GGG), LGBl. 1974 No. 42, as amended, is repealed.

Art. 41

Transitional provision

The previous law shall apply to proceedings pending at the time of the entry into force of this Act.

Art. 42

Entry into force

Subject to the unused expiry of the referendum period, this Act shall enter into force on January 1, 2018, otherwise on the day following its promulgation.

XIII.Court Organization Act (GOG)

from October 24, 2007

on the organization of ordinary courts

I. General provisions Art. 1

Dishes

1) Ordinary jurisdiction is exercised by the following courts:

a) the Princely Court of First Instance;

b) the Princely High Court of Second Instance;

c) the Princely Supreme Court in the third instance.

2) The seat of the courts is Vaduz.

3) Jurisdictions and remedies in the ordinary courts shall be governed by the special rules of procedure.

Art. 2

Collegiate Courts

1) Collegiate courts are the Criminal Court and the Juvenile Court as well as the High Court and the Supreme Court.

2) In collegiate courts, the majority of judges must be Liechtenstein citizens. Judges with Swiss or Austrian citizenship who have worked for at least five years as a full-time judge in Liechtenstein are considered equivalent.

3) Supplementary judges may be called in by the chairman of a collegiate court for hearings of longer duration. These judges shall participate in the proceedings without taking part in the deliberations and voting. If a judge is prevented from attending, a substitute judge shall take his place.

4) The judges of the respective collegiate court may be appointed as supplementary judges.

Art. 3

Designations

The designations of persons, professions and functions used in this Act shall be understood to mean members of the male and female sexes.

II. Dishes

A. District court

Art. 4

Judge of the district court

1) The judges of the regional court are the full-time regional judges and the part-time judges of the criminal court and the juvenile court as well as their deputies.

2) The Diet shall, on the proposal of the Government, determine the total number of full-time judges.

Art. 5

First instance panel

The district court pronounces right by:

a) the district judges as single judges;

b) the criminal court or its chairman;

c) lifted

d) the juvenile court or its chairman;

e) the judicial officers.

Art. 6

Single judge

Each district judge shall act as a single judge and shall preside over a judicial division which shall be responsible for the performance of the duties assigned to it in accordance with the allocation of business.

Art. 7

Criminal Court

1) The criminal court consists of:

a) a district judge as chairman;

b) a district judge as deputy to the chairman;

c) a district judge as assessor;

d) three criminal judges and one deputy for each criminal judge.

2) The criminal court decides as a senate with its chairman, one associate judge and three criminal judges.

Art. 8

Repealed

Art. 9

Juvenile Court

1) The juvenile court consists of:

a) a district judge as chairman;

b) a district judge as deputy to the chairman;

c) two juvenile judges and one deputy for each juvenile judge.

2) The juvenile court shall decide as a senate with its chairman and two juvenile judges. The juvenile court is only properly staffed if one juvenile judge is of the same gender as the accused.

Art. 10

Rechtspfleger

The position as well as the responsibilities and duties of the Rechtspfleger shall be governed by the provisions of the Rechtspfleger Act.

Art. 11

College of land judges

1) The College of Regional Judges consists of the President of the Regional Court as the Chairman and the full-time Regional Judges.

2) Retrieved

3) The College of Regional Judges shall hold debates to promote uniformity in the administration of justice in the Regional Court.

4) The College of District Judges shall appoint from among its members for a term of five years a District Judge as a member of the Conference of Presidents of Courts and another District Judge as a deputy member.

5) Upon the proposal of the President of the Regional Court, the College of Regional Judges may call upon the judicial officers, the head of administration and other persons to participate in the deliberations of the College of Regional Judges.

Art. 12

Resolution

1) Resolutions in the college of district judges shall be adopted by simple majority.

majority of the district judges present. Resolutions shall only be validly passed if at least two thirds of the judges are present.

2) In the event of a tie, the President of the District Court shall have the casting vote.

Art. 13

District Court President and District Court Presidium

1) The President of the Regional Court and his first and second deputies shall be appointed from among the regional judges for a term of five years. The appointment procedure is governed by the Judges Appointment Act.

2) The President of the Regional Court shall head the Regional Court and represent it externally. If both the President of the Regional Court and his deputy are prevented from performing their duties, they shall be represented by the regional judges appointed to this court in the order of their date of appointment.

3) The Presidium of the Regional Court consists of the President of the Regional Court and his two deputies.

Art. 14

Principles of business distribution

1) In the distribution of business, care shall be taken to ensure an even workload for the individual district judges and the judicial officers.

2) The distribution of business includes all cases and other statutory tasks that fall within the jurisdiction of the Regional Court.

3) The distribution of business shall contain provisions on the composition of the presiding judge, his deputy and the associate judge as well as the assignment of supplementary judges in collegiate courts of first instance. It shall regulate the representation of district judges and judicial officers.

4) In the event of a change in the distribution of business, cases in which oral hearings, including direct hearings of witnesses, parties or experts, have already taken place, shall, as far as possible, be left with the district judge who has conducted them so far.

Art. 15

Resolution on the distribution of business

1) By October 30 of the current fiscal year, the Presidium of the Regional Court shall draft a business distribution for the following year. The draft business distribution shall be sent to the district judges. This

shall be entitled to submit written objections to the draft to the Presidium of the Regional Court within two weeks. The objections must contain a statement of reasons and a proposal for amendment and shall be brought to the attention of the district court presidium.

2) The allocation of business shall be decided by the Presidium of the Regional Court by December 1 of each year. If a resolution on the allocation of business is not passed in time, the old allocation of business shall remain in force until the new one comes into effect.

3) Any judge of the regional court may lodge an appeal against the decision on the distribution of business with the president of the higher court within ten days of the decision being taken. The appeal, which shall not have suspensive effect, shall contain a statement of grounds and a request for amendment. The other regional court judges and legal officers may make a statement on the appeal. There is no further right of appeal against the decision of the President of the Supreme Court.

Art. 16

Change in the distribution of business

1) To the extent necessary for the proper conduct of business, the Presidium of the Regional Court may change the allocation of business, in particular if:

a) Changes have occurred in the staff of district judges or judicial officers;

b) this is necessary due to the inability of a district judge or a judicial officer to perform his duties;

c) a district court judge is prevented from performing his duties within a reasonable period of time due to the scope of his duties.

2) Furthermore, the allocation of business shall be changed if the President of the Supreme Court approves an appeal against the allocation of business decided by the Presidium of the Regional Court.

3) Art. 15 Para. 3 shall apply mutatis mutandis.

Art. 17

Implementation of the business distribution

1) The President of the Regional Court shall summarize the adopted distribution of business in an overview. In the event of changes, this shall be adjusted.

2) The business distribution overview contains in a simple and clear form:

a) the individual Business Groups;

b) the numbers of the court divisions;

c) the names of the land judges;

d) the places to which the parties shall address oral submissions and the times designated for such submissions.

3) The district court president shall make the business allocation overview and subsequent changes publicly known in an appropriate manner.

B. Superior

Court Art.

18

Judge of the High Court

1) The judges of the Supreme Court are the full-time presidents of the senates, their deputies, the full-time associate judges and one deputy associate judge as well as the part-time chief judges and their deputies.

2) The Diet shall, upon the proposal of the Government, determine the total number of full-time judges of the Supreme Court.

Art. 19

Panel of the Supreme Court

1) The Supreme Court pronounces law through three senates or through the three senate presidents.

2) Each senate consists of a senate chairman, a deputy chairman, an associate judge and a senior judge and his deputy. The senate chairmen, their deputies and the assessors must be legally qualified.

3) The senates decide in the composition of a senate chairman, an associate judge and a senior judge.

4) The members of a senate are deputies in the other senates. The chairmen of the senates as well as the associate judges shall deputize for each other. The assignment in another senate may only take place if the judges and the deputies of the corresponding senate are excluded, biased or prevented.

5) A senate composed of the three presidents of the senate of the higher court shall be formed to decide on appeals against the decision of the regional judges on the allocation of business.

Art. 20

Superior Court President

1) The President of the Supreme Court and his first and second deputies shall be appointed from among the presidents of the Senates for a term of five years. Appointments are made in accordance with the Judicial Appointments Act.

2) The President of the Supreme Court shall head the Supreme Court and represent it externally. If both the President of the Supreme Court and his deputy are prevented from performing their duties, they shall be represented by the associate judges appointed to this court in the order of their date of appointment.

3) The President of the Supreme Court shall hold discussions with the other senate presidents of the Supreme Court as well as with the deputies of the senate presidents in order to promote a uniform administration of justice at the Supreme Court.

Art. 21

Business allocation

1) The President of the Supreme Court shall prepare the draft of the distribution of business, summarize the adopted distribution of business in an overview and make it and subsequent amendments publicly known in an appropriate manner.

2) The presidents of the Senates of the Supreme Court shall decide on the allocation of business for the following fiscal year by December 1 of the current fiscal year.

3) Any President of the Senate may, within ten days, appeal to the Supreme Court against the business distribution decision.

4) In all other respects, Art. 14, 15 Para. 2 and 3, Art. 16 and 17 Para. 2 shall apply mutatis mutandis.

C. Supreme Court Art.

22

Judge of the Supreme Court

Judges of the Supreme Court are the part-time presiding judges of the senate and the part-time chief judges and their deputies.

Art. 23

Supreme Court panel of judges

1) The Supreme Court pronounces law through two senates or through the two senate presidents.

2) Each senate consists of a senate chairman, a deputy chairman and four senior judges and their deputies. The Senate chairmen, their deputies and at least two of the other senior judges and deputy senior judges shall be elected by the Senate.

Deputies must be legally qualified.

3) The senates decide in the composition with a senate chairman and four upper senators. At least three members of the Senate must be legally qualified.

4) The senate chairmen and their deputies shall represent each other. They may only serve in the other senate if the chairman or the deputy chairman is excluded, biased or prevented from serving. Each member of the Supreme Court may be a member of both Senates.

5) A panel consisting of the two presidents of the Supreme Court and one other senior judge with legal expertise shall be established to decide on appeals against the decision of the presidents of the Supreme Court on the allocation of business.

Art. 24

President of the Supreme Court

1) The President of the Supreme Court and his first deputy shall be elected from among the presiding judges of the Senate, and the second deputy shall be elected from among the senior judges, for a term of

appointed for five years. Appointments are made in accordance with the Judicial Appointments Act.

2) The President of the Supreme Court shall head the Supreme Court and represent it externally. If both the President of the Supreme Court and his deputy are prevented from performing their duties, they shall be represented by the senior judges appointed to this Court in the order of their date of appointment.

3) The President of the Supreme Court shall hold discussions with the presiding officer of the other Senate and with the deputies of the presiding officers of the Senates for the purpose of promoting uniformity in the administration of justice in the Supreme Court.

Art. 25

Business allocation

1) The President of the Supreme Court shall prepare the draft of the distribution of business, summarize the adopted distribution of business in an overview and make it and subsequent amendments publicly known in an appropriate manner.

2) The senate chairmen and their deputies shall decide by the

December 1 of the current fiscal year the allocation of responsibilities for the following fiscal year.

3) If an agreement is not reached in time, the President of the Supreme Court shall make the final decision on the allocation of business.

4) In all other respects, Art. 14, Art. 16 Para. 1 and Art. 17 Para. 2 shall apply mutatis mutandis.

D. Rules of Procedure

Art. 26

Rules of Procedure

1) Upon the proposal of the Conference of Presidents of Courts, the Government shall issue, by way of ordinance, rules of procedure for the ordinary courts.

2) The Rules of Procedure shall regulate the necessary framework conditions required for the conduct of business of the ordinary courts. In particular, they have as their object:

a) the management of the various registers;

b) the treatment and design of business documents;

c) the publication of decisions;

d) the custody of the court records;

e) the organization of court clerks' offices;

f) the execution of announcements and notices.

III. Administration of Justice

A. Organs

Art. 27

Organs of the administration of justice

1) The organs of the administration of justice are:

a) the Conference of Presidents of Courts;

b) the chairman of the Conference of Presidents of Courts;

c) the presidents of the courts.

2) The organs of the administration of justice shall strictly ensure that there is no interference with judicial independence.

3) The organs of the administration of justice shall be assisted in the performance of their duties by the state administration.

4) The Government and Parliament shall supervise the administration of justice in accordance with the Constitution.

Art. 28

Conference of the Presidents of the Courts

1) The Conference of Judicial Presidents consists of:

a) the Presidents of the Supreme Court, the High Court and the Regional Court as voting members;

b) one full-time district judge appointed by the College of District Judges as a voting member;

c) the Head of Administration as an advisory member and as minute-taker.

2) In case of being prevented from attending, the deputies of the presidents of the court shall take one seat. If the district judge is prevented from sitting, he shall be represented by the deputy appointed by the College of District Judges.

3) The Conference of Presidents of Courts shall constitute a quorum if each court is represented at the meeting. Resolutions shall be passed by a simple majority of votes. In the event of a tie, no legally valid decision shall be reached.

4) Circulation resolutions are possible. They are only legally valid in the case of unanimity.

Art. 29

Tasks

1) The Conference of Presidents of Courts deals with the coordination of judicial administration business concerning the Supreme Court, the High Court and the District Court.

2) The Conference of Judicial Presidents shall be responsible for the following:

a) the development of rules of procedure for the courts;

b) the monitoring of cross-cutting projects at the courts;

c) issuing directives on administrative matters affecting all courts;

d) the development of the basic orientation of the information technology of the courts;

e) the secondment of judges to international bodies.

3) The Conference of Presidents of Courts is authorized to give instructions to the ordinary courts within the scope of its duties.

Art. 30

Management of the Conference of Presidents of Courts

1) The Conference of Presidents of Courts is chaired by the President of the Regional Court.

2) The latter shall be responsible for the external business of the Conference, in particular with the Diet and the Government.

Art. 31

Presidents of Courts

1) The presidents of the courts shall conduct the judicial business of the courts they preside over, unless otherwise provided by law.

2) They support each other in the performance of judicial administration tasks, coordinate their actions and observe the same principles and rules.

3) By the end of February each year, the presidents of the courts shall submit a report to the Government for the attention of Parliament on the administration of justice by the courts under their jurisdiction. The report shall serve the Government and Parliament as a basis for supervision and for determining the number of full-time judges.

4) Judicial administration duties are performed by the deputies when the presidents are prevented from attending.

B. Head of

Administratio

n Art. 32

Position

1) The head of the administration and his deputy shall be appointed by the Government upon the proposal of the Conference of Presidents of Courts.

2) The Administrative Director reports to the Chairman of the Conference of Presidents of Courts.

3) The Administrative Manager assists court presidents in the performance of judicial administrative duties.

Art. 33

Tasks

1) The Administrative Manager is responsible for the following judicial administrative duties:

a) preparing and implementing the business of the Conference of Judicial Presidents as directed by the Chair;

b) supervision of the accounting system;

c) responsibility for documentation, registration and archiving;

d) the management of information technology;

e) ensuring the uniform application of administrative guidelines issued by the Conference of Judicial Presidents;

f) organizing further training for non-judicial employees, with the exception of trainee judges and judicial officers;

g) the procurement system;

h) the management of the district court clerk's office.

2) The Conference of Presidents of Courts may assign other tasks of the administration of justice to the head of administration.

C. Court registries

Art. 34

Organization

1) A court registry shall be established at each court.

2) The chanceries of the High Court and the Supreme Court are headed by the presidents of these courts. The regional court registry is headed by the head of administration.

3) The court registries may be divided into divisions, which shall be responsible for the entire business of the court registry (Art. 35) for a particular single judge or judicial officer or for a group of judges or judicial officers.

Art. 35

Tasks

1) The individual divisions of the court clerks' offices shall perform the official duties of the judge to whom they are assigned.

2) The departments are responsible for the execution of court decisions, la-dications and other settlements, the registration of business, the keeping of records of court hearings, the keeping of files and other administrative business of the court departments.

Art. 36

Execution of judicial settlements

1) The written copies of judgments, orders and settlements, as well as the confirmations of legal effect and enforceability, shall be signed for all cases by the non-judicial employees of the divisions of the court chancelleries under the notation "For the correctness of the copy".

2) Copies that are created by means of computer-aided data processing do not require a signature or certification.

D. Central Services and Library Art. 37

Central services

1) A Central Services Department is established at the District Court under the direction of the Administrative Manager.

2) The Central Services shall take care of those administrative tasks that are not assigned to the court registries pursuant to Articles 35 and 36.

Art. 38

Library

1) A specialized library shall be established at the district court for all courts. The President of the Regional Court shall be responsible for the loan of the library.

2) The district court president shall prepare rules of use to be approved by the conference of court presidents.

D. Scientific Service at the Supreme Court Art. 38a

Scientific service

1) A scientific service shall be established at the Supreme Court, headed by the President.

2) The scientific service is responsible for:

a) assisting the judges in the preparation of draft decisions and the President and his deputies in all other tasks;

b) final editing and publication of decisions, including their anonymization;

c) the performance of other tasks assigned to it by the Rules of Procedure.

E. Accounting and archiving Art. 39

Accounting

The accounting system of the courts shall be organized in accordance with the provisions of the Financial Budget Act and the ordinances issued thereunder, as well as in accordance with the recognized principles of accounting and financial reporting of the public budget.

Art. 40

Archiving

1) All files accumulated by the courts shall be kept in the common court archives by year and by consecutive file number after the final disposal of the case. The files may be destroyed no earlier than 35 years after the last decision in the case has become final. Files to be destroyed shall be offered to the Office of Culture, unless the National Archives are designated as the court archives.

2) The documents submitted by the parties or by third persons shall be returned to the depositor upon request against acknowledgement of receipt after final settlement of the case ex officio, in case of suspension or interruption of proceedings. The acknowledgement of receipt shall be kept in the files.

IV. Service law, supervision and auditing

A. Service law

Art. 41

Service law of judges

1) The service law of judges is governed by the provisions of the Judges Service Act.

2) The president of the court in which the judges are employed shall be responsible for official matters of the judges. Any official petitions shall be submitted to the president of the court.

Art. 42

Service law of non-judicial employees

1) Non-judicial employees within the meaning of this Act are judicial officers, judicial clerks, trainee judicial officers, trainee court clerks, the head of the administration, employees of the court clerks' offices and of the Central Division.

Services as well as the employees of the Scientific Service.

2) The employment rights of non-judicial employees are governed by the provisions of the State Personnel Act. Deviating statutory provisions remain reserved.

3) The following offices are responsible for matters relating to service law in the case of non-judicial employees:

a) the District Court President for the judicial officers, judicial clerks and judicial trainees, judicial interns and the Administrative Manager;

b) the President of the Supreme Court for the non-judicial employees of the Supreme Court;

c) the President of the Supreme Court for the non-judicial employees of the Supreme Court;

d) the administrative manager for the other non-judicial employees of the Regional Court (Central Services Department, Regional Court Registry).

4) Service-related petitions shall be submitted to the offices listed in Paragraph 3.

5) The offices referred to in paragraph 3 shall ensure the preparation of business that falls within the competence of the Government or the Office of Personnel and Organization and shall submit the necessary applications through the Office of Personnel and Organization.

Art. 43

Keeping the personnel files

1) The presidents of the courts shall keep the personal files of the judges, judicial officers, trainee judges and judicial officers, judicial trainees and employees of the scientific service who work at the court under their direction. The administrative director shall keep the personnel files of the other non-judicial employees. As far as files related to salary and other financial entitlements are concerned, they are kept by the Office of Personnel and Organization.

2) The presidents of the courts and the head of the administration may inspect the personnel files of the non-judicial employees for whom they are responsible under Article 42, paragraph 3, and may request copies of documents in the personnel files.

Art. 44

Measures

1) Service and disciplinary measures against judges are governed by the Judges Service Act.

2) The measures provided for in the State Personnel Act may be taken against non-judicial employees in the event of a breach of their statutory and service obligations. The procedural and competence provisions of the State Personnel Act shall apply.

Art. 45

Appeals

1) An appeal may be lodged with the Government within 14 days from the date of notification against decisions on service matters of the bodies referred to in Art. 42, para. 3.

2) Retrieved

3) Appeals against decisions and orders of the Government may be lodged with the Administrative Court within 14 days of service.

4) An appeal to the Administrative Court may only be directed against unlawful action and execution or against findings of fact that are contrary to the record or incomplete.

B. Service

supervision

Art. 46

Responsibility

The service supervision is incumbent upon:

a) the President of the Regional Court to the judges working at the Regional Court, the judicial officers, the trainee judges and judicial officers and the trainee judges;

b) the President of the Superior Court vis-à-vis the President of the District Court and the judges serving on the Superior Court;

c) the President of the Supreme Court to the President of the Supreme Court and the judges serving on the Supreme Court;

d) a service panel of the Supreme Court consisting of three legally qualified senior judges for the President of the Supreme Court.

Art. 47

Content

1) The subject of the supervision are in particular:

a) the control of business cases, the deadlines for completion and execution, the

Register management as well as the monitoring of prolonged procedural deadlocks;

b) continuing education in the administration of justice;

c) the conduct of the business of the administration of justice.

2) In the exercise of official supervision, strict care must be taken to ensure that there is no interference with judicial independence.

Art. 48

Internal Affairs Complaint

1) Complaints for denial or delay in the administration of justice may be filed:

a) to the President of the Regional Court, insofar as they concern the judges or judicial officers working at the Regional Court, the trainee judges and judicial officers, the trainee judges and the other non-judicial employees of the Regional Court;

b) with the President of the Superior Court, insofar as they concern the President of the Regional Court, the judges working at the Superior Court or the non-judicial employees of the Superior Court;

c) to the President of the Supreme Court, insofar as they concern the President of the Supreme Court, the judges working at the Supreme Court or the non-judicial employees of the Supreme Court;

d) in the case of a service panel of the Supreme Court consisting of three senior judges with legal expertise, for the President of the Supreme Court.

2) All complaints that are not manifestly unfounded shall be notified to the court or judge concerned with a request to remedy the situation within a specified period of time and to report thereon or to make known the obstacles that stand in the way.

Art. 49

Procedure

1) Any person who feels aggrieved by the actions of a judicial body or a judicial person may file a disciplinary complaint.

2) Service complaints shall be submitted in writing to the competent body referred to in Article 48(1).

Art. 49a

Request for time limit

1) If a court is in default of taking a procedural step, such as scheduling or holding a hearing, obtaining an expert's opinion or issuing a decision, a party may always apply to that court for a writ of certiorari.

request the court authority responsible for supervision under Art. 46 to set a reasonable time limit for the court to perform the procedural act; except in the case of para. 2, the court shall immediately submit this request with its opinion to the court authority responsible for supervision under Art. 46.

2) If the court performs all procedural acts specified in the motion within four weeks after receipt thereof and notifies the party thereof, the motion shall be deemed withdrawn unless the party declares within fourteen days after service of the notification that it intends to maintain its motion.

3) The decision on the application referred to in para. 1 shall be taken by the competent authority referred to in Art.

46 court authority responsible for supervision with particular expediency; if there is no default on the part of the court, the application shall be dismissed. The decision shall be final.

Art. 50

Measures

1) The competent supervisory body shall periodically conduct detailed investigations into the activities of the judicial bodies under its supervision. Extraordinary investigations may be carried out where special circumstances make this necessary.

2) On the basis of the results of the investigation, the competent supervisory body shall make the decisions within its sphere of influence and apply to the competent body for any other necessary measures.

3) No ordinary appeal shall be allowed against decisions and orders made by the supervisory bodies in the exercise of supervision.

C. Revision

Art. 51

Subject and tasks

1) As a rule, the workload, efficiency and functioning of the courts as well as the structural and procedural organization are to be examined by experts every five years. Insofar as it is a matter of reviewing the proper conduct of business of the courts or the

When it comes to the evaluation of individual court departments, the expert must be qualified to practice as a judge.

2) The investigation shall be ordered by the government after hearing the president of the court in charge. When conducting an investigation, strict care shall be taken to avoid any interference with judicial independence.

3) The experts shall report in writing to the presidents of the court on the results of the investigation and possible proposals for the appropriate performance of the tasks. The presidents of the courts shall obtain the opinion of the persons concerned. They shall comment on the findings and the proposals of the experts for the attention of the government.

4) The experts have the right to inspect the court files. They are bound to secrecy.

5) Parliament and the Government may order a special investigation in accordance with paragraph 1 in the event of special occurrences and in extraordinary situations.

V. General principles of procedure

A. Consultation and voting

Art. 52

Court sessions

1) Deliberations and votes of the judges are not public.

2) The court must be complete. The secretary and recorder, who must be sworn in, shall take part in the proceedings and deliberations.

3) The court shall decide by open vote with a majority of votes. Abstention from voting is not permitted.

Art. 53

Management and implementation

1) The Chairman shall preside over the deliberations and the votes. The rapporteur presents the motions.

2) The vote shall be preceded by a discussion. The rapporteur shall vote first, the other members in order of age, the older members before the younger ones, and the chairman last.

3) The jurisdiction of the court, the necessity of additions and other preliminary issues shall always be voted on first. If there are several points in dispute, each of them shall be voted on separately.

4) Special provisions in the procedural laws remain reserved.

Art. 54

Consultation and voting result

1) The Senate shall decide on disagreements concerning the correctness of the result announced by the Chairman.

2) The result of the vote and the deliberations shall be recorded in a special protocol.

Art. 55

Revotation

1) As long as a decision has neither been pronounced orally nor handed over to the court registry for execution, the court may return to the deliberation and vote.

2) It decides on the return in its original composition.

B. Exclusion and rejection of judges and other court persons

Art. 56

Exclusion

Judges, judicial officers, clerks, bailiffs and non-judicial officers may not perform their duties if they:

a) have a personal interest in the matter;

b) are or were married to a party or a party to the proceedings, live or have lived in a registered partnership, lead or have led a de facto cohabitation or are related by blood or marriage up to the fourth degree. Elective, step and guardianship relationships shall be treated in the same way as natural child relationships;

c) are representatives, agents, employees or organs of a person involved in the proceedings;

d) have acted in the matter as a judge, judicial officer, clerk or recorder at a lower court, legal representative of a party or participant in the proceedings, investigating judge, public prosecutor, expert or witness or are a witness in the proceedings.

Art. 57

Rejection

Judges, judicial officers, clerks and recorders, bailiffs and non-judicial officers.

judicial deputies may themselves request exclusion or be refused by the parties and the participants in the proceedings if:

a) a close friendship, personal enmity or a special relationship of duty or dependence exists with a party or a participant in the proceedings;

b) they are in a legal dispute with a party, the public prosecutor or a party to the proceedings or could be biased in the matter for other reasons.

C. Exclusion and rejection procedure Art.

58

Duty of disclosure

1) Every judge, judicial officer, clerk, bailiff and non-judicial officer shall refrain from all judicial acts from the moment he is aware of a reason for exclusion.

2) If the refusal of a court person is obviously unfounded and suggests an intention to delay the proceedings, a trial that has begun shall be continued. However, the final decision may not be made before the refusal has been validly rejected.

be made. If the challenge is upheld, the judicial acts performed by the challenged judicial person shall be null and void and, to the extent necessary, shall be set aside.

3) As soon as a reason for refusal or exclusion has come to the knowledge of the person presiding over the court, he/she shall be obliged to notify the chairman of such reason in due time, and, if the chairman himself/herself is concerned, his/her deputy.

Art. 59

Procedural requirements

1) The summonses to the parties shall be delivered not later than ten days before the court day. They shall contain the name of the single judge or the names of the judges of the collegiate court as well as the secretary and the court reporter.

2) All summonses and all summonses to hearings of collegial courts shall, as a rule, be issued by the presiding judge of the court concerned. All other summonses and summonses are issued by the competent single judge or the competent judicial officer.

3) The right to challenge a judicial person shall be forfeited if it is not min-

The court must be notified in writing no later than five days after service of the summons or notification of the composition of the court.

Art. 60

Decision

1) The decision on exclusion or rejection shall be made subject to paragraph 2:

a) in the case of court persons of the regional court, the higher court or the Supreme Court, the respective president of the court;

b) in the case of the president of the regional court, the president of the higher court;

c) in the case of the President of the Supreme Court, the President of the Supreme Co

d) in the case of the President of the Supreme Court, his deputy.

2) In collegial courts, the chairman shall decide on the exclusion or rejection of persons from the court. If the chairman himself is concerned, the senate shall decide.

3) Decisions on the exclusion or rejection of court persons are final.

4) If the request for recusal is granted or if a judge is excluded, his substitute shall take his place. If it is no longer possible to fill the court in an orderly manner even under the substitution rule, a substitute shall be appointed without delay. The procedure shall be governed by the provisions of the Act on the Appointment of Judges.

5) The competent court president shall appoint substitutes for judicial officers, clerks, recorders, court executors and non-judicial deputies.

Art. 61

Rejection of other court persons

The provisions on the exclusion and rejection of judges, judicial officers, clerks, recorders, bailiffs and non-judicial judges shall apply mutatis mutandis to all other court persons.

D. EEA law

Art. 62

Interpretation of the EWRA

1) If, in pending proceedings, a court considers it necessary to obtain an advisory opinion from the EFTA Court on the interpretation of the Agreement on the European Economic Area, it may order that the proceedings be suspended until the advisory opinion has been received.

2) The court may at any time, upon application or ex officio, revoke the interruption it has ordered.

VI. Transitional and final provisions Art. 63

Pending proceedings and current deadlines

1) Proceedings pending at the time of the entry into force of this Act shall be governed by the new law if the previous law is not more favorable to the parties in its overall effect.

2) Periods which began to run before the entry into force of this Act shall be calculated in accordance with the previous law.

Art. 64

Continuation of offices

1) The President of the Supreme Court, the President of the Supreme Court and their deputies shall hold office until the expiry of the term for which they were appointed under previous law.

2) The District Court Board appointed under the previous law and its deputies shall continue to hold office for a term of five years after the entry into force of this Act, unless they waive their right to continue in writing within a period of 14 days after the entry into force of this Act.

Art. 65

Repeal of previous law

It is repealed:

a) Court Organization Act of April 7, 1922, LGBl. 1922 No. 16;

b) Law of July 12, 1934, concerning the amendment of the Court Organization Act, LGBl. 1934 No. 8;

c) Act of November 28, 1972, on the Amendment of the Court Organization Act, LGBl. 1973 No. 1;

d) Act of October 24, 1990, on the Amendment of the Court Organization Act, LGBl. 1990 No. 76;

e) Act of 14 December 2000 on the Amendment of the Court Organization Act, LGBl. 2001 No. 30;

f) Act of 18 April 2002 on the Amendment of the Court Organization Act, LGBl. 2002 No. 70;

g) Act of 26 November 2003 on the Amendment of the Court Organization Act, LGBl. 2004 No. 31.

Art. 66

Entry into force

This Act shall enter into force simultaneously with the Constitutional Act of 24 October 2007 on the amendment of the Constitution of 5 October 1921.

Act of December 03, 2020 on the suspension of the expiry of the time limit by days equated with Sunday

XIV Expiration of Time Limits Act (FAHG)

Art. 1

Suspension of the expiry of the time limit

Insofar as the expiry of a time limit is suspended by a day equivalent to a Sunday due to statutory provisions, this suspension shall also occur on Saturdays and the following days:

a) January 1 (New Year);

b) January 2 (Berchtold's Day);

c) January 6 (Epiphany);

d) February 2 (Candlemas);

e) Shrove Tuesday;

f) March 19 (St. Joseph);

g) Good Friday;

h) Easter Monday;

i) May 1 (Labor Day);

k) Driveway;

l) Whit Monday;

m) Corpus Christi;

n) August 15 (Assumption Day, national holiday);

o) September 8 (Nativity of Mary);

p) November 1 (All Saints' Day);

q) December 8 (Immaculate Conception);

r) December 24 (Christmas Eve);

s) December 25 (Christmas);

t) December 26 (St. Stephen's Day);

u) December 31 (New Year's Eve).

Art. 2

Repeal of previous law

The Act of July 17, 1964, on the Suspension of the Expiration of Time Limits by Saturdays and Good Friday, LGBl. 1964 No. 29, is repealed.

Art. 3

Transitional provision

The new law shall apply to proceedings pending at the time of the entry into force of this Act.

Art. 4

Entry into force

Subject to the unused expiry of the referendum period, this Act shall enter into force on March 1, 2021, otherwise on the day following its promulgation.

I. Insolvency Code (IO)

from 17 July 1973

about the insolvency proceedings

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I. Jurisdiction in insolvency proceedings

Art. 1

Competence, procedural provisions

1) The District Court in Vaduz is responsible for the insolvency proceedings.

2) Unless otherwise provided in this Act, the provisions of the Code of Civil Procedure and the Jurisdictional Standard and their introductory acts shall apply mutatis mutandis to the proceedings. The provisions on the suspension of proceedings, costs of proceedings and judicial vacations shall not apply.

3) Judicial decisions may be rendered without a hearing. The district court may, ex officio, obtain information, conduct investigations and take evidence.

4) The provisions of the Code of Execution (Art. 38) shall apply to oral hearings.

4a) If, in addition to publication in the Official Gazette, special notification is prescribed, the consequences of the notification shall already come into effect through publication in the Official Gazette, even if notification has not been effected.

5) In insolvency proceedings with an unusually large number of creditors, special service on the creditors may be omitted if publication in the Official Gazette provides for sufficient disclosure of the substance of the document to be served. Decisions shall be served on creditors who so request.

6) Court orders are enforceable.

7) The provisions of the Banking Act and the Restructuring and Winding-up Act apply to the reorganization and winding-up of banks and investment firms, and the provisions of the Banking Act and the Restructuring and Winding-up Act apply to the reorganization and winding-up of insurance companies.

The provisions of the Insurance Supervision Act shall apply to all insurance companies. Unless otherwise specified therein, the provisions of this Act shall apply in addition.

Art. 2

Deadlines, default

1) The time limits specified in this Act are not extendable.

2) Motions, declarations and objections for the presentation of which a day's session has been designated may not be raised subsequently by the duly summoned persons who have not appeared.

3) Restitutio in integrum for missing a deadline or a hearing shall not be granted.

Art. 3

Appeals

1) The appeal period is 14 days. New circumstances and evidence may be presented in appeals.

2) Unless otherwise provided by this Act, orders and decisions of the Regional Court may be appealed by means of an appeal.

3) The district court may itself allow an appeal, except in the cases listed in section 490 of the Civil Procedure Code, if the order or decision can be changed without prejudice to any party.

Art. 4

Insolvency administrator

1) The district court shall appoint an insolvency administrator ex officio, who shall be referred to as the administrator of the insolvency estate in the event of the opening of bankruptcy proceedings and reorganization proceedings without self-administration and as the reorganization administrator in the event of reorganization proceedings with self-administration. The insolvency administrator must be a person of good repute, reliable and competent in business and may not be a close relative of the debtor. If the insolvency administrator is a person belonging to an association or a company, the shareholders and former shareholders who left the company in the last year before the opening of the insolvency proceedings shall be deemed to be close relatives of the debtor.

debtor. The same shall apply to the close relatives of the persons referred to in the previous sentence.

1a) When selecting the insolvency administrator, the court shall take into account the existence of a sufficient office organization, any special knowledge, in particular in business administration, insolvency law, tax law and labor law, as well as professional experience.

2) The insolvency administrator shall commend the conscientious performance of his duties. He shall receive a certificate of appointment.

3) In relation to third parties, the insolvency administrator shall be authorized to perform all legal transactions and legal acts which the performance of the duties of his office entails, unless the Regional Court has decreed a restriction of his powers in the individual case and notified the third party thereof.

4) The insolvency administrator shall exercise the care required by the object of his management (sec. 1299 ABGB). He shall safeguard the common interests vis-à-vis the special interests of individual participants. The insolvency administrator shall be responsible to all the parties involved for any pecuniary disadvantages caused to them by his conduct of his office in breach of his duties.

5) The District Court may at any time obtain reports and clarifications from the insolvency administrator, either orally or in writing, inspect invoices and documents, and order the insolvency administrator to obtain instructions on certain matters.

6) The district court may remove the insolvency administrator for good cause. The insolvency administrator must be consulted beforehand.

7) The insolvency administrator shall be entitled to reimbursement of his cash expenses and to remuneration for his efforts. If the insolvency administrator is a lawyer or legal agent and conducts litigation or execution on behalf of the insolvency estate, he shall be entitled to remuneration in accordance with the applicable tariffs.

Art. 4a

Creditors' Committee

1) The district court shall without undue delay appoint a creditors' committee of three to seven members to the insolvency administrator ex officio or at the request of the first or a subsequent creditors' meeting convened to hear the matter, if the nature of the insolvency proceedings is such that the insolvency administrator is not entitled to appoint such a committee.

or the particular scope of the debtor's business makes this appear necessary, and in the case of an intended sale or lease pursuant to Art. 71 par. 5. The appointment of the creditors' committee and the names of its members shall be published in the Official Gazette.

2) Members of the creditors' committee may also be physical and legal persons who are not creditors, as well as suitable bodies of the state or the municipalities. Each member may be represented in the performance of his duties at his own risk and expense.

3) The regional court shall remove members of the creditors' committee ex officio or at the request of the first creditors' meeting or of a subsequent creditors' meeting convened to discuss this matter for important reasons, in particular if they fail to comply with their duties or fail to comply with them in good time.

4) If a member of the creditors' committee refuses to serve, is removed from office or otherwise ceases to serve, the district court shall appoint another person as a member of the creditors' committee.

Art. 4b

Duties, responsibilities and convening of the creditors' committee

1) The creditors' committee has the duty to monitor and support the insolvency administrator. The members of the creditors' committee shall be liable to all parties for any pecuniary disadvantages they cause through conduct in breach of their duties and may be required by the regional court to fulfill their duties by way of administrative penalties.

2) The creditors' committee shall be convened in writing by the regional court or by the insolvency administrator, and in the cases referred to in Art. 71 par. 5 the debtor shall also be notified that he is free to attend the meeting. Any member of the creditors' committee may request that a meeting be convened, stating the reasons; in particular, the creditors' committee shall be convened if requested by a majority of all the members of the creditors' committee. A resolution shall require as many votes as the majority of all members of the creditors' committee. Voting may take place by written ballot. No one may vote on his own behalf.

3) Any member of the creditors' committee whose opinion does not prevail may draw up a minority report and submit it to the district court.

4) The members of the creditors' committee shall not be entitled to remuneration, but to reimbursement of their necessary expenses. If, however, special business is assigned to them by order of the regional court or by resolution of the creditors' committee, they may be granted special remuneration with the approval of the regional court.

5) As long as a creditors' committee has not been appointed, the district court shall have the duties assigned to the creditors' committee. If the consent of the creditors' committee is required, the regional court may obtain the resolution of the creditors' meeting.

Art. 5

Scope of the procedure

1) The insolvency proceedings shall extend to all the debtor's assets subject to execution or forming the subject matter of an action for avoidance which belong to him at the time of commencement of the insolvency proceedings or which he acquires during the insolvency proceedings (insolvency estate). Unless otherwise provided by national law, the foreign authority shall be requested by the insolvency administrator or the court to surrender the debtor's movable assets located abroad.

2) The debtor shall be obliged to cooperate, in consultation with the insolvency administrator, in the realization of foreign assets to which the effects of the insolvency proceedings extend. Art. 60 shall apply mutatis mutandis.

3) The movable assets of a debtor in Austria in respect of whose assets insolvency proceedings have been opened abroad shall be surrendered to the foreign insolvency authority at its request unless the insolvency proceedings are opened in Austria. The assets may be surrendered only after satisfaction of the rights to separate satisfaction and rights of segregation acquired up to the date of receipt of the request. The surrender shall be refused insofar as the foreign state does not observe reciprocity.

Art. 6

Opening request of the debtor

1) At the debtor's request, insolvency proceedings shall be opened if the assets are expected to be sufficient to cover the costs of the insolvency proceedings. The debtor's notification of the suspension of payments to the District Court shall be deemed to be a petition.

2) If, in the case of legal entities or estates, the application does not originate from all persons entitled to represent the entity, the insolvency proceedings shall be opened only if the insolvency or overindebtedness (Articles 8 and 9) is shown to be credible.

3) If the conditions for the opening of insolvency proceedings (Articles 8 and 9) are met, such proceedings must be applied for without undue delay, but no later than 60 days after the occurrence of the insolvency. This obligation shall apply to natural persons and, in the case of legal entities and estates, to the persons entitled to represent them. The application is not culpably delayed if the opening of reorganization proceedings with self-administration has been diligently pursued.

4) In the event of an insolvency caused by a natural disaster (flood, avalanche, snow pressure, landslide, landslide, hurricane, earthquake, epidemic, pandemic or similar disaster of comparable magnitude), the period of par. 3 shall be extended to 120 days.

5) The insolvency creditors may assert claims for damages due to a deterioration of the insolvency quota as a result of a breach of the obligation under subsection (3) only after the termination of the insolvency proceedings has become final.

Art. 7

Opening request of a creditor

1) At the request of a creditor, insolvency proceedings shall be opened if the creditor substantiates the existence of its insolvency claim, although not yet due, and the debtor's insolvency or overindebtedness (Arts. 8 and 9), and the debtor's assets are likely to be sufficient to cover the costs of the insolvency proceedings.

2) No prima facie evidence of insolvency or overindebtedness is required if the application is submitted within 14 days of the date of publication of the application.

The reorganization plan is filed after the declaration of invalidity or after the declaration of invalidity of a reorganization plan.

3) It is not necessary to establish that the debtor's assets are likely to be sufficient to cover the costs of the insolvency proceedings if the creditor establishes the existence of a likely sufficient claim for avoidance or makes an appropriate advance payment of costs. The reimbursement of this advance payment may only be asserted as a claim of the insolvency estate.

4) The application shall be served on the debtor. An instruction on the opening

of a reorganization procedure if a reorganization plan is submitted in due time.

Art. 8

Insolvency

1) The opening of insolvency proceedings requires that the debtor is unable to pay.

2) In particular, insolvency shall be assumed if the debtor ceases to make payments.

Art. 9

Overindebtedness

1) The opening of insolvency proceedings against the assets of association persons and estates shall also take place in the event of overindebtedness.

2) The provisions of this Act relating to insolvency shall apply mutatis mutandis to overindebtedness in such cases.

Art. 10

Judicial decision, appeal

1) On the application of a creditor for commencement of insolvency proceedings the regional court shall hear the debtor and, if necessary, also persons providing information, if this is possible in good time. Without first hearing these persons and the applicant, the application shall be dismissed only if it is manifestly unfounded, in particular if the prima facie case within the meaning of Article 7 is manifestly not established.

2) Decisions of the Regional Court opening insolvency proceedings or rejecting the application to open insolvency proceedings shall state the reasons on which they are based. They may be challenged by all persons whose rights are affected thereby.

3) Decisions rejecting an application for commencement of insolvency proceedings for lack of assets to cover costs shall contain a reference thereto and to the debtor's inability to pay. They shall be published in the Official Gazette.

4) Appeals against resolutions opening insolvency proceedings shall not have suspensory effect.

Art. 10a

Duty to inform

The Financial Market Authority (FMA) shall be notified without delay of any decisions of the Regional Court opening insolvency proceedings against a participant in a system within the meaning of the Finalities Act.

Art. 11

Edict

1) The opening of insolvency proceedings shall be publicly announced by an edict. The edict shall be published in the Official Gazette on the day of the opening of insolvency proceedings.

2) The edict shall contain:

a) the designation of the district court;

b) the name (company), profession and place of residence of the debtor and the registered office of his company;

c) the name and address of the insolvency administrator, the type of insolvency proceedings opened and whether the debtor is entitled to self-administration;

d) a request to the creditors of the insolvency proceedings to file their claims and the legal grounds within a certain period of time and a brief instruction on the consequences of missing the filing deadline;

e) Place and time of the general verification meeting and request to the creditors to bring to the meeting the documents substantiating their claims;

f) a request to the beneficiaries of the right to separate satisfaction and the creditors of the right to separate satisfaction in respect of a claim to income from an employment relationship or other recurring benefits in lieu of income to assert their rights to separate satisfaction or rights to separate satisfaction within the filing period;

g) the media intended for further publications.

3) As a rule, the filing period shall be set at 30 to 60 days after the opening of the insolvency proceedings and the general verification hearing at 14 days after the expiry of the filing period.

Art. 12

Notes

The district court shall cause the opening of insolvency proceedings to be recorded in the land register in respect of the debtor's properties and claims, as well as in the commercial register, the attachment register, the retention of title register and in all re

The insolvency proceedings shall be recorded in the insolvency registers in which the intellectual property rights are recorded and the date of commencement of the insolvency proceedings shall be published.

Art. 13

Backup measures

At the same time as the insolvency proceedings are opened, the Regional Court shall take all measures to safeguard the insolvency estate, in particular to notify PTT offices, post office check offices, railroads, airports, banks, credit institutions and depository institutions that dispositions of items, deposits, credit balances and the like are to be executed only with the approval of the Regional Court.

Art. 13a

Notification of employees

The insolvency administrator shall immediately notify the debtor's employees of the commencement of insolvency proceedings if they have not already been notified by the regional court or if the commencement of insolvency proceedings is not generally known.

Art. 14

Announcement of the cancellation

1) If an appeal against the order opening the insolvency proceedings is finally granted, the termination of the insolvency proceedings shall be published in the same manner as the opening of the insolvency proceedings. All offices, agencies and persons who have been notified of the commencement of insolvency proceedings or who have been informed within the meaning of the preceding Article shall be notified of the termination of the insolvency proceedings.

2) At the same time, the notices of commencement of insolvency proceedings executed in accordance with Art. 12 and any notice published in the Official Gazette shall be cancelled and all measures restricting the debtor's free disposal shall be revoked.

II. Effects of the Opening of Insolvency Proceedings

Art. 15

Beginning of the effect

The legal effects of the opening of insolvency proceedings shall take effect on the day following the publication of the insolvency edict in the Official Gazette.

Art. 16

Opening effect

1) The opening of insolvency proceedings deprives the debtor of the free disposal of the insolvency estate.

2) Legal acts of the debtor after commencement of insolvency proceedings which affect the insolvency estate shall be ineffective against the insolvency creditors. The consideration shall be returned to the other party insofar as it would enrich the insolvency estate.

3) Payment of a debt to the debtor after the commencement of insolvency proceedings shall not discharge the obligor unless the payment was made to the insolvency estate or the obligor was notified of the commencement of insolvency proceedings at the time of payment.

was not known and the lack of knowledge was not due to a failure to exercise due care.

Art. 17

Acquisition in probate proceedings, inter vivos donation

1) The insolvency administrator may accept inheritances in place of the debtor with the reservation of the legal benefit of the inventory.

2) If he does not accept an inheritance or refuses a legacy or the acceptance of a gratuitous gift inter vivos, the right shall be excluded from the insolvency estate.

Art. 18

Maintenance

1) Anything acquired by the debtor through his own activities or given to him free of charge during the insolvency proceedings shall be left to him to the extent necessary for his maintenance and that of those who have a legal claim to maintenance against him.

2) The debtor is not entitled to maintenance from the insolvency estate. However, the court may grant the debtor and his family the necessary maintenance.

3) If the debtor lives in a house belonging to the insolvency estate, the provisions of Art. 67 of the Execution Code shall apply mutatis mutandis to the surrender and eviction of the debtor's home.

4) Claims for maintenance due under the law may only be asserted in the insolvency proceedings for the period after the opening of the insolvency proceedings.

to the extent that the debtor is liable as heir of the debtor.

Art. 19

Effect on litigation

1) Legal disputes for the purpose of asserting or securing claims to the assets belonging to the insolvency estate may neither be instituted nor continued against the debtor after commencement of the insolvency proceedings.

2) Legal disputes concerning claims to separate satisfaction and claims to the segregation of property not forming part of the insolvency estate may be brought and continued even after commencement of the insolvency proceedings, but only against the insolvency administrator.

3) Legal disputes concerning claims which do not relate to the assets of the insolvency estate at all, in particular concerning claims for personal benefits of the debtor, may also be brought and continued against or by the debtor during the insolvency proceedings.

Art. 20

Process interruption

1) All pending legal disputes in which the debtor is the plaintiff or defendant, with the exception of the disputes referred to in Article 19 (3), shall be interrupted by the commencement of the insolvency proceedings. The interruption shall affect the debtor's co-disputants only if they form a single party to the dispute with the debtor (section 14 of the Code of Civil Procedure).

2) The proceedings may be commenced by the insolvency administrator, by the debtor's co-defendants and by the opposing party.

3) In the case of disputes concerning claims which are subject to registration in the insolvency proceedings, the proceedings may not be commenced before the conclusion of the verification meeting. Instead of the insolvency administrator, insolvency creditors who have contested the claim at the verification meeting may also commence the proceedings.

Art. 21

Refusal to enter into litigation

1) If the insolvency administrator refuses to enter into a lawsuit in which the debtor is the plaintiff or in which a claim for segregation of property not belonging to the insolvency estate is asserted against the debtor, the claim or the property claimed by the plaintiff for segregation shall cease to exist.

of the insolvency estate.

2) The insolvency administrator shall be deemed to have refused to enter into the lawsuit if he does not declare his intention to enter into the lawsuit within a period determined by the trial court.

3) In this case, the proceedings may be commenced by the debtor, by his co-disputants and by the opponent.

4) The provisions of this and the two preceding articles shall apply mutatis mutandis to arbitration proceedings (Sections 594 et seq. of the Code of Civil Procedure).

Art. 22

Interruption of the limitation period

1) The filing in the insolvency proceedings shall interrupt the limitation period for the filed claim. The limitation period for the claim against the debtor shall recommence at the end of the day on which the order terminating the insolvency proceedings has become final.

2) If a claim is contested at the verification hearing, the limitation period shall be deemed to be suspended from the day of filing until the expiry of the period specified for asserting the claim.

Art. 23

Separation rights

1) After the commencement of insolvency proceedings, no judicial lien or right of satisfaction may be acquired on account of a claim against the debtor in respect of property belonging to the insolvency estate.

2) Rights of retention shall be treated as liens in insolvency proceedings.

3) Unless otherwise provided in this Act, the provisions made for secured creditors shall also apply to personal creditors who have acquired certain assets of the debtor, in particular book claims, to secure their claims.

Effect on rights to separate satisfaction and rights to segregation

Art. 24

Separation rights and rights to separate property not belonging to the insolvency estate shall not be affected by the opening of the insolvency proceedings.

Art. 25

1) Rights to separate satisfaction newly acquired by execution in the 60 days preceding the opening of the insolvency proceedings, with the exception of rights to separate satisfaction acquired for public levies, shall expire upon the opening of the insolvency proceedings; however, they shall be revived if the insolvency proceedings are terminated in accordance with Article 164. In the case of the compulsory creation of a lien on the basis of Article 139 of the Execution Code, the date of the registration of the commencement of the auction proceedings in the land register shall be decisive.

2) If realization has been applied for solely on the basis of such a right to separate satisfaction, the realization proceedings shall be discontinued upon application by the insolvency administrator. The period stipulated in Article 175 (2) of the Execution Code for the extinction of the lien shall be suspended in favor of this right to separate satisfaction in the event of its revival until the expiry of the day on which the decision on the termination of the insolvency proceedings has become final.

3) If proceeds have been obtained from a realization carried out before or after commencement of the insolvency proceedings, the part attributable to such right to separate satisfaction shall be included in the insolvency estate.

Art. 25a

Receivership

The forced administration of a company, a property or a share in a property shall expire at the end of the calendar month in which the insolvency proceedings are opened. If the proceedings are opened after the 15th day of the month, the forced administration shall not expire until the end of the following calendar month.

Art. 26

Land register entries

Entries in the land register may also be granted and executed after commencement of insolvency proceedings if the priority of the entry is based on a date prior to commencement of insolvency proceedings.

Art. 27

Unspecified and aged receivables

1) Claims which are not directed to a monetary payment or the monetary amount of which is indefinite or not fixed in domestic currency shall be asserted according to their estimated value in domestic currency at the time of commencement of the insolvency proceedings.

2) Aged claims are deemed to be due in insolvency proceedings.

3) Non-interest-bearing claims which are aged may only be asserted in the amount which, with the addition of the statutory interest for the period from the opening of the insolvency proceedings to the due date, equals the full amount of the claim.

Art. 28

Receivables from recurring services

1) Claims for the payment of annual pensions, maintenance payments or other recurring benefits of a certain duration shall be aggregated after deduction of the interim interest referred to in Art. 27 par. 3.

2) Claims of the kind referred to in subsection 1 of indefinite duration shall be asserted according to their estimated value at the time of commencement of the insolvency proceedings.

Art. 29

Contingent receivables

A person who has a contingent claim may file a request for security for payment in the event of the occurrence of the condition precedent or the non-occurrence of the condition precedent, but if the condition is resolutive and if he provides security in the event that the condition occurs, he may file a request for payment.

Art. 30

Rights of co-debtors and guarantors

1) In insolvency proceedings, co-debtors jointly and severally and guarantors of the debtor may claim compensation for the payments made by them on the claim before or after the opening of the insolvency proceedings.

The Company shall be entitled to make any payments due to it to the extent that it has a right of recourse against the debtor.

2) In view of the payments which they might have to make in the future as a result of their liability, they reserve the right to file their claims in the insolvency proceedings in the event that the claim is not asserted by the creditor in the insolvency proceedings.

3) After the opening of insolvency proceedings, co-obligors of the debtor may redeem the claim from the creditor or from a successor who has recourse against them.

Art. 31

Rights of creditors against co-obligated persons

1) If several persons are jointly and severally liable to the creditor for the same claim, the creditor may claim the entire amount of the claim still outstanding at the time of commencement of the insolvency proceedings against each debtor in the insolvency proceedings until he is fully satisfied.

2) If there is a surplus after the creditor has been fully satisfied, the right of recourse shall take place in accordance with the general statutory provisions up to the amount of this surplus.

Offsetting

Art. 32

1) Claims that were already recoverable at the time the insolvency proceedings were opened need not be asserted in the insolvency proceedings.

2) Set-off shall not be precluded by the fact that the creditor's or the debtor's claim was still contingent or aged at the time of commencement of the insolvency proceedings, or that the creditor's claim was not for a pecuniary benefit. The creditor's claim shall be calculated for the purpose of set-off in accordance with Articles 27 and 28. If the creditor's claim is conditional, the district court may make the admissibility of the set-off dependent on a security payment.

Art. 33

1) Set-off shall be inadmissible if an insolvency creditor became a debtor of the insolvency estate only after the opening of the insolvency proceedings or if the claim against the debtor in respect of whose assets the insolvency proceedings were opened was acquired only after the opening. The same shall apply if the debtor acquired the counterclaim prior to the opening of the insolvency proceedings but was aware or should have been aware at the time of acquisition of the insolvency of the debtor in respect of whose assets the insolvency proceedings were subsequently opened.

2) However, set-off shall be admissible if the debtor acquired the counterclaim earlier than six months prior to commencement of the insolvency proceedings or if the debtor was obliged to assume the claim and was neither aware nor should have been aware of the debtor's insolvency when entering into such obligation.

3) Furthermore, the claims arising after the opening of the insolvency proceedings on the basis of Articles 34 to 38 or revived on the basis of Article 71 number 2 of the Code of Legal Protection may also be set off.

4) Receivables from contracts can also be offset:

a) which have been dissolved due to the opening of insolvency proceedings:

1. derivative transactions listed in Annex II to Regulation (EU) No. 575/2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012, including derivative instruments for the transfer of credit risk;

2. Derivative transactions not covered by subparagraph (a), provided they are traded on a regulated market or multilateral trading facility (MTF) or concluded under a master agreement, as well as spot transactions;

3. Repurchase agreements pursuant to Art. 4 par. 1 fig. 83 of Regulation (EU) No. 575/2013;

4. Securities lending transactions;

5. financial collateral pursuant to Art. 392 et seq. of the Property Code; and

b) for which it has been agreed that they shall be dissolved or may be dissolved by the other party to the contract in the event of the opening of insolvency proceedings under this Act in respect of the assets of one party to the contract and that all mutual claims arising therefrom shall be set off.

Art. 34

Fulfillment of bilateral legal transactions

1) If a bilateral contract has not yet been performed or has not been performed in full by the debtor and the other party at the time of commencement of insolvency proceedings, the insolvency administrator may either perform the contract in place of the debtor and demand performance from the other party or rescind the contract.

2) The insolvency administrator must declare this within a period to be determined by the court at the request of the other party, unless it is assumed that the insolvency administrator will withdraw from the transaction. In case of withdrawal, the other party may claim compensation for the damage caused to it as a creditor of the insolvency proceedings.

3) If the other party is obliged to make an advance payment, it may refuse its performance until the counter-performance has been effected or secured, if it did not have to be aware of the debtor's poor financial circumstances at the time the contract was concluded.

4) If the performance owed is divisible and the creditor has already partially performed the performance owed to him at the time of commencement of the insolvency proceedings, he shall be liable for the amount of his claim corresponding to the partial performance.

on the consideration insolvency creditor.

Art. 35

Fixed transactions

1) If the delivery of goods having a market or stock exchange price was stipulated exactly at a fixed time or within a fixed period of time and if the time or the expiry of the period of time occurs only after the opening of the insolvency proceedings, performance may not be demanded but only damages for non-performance may be claimed.

2) The amount of damages shall be the difference between the purchase price and the market or stock exchange price existing at the place of performance or at the relevant trading center for the transactions concluded on the second business day after the opening of the insolvency proceedings with the stipulated time of performance.

Inventory contracts

Art. 36

If the debtor has taken possession of an item, the insolvency administrator may, without prejudice to the claim for compensation for the damage caused, terminate the contract subject to the statutory notice period or the agreed shorter notice period.

Art. 37

1) If the debtor has given an object as security, the insolvency administrator shall enter into the contract. The insolvency administrator may object to an advance payment of the rent which is not apparent from the land register, irrespective of the claim for compensation for the damage caused, only for the period until which the tenancy would last in the event of immediate termination in compliance with the agreed notice period or, in the absence of such, the statutory notice period.

2) Any sale of the inventory object in the insolvency proceedings shall have the effect of a necessary sale on the inventory relationship.

Art. 38

Employment contracts

1) If the debtor is an employer, the insolvency administrator shall exercise the rights and duties of the employer. If the employment relationship has already commenced, it may be terminated by the employee without notice, the commencement of insolvency proceedings being deemed good cause, and by the insolvency administrator under

terminated in compliance with the statutory or the permissibly agreed notice period, taking into account the statutory restrictions on termination, if:

a) the debtor has neither operated nor is operating a business within one month of the opening of the insolvency proceedings; or

b) the company or individual divisions of the company were already closed at the time of commencement of the insolvency proceedings, within one month of publication of the order to be issued by the District Court and published in the Official Gazette stating that the company or individual divisions of the company were closed.

1a) If the closure of only one division of the enterprise, rather than the entire enterprise, has been ordered, approved or determined, the right to dissolve the enterprise without notice and the right to terminate the employment relationship pursuant to subsection 1 shall be available only to the employees or only with respect to the employees who are employed in the division concerned.

1b) If the employment relationship is terminated pursuant to subsection 1, the employee may claim compensation for the damage caused as an insolvency claim.

2) If the employment relationship is terminated by the insolvency administrator's notice before the expiry of the specified period for which it was entered into, or if a longer notice period was agreed in the contract, the employee may claim compensation for the damage caused to him as an insolvency creditor.

3) Provisions made in special laws on the influence of the opening of insolvency proceedings on the employment relationship shall remain unaffected.

Art. 39

Mandatory legislation

1) The parties to the contract may not rely on any agreement which excludes or restricts the application of Articles 34 to 38 in advance.

2) The agreement of a right of rescission or termination of the contract in the event of the opening of insolvency proceedings is inadmissible, except in the case of contracts pursuant to Art. 33 Para. 4 and in the case of partnership agreements which provide for the withdrawal of the partner in the event of his insolvency.

Art. 40

Orders and applications

1) An order issued by the debtor shall expire upon the opening of the insolvency proceedings.

2) Applications which have not yet been accepted by the debtor prior to commencement of the insolvency proceedings shall remain valid unless a different intention of the applicant is evident from the circumstances.

3) The insolvency administrator shall not be bound by requests of the debtor which have not yet been accepted prior to the opening of the insolvency proceedings.

III. Claims in insolvency proceedings

Art. 41

Claims for separation

1) Claims to the assets included in the insolvency estate (Article 5) are claims against the estate or insolvency claims.

2) If the insolvency estate contains assets which do not belong to the debtor in whole or in part, the right in rem or personal right to segregation shall be assessed in accordance with the general principles of law.

3) If such assets have been sold after the opening of the insolvency proceedings, the beneficiary may request the segregation from the insolvency estate of the consideration already paid, but if the consideration is still

has not been paid, demand the assignment of the right to the outstanding remuneration.

4) If the debtor or the insolvency administrator is to be reimbursed for expenses incurred for the assets to be restituted or for obtaining the consideration, they shall be reimbursed concurrently by the person entitled to separate satisfaction. On the other hand, the insolvency administrator shall be entitled to further claims for compensation.

Art. 42

Right of pursuit

The seller or purchasing commission agent may reclaim goods that have been sent from another place to the debtor and have not yet been paid for in full by the debtor, unless they have already arrived at the place of delivery before the opening of insolvency proceedings and have come into the debtor's or another person's custody on his behalf (right of pursuit).

Mass claims

Art. 43

Mass claims are:

a) the costs of the insolvency proceedings, including advances made by the claimant or any other creditor;

b) expenses incurred in connection with the maintenance, administration and management of the insolvency estate, in particular taxes, duties, fees, customs duties and social security contributions payable by the insolvency estate, if and to the extent that the facts giving rise to the duty to pay duties are realized during the insolvency proceedings;

c) without prejudice to subparagraph (e), the claims arising from legal acts of the insolvency administrator;

d) without prejudice to subparagraph (e) and Article 34(4), claims for performance of bilateral contracts into which the insolvency administrator has entered;

e) the employees' claims to current remuneration for the period after the opening of the insolvency proceedings;

f) Termination claims when:

1. the employment relationship was entered into prior to the commencement of insolvency proceedings and is terminated thereafter, but not pursuant to Article 38, by the insolvency administrator or if the termination is due to a legal act or other conduct of the insolvency administrator, in particular non-payment of remuneration by the employee;

2. the employment relationship is newly entered into by the insolvency administrator during the insolvency proceedings;

g) the claims arising from unjust enrichment of the insolvency estate;

h) the costs of a simple burial of the debtor.

Art. 44

1) If claims on the assets involved in the insolvency proceedings cannot be satisfied in full, they shall be paid one after the other as follows:

a) the cash expenses covered by Art. 43 let. a and paid in advance by the insolvency administrator;

b) the other costs of the proceedings pursuant to Art. 43 let. a;

c) the claims of employees pursuant to Art. 43 Letters e and f; and

d) the remaining claims on the assets involved in the insolvency proceedings.

2) Within equal groups, the mass claims are to be pacified proportionally.

3) Payments already made cannot be reclaimed.

Separation claims

Art. 45

1) Creditors who have claims to separate satisfaction from certain objects of the debtor (separate creditors) shall exclude the insolvency creditors from payment from these objects (special estates) insofar as their claims are sufficient.

2) What remains of the special assets after satisfaction of the separate creditors shall flow into the joint insolvency estate. If several pledges are liable for the same claim, the amounts recovered therefrom shall be used in proportion to their amount to cover the claim.

3) Separation creditors who are also entitled to a personal claim against the debtor may at the same time assert their claim as creditors of the insolvency proceedings.

Art. 46

1) The costs of the special administration, realization and distribution of the special estate shall be adjusted before the separate creditors from the benefits and from the proceeds of an object belonging to the special estate.

2) The provisions of the Execution Code shall apply to the order of priority of the claims to be satisfied from the special estates in all disposals in the insolvency proceedings.

Art. 47

Joint insolvency estate

Insofar as the insolvency assets are not used to satisfy the claims of the insolvency estate and the claims of the separate creditors (Article 45), they shall form the joint insolvency estate from which the insolvency claims shall be satisfied in proportion to their amounts.

Art. 48

Insolvency claims

1) Insolvency claims are claims of creditors who are entitled to property claims against the debtor at the time of the opening of the insolvency proceedings (insolvency creditors).

2) Insolvency claims are also:

a) maintenance claims due under the law for the period after the opening

of the insolvency proceedings, insofar as the debtor is liable as heir of the debtor (Art. 18 par. 4); and

b) Claims arising from termination of employment under Art. 38 par. 1b. Art. 49

Repealed

Art. 50

Repealed

Art. 51

Repealed

Art. 52

Ancillary fees and compensation claims

1) The ancillary fees incurred up to the opening of the insolvency proceedings shall rank pari passu with the claims.

2) Claims for compensation of a debt paid on behalf of the debtor enjoy the rank of the paid claim.

Art. 53

Claims of the debtor's spouse

1) The provision of sec. 1226 of the General Civil Code on the proof of the transfer of the marriage property may be invoked by the debtor's spouse only if the document drawn up on the receipt of the marriage property was issued either at the time of the receipt or at the latest two years prior to the opening of the insolvency proceedings.

2) The date of a private document on the receipt of the marriage property does not in itself establish this proof.

Art. 54

Excluded claims

The following cannot be asserted as insolvency claims:

a) interest on insolvency claims that has accrued since the opening of the insolvency proceedings and costs incurred by individual creditors as a result of their participation in the insolvency proceedings;

b) Fines for criminal acts of any kind;

c) Claims arising from promises to give.

IV. Determination of the insolvency estate

Inventory and valuation

Art. 55

1) The insolvency administrator shall ascertain the status of the insolvency estate, ensure the contribution and securing of assets and the determination of debts, in particular by examining the claims filed, and conduct legal disputes affecting the insolvency estate in whole or in part. The insolvency estate shall be taken into custody and administration in accordance with the provisions of this Act and used for the joint satisfaction of the insolvency creditors.

2) The insolvency administrator shall draw up an inventory and a balance sheet of the insolvency estate and have them valued by analogous application of the provisions of the Executive Order.

Art. 56

1) Items of which it is doubtful whether they belong to the insolvency estate shall be included in the inventory; claims raised by third persons shall be noted.

2) Any person who has in his custody items belonging to the insolvency estate shall, as soon as he becomes aware of the commencement of insolvency proceedings, be obliged to notify the insolvency administrator thereof and to make the inventory and valuation, otherwise being liable for the damage caused by his fault.

3) Any person who has acquired book claims of the debtor in the last year prior to the opening of the insolvency proceedings shall be obliged to provide a list of such claims upon request of the insolvency administrator and to provide statements of the amounts received thereon.

4) The district court may make such orders as may be necessary to carry out these measures.

Art. 57

1) If an inheritance accrued to the debtor prior to the commencement of insolvency proceedings and the debtor had not been entitled to it until the date of commencement of insolvency proceedings

If the debtor's estate has not yet been devolved in the probate proceedings, the inventory of the insolvency estate shall include only that to which the debtor is entitled according to the results of the probate proceedings.

2) If insolvency proceedings are also opened in respect of the inheritance, this shall be deemed to be a

separate insolvency proceedings.

3) The above provisions shall also apply to inheritances accruing to the debtor only during the insolvency proceedings.

Art. 58

Obligations of the debtor

The debtor shall be obliged to provide the insolvency administrator with all information required for the management of the business.

Art. 59

List of assets and balance sheet

1) If the debtor has not yet submitted an accurate list of assets prior to the commencement of insolvency proceedings, he shall be ordered by the district court to submit such a list without delay.

2) The balance sheet to be submitted by the debtor upon court order shall be examined and corrected by the insolvency administrator.

3) The debtor shall sign the list of assets and the balance sheet in his own hand and, if ordered to do so by the district court, shall confirm before it by his signature that the information he has provided on his assets and liabilities is correct and complete and that he has not concealed any of his assets. The list of assets and liabilities shall be drawn up by applying the provisions of the Code of Execution mutatis mutandis.

4) If the debtor is a legal entity or an estate, the district court shall determine which of the persons entitled to represent the debtor shall submit and sign the list of assets.

Art. 59a

Content of the list of assets

1) The individual assets and liabilities shall be entered in the list of assets and liabilities, stating their amount.

or value. In the case of receivables, the name of the debtor must be stated; in the case of payables, the name of the creditor must be stated; for both, the reason for the debt, the date on which it is due and any existing collateral must be stated. In the case of receivables, it must also be stated whether and to what extent they are likely to be recoverable. If a claim or a debt is disputed, this must be stated. In the case of liabilities which grant the creditor a right to separate satisfaction, the amount of the probable default must be stated. If a creditor or a

If the debtor is a close relative of the insolvency debtor, reference shall be made to this fact, as shall be the case if a creditor or debtor is an employee of the insolvency debtor or has a corporate or other joint relationship with the insolvency debtor; the corporate or joint relationship shall be described precisely. The address of all creditors and debtors shall be stated.

2) In the list of assets, the debtor must include a declaration as to whether a property settlement has taken place between him/her and his/her close relatives within the last two years prior to filing the application, and furthermore whether and which dispositions of assets he/she has made for the benefit of his/her close relatives within the last two years prior to filing the application. Dispositions for no consideration shall not be taken into account insofar as they are not subject to avoidance under Art. 70.

Art. 60

Measures against the debtor

1) The district court may have the debtor brought before it by force if he fails to comply with summonses and may detain him if he persistently and without sufficient cause fails to comply with one of the obligations specified in the preceding article or if this is necessary to safeguard the insolvency estate or to prevent operations which may harm the creditors.

2) Detention shall be executed in accordance with the provisions of Articles 265 and 266 of the Execution Code. The total duration of the detention imposed after the opening of the insolvency proceedings may not exceed six months. The costs of execution and boarding shall be included in the costs of the insolvency proceedings (Article 43(a)).

Art. 61

Assertion of claims

1) The creditors of the insolvency proceedings shall assert their claims in accordance with the provisions of the following article, even if a legal dispute is pending.

2) Retrieved

Art. 62

Application content

1) The creditors shall register their claims against the insolvency estate in writing and indicate the claimed ranking.

2) Segregation creditors who also assert their claims as creditors of the insolvency proceedings shall state the facts of the case, giving precise details of the subject matter of the segregation, and indicate the amount up to which their claims are likely to be covered by the right of segregation.

3) A precise record shall be kept of the applications and actions so that no creditor is overlooked in the classification and distribution of assets. The parties may inspect the registration and the enclosures thereto.

4) Creditors may be represented by creditor protection associations.

Art. 63

Examination date

1) The insolvency administrator and the debtor shall appear at the verification meeting. The debtor's books and records shall be brought to the extent possible.

2) The claims filed shall be examined according to their ranking or, in the case of equal ranking, according to the order in which they were filed.

3) The insolvency administrator shall make a specific declaration as to the correctness and ranking of each claim filed; reservations made by the insolvency administrator when making such declaration shall be inadmissible.

4) The debtor may dispute the correctness but not the ranking of filed claims.

5) Insolvency creditors whose claim is established may dispute the correctness and ranking of filed claims.

6) As long as the verification meeting is not closed, the creditor may claim another rank for his filed claim.

7) Other applications for extension or amendment of the filed claim shall be admitted if they do not complicate the verification hearing.

8) Claims filed after the expiry of the filing deadline shall be included in the negotiations to the extent possible.

Art. 64

Subsequent registrations

1) For claims filed after the expiry of the filing deadline and included in

If the matter has not been dealt with at the general hearing, a special hearing shall be ordered. Art. 63 par. 1 shall apply. Claims filed later than 14 days before the hearing for the examination of the final account shall be disregarded.

2) The regional court shall summon the creditors to this special verification meeting by publication in the official gazette or by special notice. The costs associated with this summons and the declaration of the insolvency administrator shall be charged to the creditors who have missed the filing deadline, taking into account the amount of the claims filed.

3) Creditors whose claims are not negotiated until a special verification meeting may not dispute previously verified claims and their ranking.

Art. 65

Registration directory

1) The result of the examination shall be entered in the list of applications.

2) The list shall be deemed to be part of the minutes to be taken at the verification meeting. Creditors may request certified extracts.

Art. 66

Establishment of the claim

1) A claim shall be deemed to have been established in the insolvency proceedings if it has been acknowledged by the insolvency administrator and has not been disputed by any insolvency creditor entitled thereto.

2) The debtor's contestation shall be noted in the list of applications; however, it shall have no legal effect on the insolvency proceedings.

3) Retrieved

Art. 67

Contested receivables

1) If the correctness or the claimed ranking of the claim is disputed, the creditor shall, by order of the court, sue the insolvency estate within a period to be determined by the court, which shall be at least one month, failing which he shall be excluded as a creditor. The legitimacy of the claim and the claimed ranking shall be decided in the ordinary dispute proceedings.

2) If an enforceable claim is disputed, the disputing party shall assert its objection by means of an action.

3) If the matter is not subject to ordinary legal proceedings, the competent authority shall decide on the correctness of the claim. The district court shall decide on the claimed ranking.

4) Insolvency creditors whose claims remain disputed with regard to the correctness or claimed ranking and who were not present at the verification meeting shall be informed by the Regional Court to what extent their claims have been disputed.

Art. 68

Effect of the court decision

1) Final decisions on the correctness and ranking of the disputed claims shall be effective against all insolvency creditors.

2) The costs of the legal dispute shall be treated as costs of the insolvency estate insofar as the insolvency administrator participated in the contestation. However, the trial court may order the insolvency administrator to reimburse the costs of the legal dispute to the insolvency estate if the insolvency administrator has willfully contested or litigated the matter.

3) If the insolvency administrator has not participated in the legal proceedings, the disputing creditors shall be entitled to reimbursement of the costs from the insolvency estate to the extent that an advantage has been conferred on the insolvency estate by the conduct of the legal proceedings.

Art. 69

Pending litigation, proceedings

The provisions of Articles 67 and 68 shall also apply to the continuation and resolution of litigation pending and interrupted against the debtor prior to the commencement of insolvency proceedings.

V. Right of rescission

Art. 70

Right of rescission of the insolvency administrator

1) Legal acts performed prior to the commencement of insolvency proceedings and affecting the debtor's assets may be challenged in accordance with the provisions of the Code of Legal Protection (Articles 64 to 75) and declared invalid vis-à-vis the creditors of the insolvency proceedings. The right of rescission is exercised by the insolvency administrator.

2) The time limits for contestation under Articles 65 (1) and 66 (1) of the Code of Legal Protection shall be counted from the date of commencement of insolvency proceedings.

3) Claims for avoidance brought by insolvency creditors outside the insolvency proceedings and executions based on titles obtained by insolvency creditors for their claims for avoidance may only be pursued by the insolvency administrator during the insolvency proceedings. From what comes into the insolvency estate as a result of such claims, the creditor shall be reimbursed in advance for the costs of the proceedings.

4) If legal disputes concerning actions for avoidance by creditors are still pending, they shall be interrupted by the opening of the insolvency proceedings. The insolvency administrator may enter the proceedings in place of the creditor or refuse to do so. The provision of Article 21(2) shall apply to such refusal.

5) If the insolvency administrator refuses to enter into the litigation, the parties may commence and continue the proceedings only in respect of the costs of the proceedings.

6) The provisions of paras. 1 and 5 shall not apply to avoidance claims to which separate creditors are entitled pursuant to Articles 64 to 75 of the Code of Legal Security for the purpose of safeguarding their right to separate satisfaction and to contest the claim of another separate creditor to the same property.

VI. Dispositions of the assets of the insolvency estate Art. 71

Management of the insolvency administrator

1) The insolvency administrator shall value the assets belonging to the insolvency estate and invest cash profitably. The insolvency administrator shall obtain the opinion of the creditors' committee on all important transactions and, insofar as this is possible in good time, shall also hear the debtor, in particular if the transaction involves the voluntary sale of movable property which is not prompted by the continuation of the business, or the judicial assertion of claims the collection of which is doubtful, the filing of actions for avoidance and the entry into avoidance proceedings which are pending at the time of commencement of the insolvency proceedings, or the taking out of loans and credits.

2) The insolvency administrator shall notify the district court of the following transactions at least eight days in advance, together with the statement of the creditors' committee:

a) the conclusion of settlements;

b) the acknowledgement of disputed claims for segregation, separation and set-off as well as of disputed claims of the insolvency estate;

c) the filing of avoidance actions and the entry into avoidance proceedings pending at the time of the opening of the insolvency proceedings;

d) performance or cancellation of bilateral contracts which have not yet been performed or have not been performed in full by the debtor and the other party at the time of commencement of insolvency proceedings.

3) Notification is not required if the value does not exceed CHF 100,000.

4) The insolvency administrator shall inform the Office of National Economy if he does not recognize filed claims of an employee.

5) The consent of the creditors' committee and the district court shall be required for the sale or lease of the debtor's business or its share in a business as well as for the sale of the entire stock of goods or substantial parts thereof. The intended sale or lease shall be announced in the Official Gazette. The consent requires that at least 14 days have elapsed since the beginning of the announcement of the intended sale or lease, or eight days if the object of sale would lose considerable value if the consent were postponed.

6) The insolvency administrator shall give the debtor the opportunity to comment on the matters referred to in subsections (2) and (5) and shall notify the creditors' committee and the regional court of the outcome or of any obstacles to such comment. The regional court shall, insofar as this is possible in good time and is still required, give the debtor the opportunity to make a statement, whether in addition to the statement made to the insolvency administrator or in cases where a statement was not made to the insolvency administrator.

Judicial sale

Art. 72

1) The items belonging to the insolvency estate shall be sold by the court at the request of the insolvency administrator unless there is a more advantageous method of realization.

2) The provisions of the Execution Code shall apply mutatis mutandis to such disposals with the following deviations:

a) The insolvency administrator shall have the status of a debtor creditor;

b) the provisions of Art. 131(c) and Art. 203(1) of the Code of Execution, according to which a new auction may not be requested before the expiry of six months from the date of discontinuance, shall not apply;

c) It is not necessary to comply with the interim deadlines for the appraisal and the auction as stipulated in Articles 91 (1) and 110 (2) of the Execution Code;

d) the provisions of Art. 92 par. 1 of the Execution Code on the omission of an appraisal shall apply if an appraisal was made in the course of the proceedings.

3) The insolvency administrator may enter into any foreclosure proceedings against the debtor in progress as a debtor creditor.

4) At the request of the insolvency administrator, the regional court may decide that the sale of claims whose recovery does not promise sufficient success and the sale of objects of insignificant value shall be refrained from and that these claims and objects shall be left at the free disposal of the debtor.

Art. 73

1) If an object of the debtor is encumbered with a lien, the insolvency administrator may redeem it at any time by paying the lien debt and, in the case of immovable objects, enter into the lien by paying the lien debt. This provision applies mutatis mutandis to other rights of separation.

2) Property subject to a right to separate satisfaction may be realized without the consent of the beneficiary only in accordance with the provisions of the Execution Code. Any other realization shall be permissible with the approval of the Regional Court if it is established that the creditor with a right to separate satisfaction who has not consented to such realization can be fully satisfied from the proceeds.

3) If such items are in the custody of separate creditors whose claims are due, the regional court may, at the request of the insolvency administrator and after consultation with the separate creditors, set a reasonable period within which they must realize the item. If the object is not realized within this period, the regional court may order its surrender for realization. An appeal against this order is inadmissible. The provisions of Art. 72 letters b, c and d shall apply.

4) The provisions of subsection 3 shall also apply to creditors who are authorized to satisfy themselves out of the pledge without judicial intervention; institutions to which this authority is granted by virtue of their being legally established or state-authorized.

approved statutes, however, are only obliged to provide the information requested by the insolvency administrator.

Art. 74

Accounting

1) The insolvency administrator shall, upon each order of the Regional Court, but at the latest upon termination of his activities, render an account to the Regional Court and, if necessary, submit a report explaining the account.

2) The regional court shall examine the account and, if necessary, arrange for its correction or supplementation by the insolvency administrator. It may call in experts or individual members of the creditors' committee for the examination.

3) A hearing on the account shall be ordered, which shall be published in the Official Gazette and to which the insolvency administrator, the members of the creditors' committee, the debtor and all creditors of the insolvency proceedings shall be summoned with the remark that they may inspect the account and raise any objections at the hearing or beforehand by written statement.

Art. 75

Approval or criticism

1) The invoice shall be approved by the district court if, according to the results of the audit, there are no objections to it and no objections have been raised.

2) Otherwise, the Regional Court shall decide on the matter, excluding recourse to the courts.

3) The decision shall be published in the Official Gazette and served on the insolvency administrator and the debtor. The creditors shall be notified only if objections have been upheld. Otherwise, only those creditors whose objections have been rejected shall be notified.

VII. Distribution of the Insolvency

Estate Art. 76

Satisfaction of the mass creditors

As soon as their claims have been determined and are due, the mass creditors shall be satisfied as far as possible without delay.

Art. 76a

Mass insufficiency

1) If the insolvency estate is insufficient to meet the claims of the insolvency estate, the insolvency administrator shall notify the regional court thereof without delay and shall refrain from satisfying the creditors of the insolvency estate. However, the insolvency administrator may take such legal action as is necessary for administration and realization. Any claims of the insolvency estate arising therefrom shall be satisfied without delay.

2) The District Court shall publish the insufficiency of the assets involved in the insolvency proceedings in the Official Gazette. From this point in time, a judicial lien or satisfaction right may only be acquired in respect of the assets belonging to the insolvency estate on the basis of claims of the insolvency estate pursuant to para. 1, third sentence.

3) After the liquidation, the insolvency administrator shall submit to the district court a draft distribution within the meaning of Article 44. After carrying out the distribution, the district court shall terminate the insolvency proceedings.

4) If the claims of the insolvency estate can be met again due to changed circumstances, the insolvency administrator shall notify the regional court thereof without delay. From the time of the announcement of the insolvency estate's entitlement in the official gazette to be arranged by the district court, the insolvency administrator shall notify the insolvency court of this fact without delay.

administrator shall again proceed in accordance with Art. 76. Paragraph 2, second sentence, is no longer applicable.

Claims of the insolvency administrator

Art. 77

1) The insolvency administrator shall declare his claims for remuneration and reimbursement of cash expenses upon termination of his activities or, in the event of any other loss, at the latest at the hearing for the examination of the final account. The district court may order the insolvency administrator to disclose his claims at any time.

2) The insolvency administrator's claims shall be decided by the regional court after the creditors' committee and the debtor have agreed; the decision shall be served on the insolvency administrator, the debtor and all members of the creditors' committee. They may contest the decision by way of appeal; the higher court shall make the final decision.

3) The district court may grant advances on the claims of the insolvency administrator after approval by the creditors' committee.

4) Costs of the insolvency administrator which he has to claim on the occasion of the judicial sale of property and the distribution of the proceeds in execution proceedings shall be determined there.

Art. 78

1) The total remuneration of the insolvency administrator shall amount to 4 to 20 % of the realisate of the insolvency estate to be determined after deduction of the claims for separation and segregation. The success achieved for the insolvency creditors (quota) and the status of the proceedings at the time of the conclusion of the insolvency administration shall be taken into account. These percentages may be increased up to twice if the transactions dutifully handled were connected with extraordinary efforts, if they were of unusual scope or if they were accompanied by special success. These percentages shall be reduced by up to half if the method of calculation leads to an unreasonably high total remuneration.

2) Agreements of the insolvency administrator with the debtor or the creditors on the amount of cash expenses and on the remuneration for his efforts shall be invalid.

Art. 79

Satisfaction of the insolvency creditors

1) Satisfaction of the insolvency creditors may only be commenced after the general verification hearing.

2) Distributions to the creditors of the insolvency proceedings shall be made as often as there are sufficient assets of the insolvency estate.

3) The insolvency administrator shall make the distribution with the consent of the district court.

Art. 80

Draft distribution

1) The insolvency administrator shall submit a draft distribution. This shall list all claims in their order of priority, the assets available for distribution and the amounts attributable to each individual claim.

2) The district court shall publish the submission of the draft distribution and the distribution quota specified therein in the official gazette and notify the debtor and the creditors of the insolvency proceedings thereof, stating that they may lodge their objections within 14 days. At the same time, they and the insolvency administrator and the members of the creditors' committee shall be notified of the meeting at which any objections will be heard.

3) The draft distribution shall be approved by the Regional Court if, according to the results of the examination, there are no objections to it and if no objections have been raised or withdrawn at the hearing. Otherwise, the Regional Court shall decide without recourse to the courts.

4) The decision shall be published in the Official Gazette and served on the insolvency administrator and the debtor. The insolvency creditors shall be notified only if their objections have been upheld. Otherwise, only the insolvency creditors whose objections have been rejected shall be notified.

Art. 81

Failure calculation

1) Insolvency creditors who have acquired certain assets of the debtor to secure their claims, in particular book claims, or who are entitled to a lien on immovable assets of the debtor not located in Germany for their claim, shall be taken into account with the amount of the presumed loss.

2) The amount of the presumed default must be made credible by the expiration of the time limit set for the filing of reminders.

3) Interest and costs incurred after the opening of the insolvency proceedings shall be disregarded when calculating the default.

Art. 82

Deposit with the court

1) The insolvency administrator shall deposit with the Regional Court amounts attributable to disputed claims and claims which are only subject to the provision of security or which, pursuant to Article 81 (1), are only to be satisfied by way of discharge.

2) The same applies to contributions attributable to contingent claims, unless the condition is resolutory and the creditor provides security.

Art. 83

Execution of the distribution

The insolvency administrator shall furnish the district court with evidence of the execution of each distribution.

Final distribution

Art. 84

1) If the insolvency estate has been fully liquidated and a final decision has been reached on all claims, after determination of the claims of the

insolvency administrator and approval of the final account to carry out the final distribution.

2) The final distribution may take place only on the basis of a draft distribution within the meaning of Art. 80 paras. 2 and 3.

3) The provisions of Articles 80 to 83 shall apply to the final distribution and the procedure.

Art. 85

1) The final distribution may not be postponed because it is not yet certain whether and to what extent amounts secured to cover claims will revert to the insolvency estate.

2) If the occurrence of a condition is so unlikely that the conditional claim currently has no asset value, the court shall refrain from levying the amount due on the claim.

3) Creditors who, pursuant to Art. 81 (1), are to be satisfied only with the deficiency of their claim shall be taken into account in the final distribution only if the amount of their deficiency has been proved to the insolvency administrator before the expiry of the time limit set for the reminders and has been approved by the District Court.

Art. 86

Insolvency assets emerging later

1) If, after the completion of the final distribution, amounts deposited with the District Court become available for the insolvency estate or if amounts otherwise paid flow back into the insolvency estate, they shall be distributed by the insolvency administrator with the approval of the District Court on the basis of the draft final distribution. Proof thereof shall be submitted to the Regional Court.

2) The same shall apply if assets belonging to the insolvency estate are identified after the final distribution or after the termination of the insolvency proceedings.

3) The regional court may refrain from a subsequent distribution after consultation of the insolvency administrator and the creditors and leave the amount available to the debtor if this appears appropriate in view of the insignificance of the amount and the costs of a subsequent distribution. If the costs are at the value of the

If the value of the determined property is disproportionate, the hearing may be cancelled.

Art. 87

Cancellation of the insolvency proceedings

1) If the execution of the final distribution is proven, the insolvency proceedings shall be terminated by the district court.

2) The provisions of Art. 14 shall apply mutatis mutandis to the termination of the insolvency proceedings.

VIII. Continuation, closure and reopening of the company Art. 88

Continuation of the company

1) The insolvency administrator shall continue the business until the report meeting, unless it is obvious that the continuation of the business will lead to an increase in the loss suffered by the insolvency creditors. As long as the company is continued, it may only be sold as a whole and only if the sale is obviously in the common interest of the insolvency creditors.

2) The insolvency administrator may close or reopen a company or individual parts of it only after obtaining the approval of the regional court. Before taking a decision on this, the court shall hear the creditors' committee and, if it is possible in good time, also the debtor. Decisions of the court on closure and reopening shall be published in the Official Gazette.

3) If a company or individual divisions of a company cannot be continued, the court shall, after hearing the creditors' committee and on the proposal of the insolvency administrator, determine the most favorable method of liquidation of the company or individual divisions of the company for the parties involved; in this context, it shall always be examined whether another method of liquidation, in particular the overall sale of the company or individual divisions of the company, is more advantageous instead of liquidation of the assets.

Art. 89

Report meeting

If the company has not yet been closed when the insolvency proceedings are opened, the regional court shall convene a creditors' meeting to decide on the further course of action (continuation or closure of the company, reorganization plan). This meeting may be combined with the general audit meeting. It shall be held no later than 90 days after the opening of the insolvency proceedings and shall be published in the Official Gazette.

Art. 90

Content of the report meeting

1) The insolvency administrator shall report at the report meeting whether the preconditions for an immediate closure of the entire company or individual divisions or for a continuation of the company exist and whether a reorganization plan is in the common interest of the insolvency creditors and whether its fulfillment is likely to be possible.

2) If the conditions for continuation are met, the court shall, after hearing the insolvency creditors, pronounce continuation by way of an order; moreover, if a reorganization plan, the fulfillment of which is likely to be possible, is in the common interest of the insolvency creditors, it shall grant the debtor, at its request, a period of time for filing an application for a reorganization plan. No appeal shall be admissible against such decisions. The period may not exceed 14 days. In the meantime, the enterprise may not be liquidated. The resolutions shall be published in the Official Gazette.

Art. 90a

Remediation plan proposal

1) If the reorganization plan proposal is timely and admissible, the regional court shall order a reorganization plan meeting for a maximum of six weeks. The company shall only be liquidated if the reorganization plan proposal is not accepted within 90 days or if it no longer meets the common interests of the insolvency creditors or if the conditions for continuation are no longer met.

2) Accordingly, the liquidation of the company shall only be halted if the reorganization plan proposal is also not inconsistent with the debtor's economic circumstances and, in view of the outcome of the proceedings to date, in particular the vote on the most recently submitted reorganization plan proposal, it is to be expected that it will be accepted by the creditors.

Art. 90b

Closure and reopening of the company

1) The district court may only order or authorize the closure of an enterprise (Article 88(2)) if it is established that an increase in the loss suffered by the creditors of the insolvency proceedings cannot be avoided otherwise. If the debtor credibly demonstrates that within 14 days the conditions for averting the disadvantage threatening the insolvency creditors will be created, in particular that one or more persons expressly undertake in written declarations submitted to the court to be liable to the insolvency creditors to an extent sufficient in terms of amount and time for the loss suffered by the latter, the court shall order the insolvency administrator to suspend the insolvency proceedings.

If the Company is unable to meet its obligations as a result of the continuation of the business and there are no objections to compliance with these obligations, the adoption of the resolution shall be suspended until the expiry of this period.

2) The district court may order or grant the reopening of an enterprise only if an increase in the default is likely to be avoidable; subsection (1) shall apply mutatis mutandis.

3) The regional court shall order or approve the closure of a company at any rate one year after commencement of the insolvency proceedings if a reorganization plan proposal has not been accepted within this period. The period shall be extended by a maximum of one year at the request of the insolvency administrator if the closure is contrary to the common interest of the creditors or other equally important reasons exist. The period may also be extended several times, but by a maximum of two years in total.

Art. 91

Separation and segregation claims

1) The fulfillment of a claim for separation or segregation which could jeopardize the continuation of the company cannot be demanded before the expiry of six months from the opening of the insolvency proceedings.

This shall not apply if performance is indispensable to avert serious personal or economic disadvantages to the beneficiary and compulsory enforcement against other assets of the debtor has not led or is not likely to lead to full satisfaction of the creditor.

2) At the request of the insolvency administrator or at the request of the insolvency court, the execution court shall postpone execution proceedings in respect of a claim for segregation or separation, except for the creation of a judicial lien or right of satisfaction, to the extent and for as long as the beneficiary cannot demand performance. The time limit of Art. 175 para. 2 of the Execution Statute shall be extended by the period of deferment. The postponed execution proceedings shall be resumed after expiry of the period of postponement only at the request of the person entitled.

Art. 92

Eviction execution

1) At the request of the insolvency administrator, execution for the eviction of a property in which the business is operated shall be postponed for non-payment of the rent in the period prior to the opening of insolvency proceedings until:

a) the company is closed;

b) the debtor withdraws the reorganization plan or the court rejects the request;

c) the reorganization plan was rejected at the reorganization plan meeting and the meeting was not extended;

d) the reorganization plan has been denied confirmation; or

e) the claim of the tenant under Art. 113 is revived.

2) If the claim is fully satisfied in due time with the amount determined in the reorganization plan, the execution for eviction shall be discontinued upon request. The tenancy shall be deemed to be continued.

Art. 93

Fulfillment of bilateral legal transactions

The period to be determined by the district court pursuant to Art. 34 para. 2 may not end earlier than three days after the report meeting in the case of a going concern.

Art. 94

Employment contracts

1) If the employment relationship has already commenced and a company is operated at the opening of insolvency proceedings, the employment relationship may be terminated in accordance with Art. 38 within one month after:

a) publication in the Official Gazette of the decision ordering or authorizing the closure of the company or a division thereof; or

b) the reporting day hearing, unless the court has decided there to continue the business.

2) If the closure of only one area of the company, rather than the entire company, has been ordered or approved, the right to dissolve the company without notice and the right to terminate the contract in accordance with para. 1 shall only apply to the employees or only in relation to the employees who are employed in the affected area of the company.

3) If the court has decided in the report meeting that the company shall continue as a going concern, the insolvency administrator may only terminate employees who are employed in restricted areas within one month after the report meeting pursuant to subsection 1. The dismissed employee shall be entitled to termination without notice pursuant to Art. 38 par. 1.

4) After the opening of insolvency proceedings, termination without notice is invalid,

if it is only based on the fact that the remuneration due to the employee before the opening of the insolvency proceedings was unduly reduced or withheld.

Art. 95

Dissolution of contracts by contractual partners of the debtor

1) If the termination of the contract could jeopardize the continuation of the business, contractual partners of the debtor may only terminate contracts concluded with the debtor for good cause until six months after the opening of the insolvency proceedings. Good cause shall not include:

a) a deterioration in the debtor's economic situation; or

b) Default of the debtor in the fulfillment of claims that became due before the opening of the insolvency proceedings.

2) The limitations of paragraph 1 do not apply:

a) if the termination of the contract is indispensable for the prevention of serious personal or economic disadvantages of the contracting party;

b) In the case of claims for disbursement of credits; and

c) for employment contracts.

Art. 95a

Mandatory legislation

The parties to the contract may not rely on any agreement which excludes or restricts the application of Articles 93 to 95 in advance.

IX. Restructuring

plan Art. 96

Application for conclusion of a reorganization plan

1) The debtor may apply for the conclusion of a reorganization plan at the same time as the application for commencement of insolvency proceedings or thereafter until the insolvency proceedings are terminated. The application must state how the creditors are to be satisfied or secured.

2) The District Court may pause with the liquidation of the insolvency estate until the decision on the application for the conclusion of a reorganization plan.

3) If the reorganization plan application is rejected by the district court as inadmissible, if the reorganization plan is rejected by the creditors, if it is rejected by the debtor, or if it is rejected by the debtor, the reorganization plan is rejected by the creditors.

If the insolvency proceedings have not been withdrawn or confirmed by the Regional Court, the insolvency proceedings shall be continued.

Art. 97

Content and inadmissibility of the reorganization plan

1) The insolvency creditors must be offered to pay the quota within a maximum of two years from the date of acceptance of the reorganization plan. They must be treated equally in the reorganization plan. The quota must amount to at least 20% of the claims.

2) The application is inadmissible:

a) as long as the debtor is a fugitive;

b) as long as the debtor refuses to submit and sign a list of assets in accordance with Art. 59;

c) if the debtor has been convicted by a final court decision of fraudulent conveyance (section 156 of the Criminal Code) after the occurrence of insolvency;

d) if the debtor proposes the reorganization plan in an abusive manner, in particular if the proposal appears to serve procrastination purposes;

e) if the fulfillment of the reorganization plan will obviously not be possible; or

f) if the content of the proposal violates Articles 105 to 107 or mandatory legal provisions.

Art. 98

Authorization for voice control

1) The established insolvency claims shall entitle the holders to participate in the voting. For claims of the separate creditors, voting rights shall be granted only if the creditor so requests and only for that part of the claim which is not likely to be covered by the claim otherwise asserted.

2) Insolvency creditors whose claims have not yet been verified, which are disputed or conditional, and segregation creditors pursuant to subsection (1) shall first take part in the voting. If it transpires that the result of the vote is different depending on whether and to what extent the vote cast by the creditor is counted or not, then

the court, after preliminary examination and hearing of the parties, to decide whether and to what extent the vote of such creditor is to be counted. An appeal against the decision shall be inadmissible, but the decision may be reviewed on application to the court.

be amended in a subsequent vote.

3) Insolvency creditors who have acquired the claim by legal assignment only after the opening of the insolvency proceedings shall not be entitled to voting rights unless they have assumed the claim on the basis of an obligation entered into prior to the opening of the insolvency proceedings.

4) Several creditors of the insolvency proceedings who are jointly entitled to a claim or whose claims formed a single claim until the opening of the insolvency proceedings shall be entitled to only one vote. This provision shall apply mutatis mutandis if the claim of the insolvency creditor is subject to a lien. The several persons must agree on the exercise of the voting right.

5) A creditor who has filed several claims shall be entitled to only one vote. A creditor who has filed several claims shall be entitled to only one vote. For a claim acquired after commencement of the insolvency proceedings by assignment by legal act on the basis of an obligation entered into before commencement of the insolvency proceedings, he shall also be entitled to the vote of the creditor who had the claim before commencement of the insolvency proceedings.

Art. 99

Restructuring plan meeting

1) The hearing to discuss and decide on the reorganization plan may not take place before the audit hearing. It shall be combined with the audit hearing (Art. 74 par. 3).

2) The meeting shall be published in the Official Gazette. The debtor, the insolvency administrator, the members of the creditors' committee and the other insolvency creditors entitled to vote shall be specially summoned. At the same time, the insolvency creditors shall each be served with a copy of the application for the conclusion of a reorganization plan, which the debtor shall submit, and the main content of the reorganization plan shall be published in the Official Gazette.

3) The debtor must attend the hearing in person. The debtor may only be represented by a proxy if he is prevented from attending for important reasons and the court considers his absence to be justified.

justified. Otherwise, the application for the conclusion of a reorganization plan shall be deemed withdrawn.

Art. 100

Special features of accounting

1) The insolvency administrator shall submit an invoice to the district court no later than 14 days prior to the reorganization plan meeting and shall supplement the invoice at the reorganization plan meeting.

2) For the period until the confirmation of the reorganization plan becomes final, the insolvency administrator shall only submit a further supplementary account if the debtor requests this at the reorganization plan meeting or if the regional court requests this within four weeks of the confirmation becoming final. The court shall decide on this supplementary account only if the debtor raises objections within 14 days. A hearing on the supplementary invoice may be omitted.

Art. 101

Report of the insolvency administrator

Prior to the commencement of voting, the insolvency administrator shall report on the debtor's economic situation and management to date, as well as on the causes of the debtor's deterioration in assets and the probable results of the implementation of the insolvency proceedings.

Art. 102

Requirements for the adoption of the reorganization plan

1) In order for the reorganization plan to be accepted, the majority of the insolvency creditors present at the meeting and entitled to vote must approve the proposal and the total amount of the claims of the insolvency creditors approving the reorganization plan must exceed half of the total amount of the claims of the insolvency creditors present at the meeting and entitled to vote. The adoption of the reorganization plan and its main content shall be published in the Official Gazette.

2) The debtor's close relatives and legal successors who have acquired their claims not earlier than six months prior to the commencement of insolvency proceedings shall be taken into account in calculating the majority of the claims.

of the insolvency creditors and their claims shall be counted in the calculation of the total amount of claims only if they vote against the proposal. If they have acquired the claim after the debtor's insolvency from someone who is not a close relative of the debtor, this provision shall not apply.

Art. 103

Amendment of the reorganization plan

If the debtor amends the reorganization plan at the meeting or submits a new proposal, the regional court shall, if not all of the insolvency creditors entitled to vote are present, permit a vote thereon only if the amended or new proposal is not less favorable to the insolvency creditors.

Art. 104

Extension of the reorganization plan meeting

1) The reorganization plan meeting may be extended:

a) if the court did not allow voting on the proposal amended or new admissible at the hearing;

b) if only one of the majorities is reached; or

c) if it is expected that the extension of the session will lead to the adoption of the proposal.

2) The new hearing shall be fixed immediately by the District Court, announced orally and published in the Official Gazette. If an amended or new proposal is put to the vote at the new session, the notice in the official gazette shall refer to this fact and indicate its essential content.

3) In the event of a new hearing, the creditors shall not be bound by their statements made at the first hearing.

Art. 105

Rights of the Segregation Beneficiaries, Segregation Creditors and Mass Creditors

1) The claims of the beneficiaries of the right to separate satisfaction, the creditors of the insolvency proceedings and the creditors of the assets involved in the insolvency proceedings shall not be affected by the reorganization plan.

2) If the reorganization plan is confirmed, the secured claims shall be limited to the value of the item in which rights to separate satisfaction exist.

3) Creditors whose claims are partially covered by rights to separate satisfaction shall participate in the reorganization plan procedure with the default (Art. 81 para. 3); however, as long as this has not been finally determined, they shall be taken into account in the fulfillment of the reorganization plan with the presumed default.

Art. 106

Rights of the insolvency creditors

1) Amounts attributable to disputed claims are to the same extent

and under the same conditions as established for the payment of undisputed claims in the reorganization plan, if the deadline for bringing the action is still open or if the action has been brought by the reorganization plan meeting.

2) A security to this extent shall also be provided if the claim has only been disputed by the debtor. The amount secured shall be released if the creditor has not filed an action in respect of the disputed claim or resumed the proceedings already pending within the period specified by the Regional Court.

3) The claim may no longer be asserted after expiry of the deadlines pursuant to paras. 1 and 2.

Art. 107

Rights of creditors against co-obligated persons

The rights of the insolvency creditors against guarantors or co-debtors of the debtor as well as against persons obliged to recourse may not be restricted by the reorganization plan without the express consent of the beneficiaries.

Art. 108

Special benefits

1) An agreement of the debtor or other person with a creditor whereby the creditor is given a credit prior to the completion of the plan of reorganization or in the

Any special benefits granted in the period between the conclusion of the agreement and the entry into force of the confirmation resolution shall be invalid.

2) What has been paid on the basis of an invalid agreement or on the basis of an obligation entered into in order to implement such an agreement may be reclaimed within three years, without prejudice to any further claims for compensation.

Art. 109

Court confirmation of the reorganization plan

1) The reorganization plan requires confirmation by the district court.

2) The confirmation shall be issued only when:

a) the remuneration of the insolvency administrator is determined by the court and paid or secured;

b) all due and outstanding other claims on the assets involved in the insolvency proceedings have been paid, and

the claims of the insolvency estate asserted before the court or an administrative authority, of which the insolvency administrator has been notified, have been secured; and

c) conditions for confirmation provided for in the reorganization plan are met.

3) The insolvency administrator shall report on the existence of the requirements specified in subsection (2) above upon request of the regional court.

4) The resolution on confirmation shall state the main provisions of the restructuring plan; it shall be published in the Official Gazette and served on all insolvency creditors and the other parties involved.

Art. 110

Cancellation of the insolvency proceedings

1) If the reorganization plan is confirmed, the account submitted by the insolvency administrator shall also be approved at the same time (Art. 75).

2) The insolvency proceedings shall be terminated when the confirmation becomes final. This shall be published in the official gazette together with the entry into force of the confirmation.

3) Unless the reorganization plan provides otherwise, the debtor shall resume the right to freely dispose of its assets.

4) Mass creditors may assert their unadjusted claims against the debtor's assets remaining at their free disposal or acquired after the termination of the insolvency proceedings.

5) Moreover, Art. 14 shall apply to the termination of the insolvency proceedings.

Art. 111

Refusal of confirmation

Confirmation shall be denied if:

a) there is a reason for which the application for the conclusion of a reorganization plan is inadmissible;

b) the provisions applicable to the procedure and completion of the reorganization plan have not been observed, unless such deficiencies can be remedied subsequently or are not material under the facts of the case;

c) the reorganization plan has been brought about by favoring a creditor in violation of Art. 108.

Art. 112

Legal effects of the reorganization plan

1) The debtor shall be released from the obligation to subsequently compensate its creditors for the loss suffered by them or to subsequently pay for the benefit otherwise granted, regardless of whether they participated in the insolvency proceedings or in the vote on the reorganization plan, voted against the reorganization plan or were not granted the right to vote at all.

2) In the same way, the debtor shall be released in respect of the guarantors and other persons entitled to recourse.

3) The claims referred to in Art. 54 let. a may no longer be asserted after completion of the reorganization plan.

Art. 113

Delay

1) The estate and other benefits granted by the reorganization plan shall lapse for those creditors against whom the debtor defaults in the performance of the reorganization plan.

2) Claims which at the time of the default occurred were not fully satisfied with the amount determined in the reorganization plan shall be deemed to be repaid with the fraction corresponding to the ratio of the amount paid to the amount payable under the reorganization plan. The rights granted by the reorganization plan to the creditors vis-à-vis the debtor or third persons shall remain unaffected.

3) Default shall only be deemed to have occurred if the debtor has not paid a due liability despite a written reminder sent to him by the creditor granting a grace period of at least 14 days.

4) The reorganization plan may not deviate from paras. 1 to 3 to the detriment of the debtor.

5) If the creditor asserts the rights to which he is entitled in the event of the debtor's default, it is not necessary to prove that the debtor is in default in order to grant enforcement.

Art. 114

Preliminary determination of the amount of disputed claims and partially covered claims.

1) If the existence or the amount of an insolvency claim or, in the case of a partially covered claim, the amount of the default is in dispute and there is no decision thereon in accordance with Art. 98, the district court shall, upon application by the debtor or

of the creditor to provisionally determine the presumed amount of the disputed claim or the claim. No appeal is admissible against this decision.

2) The legal consequences provided for in the event of default in the performance of the reorganization plan cannot affect the debtor in any case if he:

a) has secured disputed claims until the final determination of the existence or the amount of the claim to the extent corresponding to a decision made by the district court pursuant to subsection 1 or Art. 98; or

b) partially covered claims until the final determination of the amount of the default to the extent that corresponds to a decision made by the district court under subsection (1) or Article 98.

3) After the final determination of the amount of the disputed claim or the default, the debtor, who until then has taken into account the claim to the lesser extent resulting from the decision of the district court in the fulfillment of the reorganization plan, shall pay what is missing.

4) Default in the performance of the reorganization plan shall only be assumed if the debtor has not paid the shortfall despite a written reminder sent to him by the creditor granting a grace period of at least 14 days. However, if the final determination shows that the debtor has overpaid, the debtor shall be entitled to the excess amount only to the extent that the creditor has received more as a result of the payments made by the debtor than the total amount of the claim due to it under the reorganization plan, even if not yet due.

Art. 115

Invalidity of the reorganization plan

1) The debtor's conviction for fraudulent conversion (Section 156 of the Penal Code), if it becomes legally effective within two years from the date of confirmation of the reorganization plan, shall cancel the estate granted in the reorganization plan and other benefits for all creditors, without entailing the loss of the rights granted to them by the reorganization plan vis-à-vis the debtor or third persons.

2) The District Court shall declare the reorganization plan null and void ex officio or upon application by an insolvency creditor. The order shall be published in the Official Gazette. If assets are available to cover the costs or an appropriate advance on costs is paid, the insolvency proceedings shall be resumed at the request of an insolvency creditor.

3) The provisions of Articles 11 to 13 on notice and annotation of the opening of insolvency proceedings and on protective measures shall apply to the resumption of insolvency proceedings.

Art. 116

Proceedings upon resumption of insolvency proceedings

1) Creditors whose claims arose between the termination and the resumption of the insolvency proceedings shall also participate in the resumed insolvency proceedings.

2) Insolvency creditors for whom the reorganization plan was effective participate in the resumed insolvency proceedings with the amount of their original claims that has not yet been repaid.

3) The insolvency proceedings shall be repeated to the extent necessary. Claims previously examined shall not be examined again.

4) For the avoidance of legal acts performed between the termination and the resumption of the insolvency proceedings and for the set-off claims arising during this period, unless insolvency has occurred in the meantime, the date of the first criminal court judgment containing the debtor's conviction shall be deemed the date of occurrence of insolvency.

5) The time limit for asserting the right of rescission in court is suspended for the period from the confirmation of the reorganization plan until the resumption of the insolvency proceedings.

Art. 117

Ineffectiveness of the reorganization plan

1) If the reorganization plan has been established by fraudulent acts or by improper granting of special advantages to individual creditors without the requirements of Art. 115 being met, any creditor of the insolvency proceedings may, within three years after the confirmation of the reorganization plan has become final, bring an action for payment of the deficiency or for the declaration of the ineffectiveness of the advantage otherwise granted, without losing the rights which the reorganization plan confers on him vis-à-vis the debtor or third persons.

2) This claim is only available to insolvency creditors who did not participate in the fraudulent acts or in the improper arrangements and who, through no fault of their own, were unable to assert the facts giving rise to the claim in the confirmation proceedings.

Art. 118

New insolvency proceedings

1) If insolvency proceedings are reopened before the reorganization plan has been fully implemented without the requirements of Art. 115 being met, the former insolvency creditors shall not be obliged to repay what they have received in good faith.

2) However, their claims shall be deemed to have been repaid in full if they have been satisfied with the amount determined in the reorganization plan; otherwise, the claim shall be deemed to have been repaid only with the fraction corresponding to the ratio of the amount paid to the amount payable under the reorganization plan.

X. Restructuring

proceedings Art.

118a

Scope

If the debtor is a natural person carrying on a business, an association, a partnership or an estate, the provisions of this Chapter and Chapters I to IX, XIV and XV shall apply.

Art. 119

Request

1) Insolvency proceedings shall be designated as reorganization proceedings if the debtor:

a) its opening; and

b) the adoption of a reorganization plan is requested following an admissible reorganization plan and this request is not rejected by the District Court at the same time as the opening of the insolvency proceedings.

2) Reorganization proceedings may also be opened in the event of imminent insolvency, but not during bankruptcy proceedings against the debtor's assets.

3) The designation shall be changed to bankruptcy proceedings if:

a) the insolvency administrator (liquidator) has indicated that the assets are insufficient to meet the claims of the insolvency estate;

b) the debtor withdraws the reorganization plan application or the district court rejects the application;

c) The reorganization plan was rejected at the reorganization plan meeting and the meeting was not extended; or

d) the reorganization plan was denied confirmation by the district court.

4) The change of the name of the bankruptcy proceedings shall be published in the Official Gazette. No appeal shall be allowed against the designation and its amendment; however, the designation may be corrected by the court upon request or ex officio.

Art. 120

Scheduling of the reorganization plan meeting

1) At the same time as opening the proceedings, the court shall, as a rule, order a reorganization plan hearing for 60 to 90 days. It may be combined with the audit day hearing.

2) The company is to be liquidated only if the reorganization plan proposal is not accepted within 90 days of the opening of the proceedings.

XI. Restructuring proceedings with self-administration Art. 121

Requirements

1) In reorganization proceedings, the debtor shall be entitled to manage the insolvency estate under the supervision of an insolvency administrator (reorganization administrator) in accordance with the provisions of this chapter (self-administration) if the debtor has submitted the following documents prior to the opening of such proceedings:

a) a reorganization plan in which the insolvency creditors are offered to pay at least 20% of the claims within a maximum of two years from the date of acceptance of the reorganization plan;

b) an accurate list of assets, including a current and complete overview of assets and liabilities;

c) a comparison of the expected income and expenses for the following 90 days, showing how the funds necessary for the continuation of the business and the payment of the assets involved in the insolvency proceedings are to be raised and used (financial plan); and

d) a list of creditors to be notified.

2) The application shall contain the following information:

a) on how the funds required to fulfill the reorganization plan are to be raised;

b) about the number of employees and about their bodies established in the company; and

c) on the reorganization measures necessary to fulfill the reorganization plan, in particular financing measures.

3) If the debtor is obliged to prepare balance sheets in accordance with the provisions of the law on persons and companies, he shall submit them. If the debtor has been operating the business for more than three years, it is sufficient to submit the balance sheets for the last three years.

4) The debtor shall sign the list of assets and liabilities in his own hand and at the same time agree to sign it before the court, thereby confirming that the information provided by him on his assets and liabilities is correct and complete and that he has not concealed any of his assets.

5) If the application lacks the legally required submissions or is not accompanied by all the required documents, the pleading shall be returned for improvement. If the application is not improved within the time limit, the court proceedings or bankruptcy proceedings shall be instituted.

Art. 122

Withdrawal of self-administration

1) The court shall revoke the debtor's self-administration and appoint a liquidator instead of the reorganization administrator if:

a) circumstances are known which lead to the expectation that self-administration will lead to disadvantages for the creditors, in particular if the debtor violates obligations to cooperate or provide information, violates restrictions on disposal or the interests of the creditors in general, the requirements of Art. 121 are not met or not met at all.

The debtor is no longer able to meet its financial obligations, the financial plan cannot be adhered to or the debtor fails to meet the claims of the insolvency proceedings on time;

b) the requirements of Art. 119 par. 3 are met;

c) the reorganization plan has not been accepted by the creditors within 90 days of the opening of the proceedings; or

d) the debtor so requests.

2) The withdrawal of self-administration shall be published in the Official Gazette; the legal effects shall take effect from the beginning of the day following the publication.

Art. 123

Scope of self-administration

1) In the case of self-administration, the debtor is entitled to continue its business and to perform all legal acts under the supervision of the reorganization administrator. However, he is not permitted to sell or transfer real estate.

to encumber, to create rights to separate satisfaction, to enter into guarantees and to make undue dispositions. The debtor must refrain from an act even if the reorganization administrator objects to it.

2) Legal acts performed by the debtor contrary to subsection 1 shall be invalid vis-à-vis creditors if the third party knew or should have known that the reorganization administrator objected to the performance.

Art. 124

Limitation of self-administration

1) Reserved to the Redevelopment Administrator:

a) the avoidance of legal acts in accordance with Art. 70, whereby the assets lost by the debtor as a result of the avoidable act shall be paid to the liquidator and used to satisfy the creditors;

b) the audit of claims pursuant to Art. 63; and

c) the recovery.

2) If the debtor is not authorized to take legal action, the reorganization administrator shall act in his place. The reorganization administrator shall require the consent of the debtor for the exploitation.

Art. 125

Special regulations

1) In the event of self-administration of the debtor, the following applies:

a) Claims on the assets involved in insolvency proceedings are, without prejudice to Art. 43, also claims arising from legal acts of the debtor to which he is entitled under Art. 123.

b) The debtor may use the available funds for himself only to the extent necessary to maintain himself and those who have a legal claim to maintenance against him.

c) An inventory according to Art. 55 to 57 is not required.

2) In the reorganization proceedings with self-administration, the debtor may, with the consent of the reorganization administrator, terminate the employment of employees employed in areas to be restricted within one month of the publication of the opening decision in the Official Gazette pursuant to Art. 38 if the continuation of the employment relationship could jeopardize the implementation or fulfillment of the reorganization plan or the continuation of the company. The terminated employee has a right to termination without notice pursuant to Art. 38 para. 1.

Art. 126

Tasks and powers of the reorganization manager

1) The reorganization administrator shall commence the review of the debtor's economic situation immediately after his appointment and shall supervise the debtor's management and living expenses.

2) The reorganization administrator shall report on the debtor's financial situation and on whether the debtor is in good financial standing at the latest by the time of the creditors' meeting, which shall generally be held within one month of the opening of the reorganization proceedings:

a) the financial plan can be adhered to;

b) the reorganization plan is achievable; and

c) reasons exist for withdrawing self-administration.

3) Copies of written reports of the reorganization administrator shall be sent to the members of the creditors' committee and, if necessary, to the creditors.

4) The reorganization administrator shall be obliged to render accounts only to the extent that he not only supervises but also performs actions himself. If he is not obliged to render accounts and if there is no final account day meeting, the reorganization plan day meeting shall be decisive for the time limits of Art. 64 par. 1 and Art. 77 par. 1.

XII. Bankruptcy proceedings

Art. 127

Designation and scope of application

1) If the requirements of Article 119 are not met, the insolvency proceedings shall be called bankruptcy proceedings. The provisions of Chapters I to IX and XIV and XV shall apply to the bankruptcy proceedings.

2) The insolvency estate (bankruptcy estate) is to be used by the insolvency administrator (administrator of the estate) for the joint satisfaction of the insolvency creditors (bankruptcy creditors) if no reorganization plan is agreed.

XIII. Special provisions for natural persons

Art. 128

Designation and scope of application

1) If the debtor is a natural person, the provisions of Chapters I to X and XIV and XV shall apply, unless otherwise ordered in this Chapter.

2) If the debtor does not operate a business, the proceedings shall be referred to as debt settlement proceedings.

Art. 129

Debtor's request

1) If the assets are not likely to be sufficient to cover the costs of the insolvency proceedings, the application for commencement of insolvency proceedings shall be rejected.

of insolvency proceedings on this ground if the debtor:

a) submits an accurate list of assets and liabilities, has signed the list of assets and liabilities himself/herself and at the same time agrees to confirm with his/her signature before the Regional Court that the information he/she has provided on his/her assets and liabilities is correct and complete and that he/she has not concealed any of his/her assets;

b) Submits an acceptable payment plan, requests its acceptance, and certifies that it will comply with the payment plan; and

c) certifies that its income is expected to de- cuss the costs of the proceedings.

2) The certificates referred to in paragraph 1 must be in documentary form.

3) The court may grant the debtor a period of time to submit the list of assets and the payment plan.

4) As long as the requirements under para. 1 are met, Art. 164 para. 2 shall not apply.

Art. 130

Costs of proceedings

1) Insofar as the costs of proceedings opened under Art. 129 cannot be paid out of the assets involved in the insolvency proceedings as soon as they have been determined and are due, they shall provisionally be borne by the Land. The same shall apply to the costs of proceedings in which the existence of the conditions under Art. 129 is established.

2) The payments made by the state are to be reimbursed directly to the state:

a) from the insolvency estate; and

b) in the case of a skimming procedure, from the amounts received by the trustee through assignment of the debtor's claims to income from an employment relationship

or other recurring benefits with an income replacement function, and from other benefits from the debtor or third parties received by the trustee.

3) Payments under paragraph 2 shall be treated in the same way as the receivables on which they are based.

4) The debtor shall be required by order to pay in arrears the amounts that have been provisionally paid by the state and not yet replaced,

to the extent and as soon as he is able to do so without impairing the necessary maintenance. Three years after the termination or discontinuation of the foreclosure proceedings, the obligation to make additional payments may no longer be imposed.

Art. 130a

List of assets

1) The individual assets and liabilities shall be recorded in the list of assets, stating their amount or value:

a) In the case of receivables, the name of the debtor, the reason for the debt, the due date and any existing collateral must be stated. In particular, the income from an employment relationship or other recurring benefits with the function of income replacement, their amount in the last three months (including special payments) as well as the amounts to be deducted for the determination of the amount exempt from execution pursuant to Art. 211 of the Execution Code, the maintenance obligations as well as the circumstances relevant for the aggregation, increase and reduction of the amount exempt from execution shall be stated under the claims. It shall also be stated whether and to what extent the claims are likely to be recoverable. If a claim is disputed, this shall be indicated.

b) In the case of liabilities, the name of the creditor, the reason for the debt, the due date and any existing collateral must be stated. In particular, current liabilities, such as housing costs, maintenance obligations and insurance premiums, must be listed under liabilities. In the case of liabilities which grant the creditor a right to separate satisfaction, the amount of the probable default must be stated. If the debt is in arrears, this must be indicated.

c) The address of all creditors and debtors must be indicated. If a creditor or debtor is a close relative of the debtor, this must be indicated.

2) In the list of assets, the debtor shall also state whether within the

there has been a property settlement between him and his close relatives within the last five years prior to filing the application, furthermore whether and which dispositions of assets he has made in favor of his close relatives within the last five years prior to filing the application.

of his close relatives. Dispositions made free of charge are not taken into account insofar as they are not subject to challenge under Art. 70.

3) The debtor shall, to the extent reasonable, substantiate the information provided under subsection 1.

Art. 131

Self-administration

1) In debt settlement proceedings, the debtor is entitled to manage the insolvency estate (self-administration), unless the court determines otherwise.

2) The court shall revoke the debtor's self-administration and appoint an insolvency administrator if:

a) the debtor's financial circumstances are not manageable, in particular due to the number of creditors and the amount of liabilities;

b) circumstances are known which indicate that the self-administration will lead to disadvantages for the creditors; or

c) the debtor has not submitted an accurate list of assets.

Art. 132

Scope of self-administration Debtor's right of disposal

1) In the event of self-administration of the debtor, the following applies:

a) The debtor is entitled to receive all consignments in accordance with Art. 13.

b) The provisions on the performance of legal transactions shall apply with the proviso that the debtor shall take the place of the insolvency administrator.

c) Dispositions by the debtor of objects of the insolvency estate shall be effective only if the regional court consents. Art. 16 (2) shall apply mutatis mutandis.

d) Liabilities created by the debtor after commencement of the insolvency proceedings shall be discharged from the insolvency estate only if the regional court approves the creation of the liability. This shall also apply in the case of subparagraph (b).

e) The debtor is not entitled to receive the attachable part of the income from an employment relationship or other recurring

benefits with an income replacement function. He is also not allowed to

dispose

2) Consent under subsection 1(c) and (d) may be granted generally for certain types of legal acts.

Art. 133

Determination of receivables

1) In the case of self-administration, the debtor shall make a specific declaration on the correctness of each filed claim at the verification meeting; reservations made by the debtor when making such declarations shall be inadmissible. The court shall note the declarations made by the debtor in the list of claims. If the debtor fails to make a declaration in respect of a claim, the claim shall be deemed to be admitted.

2) A claim shall be deemed to have been established in the insolvency proceedings if it has been acknowledged by the debtor and has not been disputed by any insolvency creditor entitled to do so.

Art. 134

Appointment of an insolvency administrator

1) An insolvency administrator need not be appointed if the debtor is entitled to self-administration.

2) The court may, ex officio or at the request of an insolvency creditor or the debtor, appoint an insolvency administrator with a scope of business limited to individual activities involving special difficulties.

3) The duties assigned to the insolvency administrator under this Act shall be performed by the court if an insolvency administrator has not been appointed and the debtor is not authorized to do so.

Art. 135

Rental and other rights to use apartments

The district court shall grant the debtor the tenancy and other rights of use of dwellings at his free disposal if they concern residential premises which are indispensable for the debtor and the members of his family living with him in the same household.

Art. 136

Income from an employment relationship

1) Rights to separate satisfaction or rights to separate satisfaction granted prior to the opening of insolvency proceedings by

Any claims acquired by assignment or pledging of income from employment or other recurring benefits in lieu of income shall expire two years after the end of the calendar month in which the insolvency proceedings were opened.

2) Only for the period referred to in para. 1 may the third-party debtor set off against the claim for income from an employment relationship or for other recurring benefits with an income replacement function a claim to which he is entitled against the debtor. Art. 32 and 33 remain unaffected.

3) Rights to separate satisfaction acquired prior to commencement of insolvency proceedings by execution to satisfy a claim to income from an employment relationship or to other recurring benefits with the function of income replacement shall expire at the end of the calendar month in progress at the time of commencement of insolvency proceedings. If the insolvency proceedings are opened after the 15th day of the month, the right to separate satisfaction shall not expire until the end of the following calendar month.

4) Rights to separate satisfaction and rights to separate satisfaction pursuant to para shall be revived if:

a) the insolvency proceedings are terminated pursuant to Art. 87 or 164;

b) the secured claim revives;

c) the foreclosure proceedings are terminated prematurely; or

d) the discharge of residual debt is not granted or is revoked.

5) Rights to separate satisfaction and rights to separate satisfaction pursuant to subsections (1) and (3) which have been acquired in favor of a claim excluded from discharge of residual debt shall also be revived upon the granting of discharge of residual debt.

6) The court shall notify the third-party debtor of the date of extinction and, at the creditor's request, of the revival of the rights under paras. 1 and 3.

Art. 137

Assertion of rights to separate satisfaction or rights to separate satisfaction in respect of income from an employment relationship

1) Persons entitled to separate satisfaction and separate creditors in respect of a claim to income from an employment relationship or to other recurring benefits in lieu of income shall assert their rights to separate satisfaction or to separate satisfaction in writing or orally on record with the Regional Court. The amount of the claim on which the right of segregation or separation is based and the facts on which this claim and the subscription right are based must be stated.

The applicant must also indicate the grounds on which the right of segregation is based and the evidence which may be adduced to prove the claim asserted and the right of segregation or right of segregation.

2) Rights to separate satisfaction and rights to separate satisfaction in respect of a claim to income from an employment relationship or to other recurring benefits in lieu of income shall expire if they have not been asserted by the time of the vote on a payment plan. If the payment plan meeting has to be extended due to the assertion of such a right, Art. 64 (2) shall apply mutatis mutandis with regard to the costs.

Art. 137a

Special provisions relating to the reorganization plan

If the debtor does not operate a business, the following applies:

a) He may claim a payment period of more than two years for the reorganization plan; however, this payment period may not exceed five years.

b) If the reorganization plan quota is to be paid in installments, the term of which exceeds one year, a default shall only be assumed if he has not paid a liability that has been due for at least six weeks despite a written reminder sent to him by the creditor granting a grace period of at least 14 days.

Art. 138

Request for conclusion of a payment plan

1) The debtor may apply for the conclusion of a payment plan at the same time as the application for commencement of insolvency proceedings or thereafter until the insolvency proceedings are terminated. Unless otherwise ordered, the provisions on the reorganization plan shall apply.

2) The hearing to discuss and decide on the payment plan may not take place before the debtor's assets are realized. The assets referred to in Article 170(1)(g) of the Execution Code shall be realized only after the payment plan has not been accepted or has been refused confirmation. The hearing may be combined with the distribution hearing.

Art. 139

Content and inadmissibility of the payment plan

1) The debtor must offer the insolvency creditors at least a quota corresponding to his income situation in the following five years. The payment period may not exceed seven years. If, during this period, the debtor receives

is not likely to have any garnishable income or if the garnishable income only slightly exceeds the amount not subject to garnishment, the debtor is not required to offer a payment plan.

2) The application for acceptance of a payment plan is inadmissible if:

a) the debtor is a fugitive;

b) the debtor, despite being ordered to do so, has not submitted the list of assets or has not signed it before the district court;

c) the content of the payment plan violates Articles 105 to 108 or mandatory legal provisions; or

d) foreclosure proceedings were initiated less than ten years ago.

Art. 140

Refusal to confirm the payment plan

The payment plan shall be denied confirmation if:

a) there is a reason for which the application for acceptance of the payment plan is inadmissible (Art. 139 par. 2);

b) the rules applicable to the procedure and the adoption of the payment plan have not been observed, unless these deficiencies can be remedied subsequently or are not material in the circumstances; or

c) if the payment plan has been brought about by favoring a creditor in violation of Art. 108.

Art. 141

Cancellation of the insolvency proceedings Invalidity of the payment plan

1) The insolvency proceedings shall be terminated when the confirmation of the payment plan becomes final. This shall be published in the Official Gazette together with the entry into force of the confirmation.

2) If the debtor fails to pay the claims of the insolvency estate within a period to be determined by the court, which may not exceed three years, the payment plan shall be null and void. The payment plan shall only become null and void if the debtor has not paid the claims of the insolvency estate despite being requested to do so and granted a grace period of at least four weeks. The demand must contain a reference to this legal consequence.

Art. 142

Consideration of non-notified receivables

1) Insolvency creditors who have not filed their claims at the time of voting on the payment plan shall be entitled to the quota payable under the payment plan only to the extent that it corresponds to the debtor's income and assets.

2) The district court shall, upon request, make a provisional decision as to whether the quota to be paid corresponds to the debtor's income and asset situation in respect of the claim which has subsequently arisen (Art. 114).

3) Execution in favor of a creditor of the insolvency proceedings who has not filed his claim may only take place to the extent that a decision pursuant to subsection (2) has been issued. The creditor shall also attach a copy of the order under subsection (2) together with confirmation of enforceability to the application for enforcement or show that he has filed the claim.

has filed an application. An execution granted contrary to the first sentence shall be discontinued ex officio or upon application without hearing the parties.

Art. 143

Change of the payment plan

1) If the debtor's income and asset situation changes through no fault of the debtor, so that the debtor is unable to meet due obligations under the payment plan, and if the payment plan did not take this into account, the debtor may, within 14 days of the creditor's reminder, apply again for a vote on a payment plan and for the initiation of a skimming procedure. The following shall apply:

a) The time limit for assessing the adequacy of the payment plan quota provided for in Art. 139 par. 1 shall be reduced by half of the time limit of the payment plan that has expired.

b) Half of the previous term of the payment plan shall be credited against the duration of the foreclosure proceedings.

2) The claims shall revive only upon refusal of confirmation of the payment plan and rejection of the application for initiation of the foreclosure proceedings.

Art. 144

Debtor's application for initiation of foreclosure proceedings with discharge of residual debt

1) The debtor may already apply for the implementation of the debt settlement proceedings with discharge of residual debt at the same time as the application for the opening of the insolvency proceedings or thereafter until the termination of the insolvency proceedings, at the latest with the application for the acceptance of a payment plan.

2) The debtor shall enclose with the application a declaration that he assigns the attachable part of his claims to income from an employment relationship or to other recurring benefits with an income-replacing function to a trustee to be appointed by the court for a period of five years after the order initiating the absorption proceedings has become final. If the debtor has already assigned or pledged these claims to a third party, this must be pointed out in the declaration.

Art. 145

Decision of the regional court

1) A decision on the application for enforcement of the levy of execution proceedings shall be taken only if an admissible payment plan has not been accepted by the insolvency creditors, although the provisions applicable to the proceedings have been observed. Applications for the implementation of skimming proceedings on which the decision pursuant to the first sentence was suspended shall be deemed not to have been filed when the decision on the confirmation of the payment plan becomes final.

2) Immediately before a decision is taken, a hearing shall be held, which shall be published in the official gazette and to which the insolvency administrator, the members of the creditors' committee, the insolvency creditors and the debtor shall be summoned. At the hearing, the court shall report whether there are any obstacles to commencement pursuant to Art. 146 para. 1 subparas. a, g and h. The insolvency administrator shall be summoned together with the debtor. This hearing shall be combined with the hearing and resolution on the payment plan.

3) The decision shall be published in the Official Gazette and served on the insolvency administrator, the members of the creditors' committee, the insolvency creditors and the debtor.

4) The insolvency proceedings shall be terminated upon the entry into force of the order initiating the skimming proceedings. This shall be published in the Official Gazette together with the entry into force of the order initiating the skimming proceedings. For the rest, Art. 14 shall apply to the cancellation of the insolvency proceedings.

Art. 146

Barriers to discharge

1) The application for execution of the foreclosure proceedings shall be rejected only if:

a) the debtor has been convicted of an offense under sections 156, 158, 162 or 292a of the Criminal Code by a final judgment and this conviction has neither been redeemed

is still subject to the limited information from the criminal record;

b) during the insolvency proceedings the debtor has intentionally or grossly negligently breached duties of disclosure or cooperation under this Act;

c) during the insolvency proceedings the debtor did not engage in reasonable gainful employment or, if he was without employment, did not seek such employment or refused reasonable employment;

d) the debtor is a member of the representative body of an association person or has been a member in the last five years prior to commencement of the insolvency proceedings and in the insolvency proceedings of the association person has intentionally or grossly negligently breached the duty to provide information or to cooperate under this Act;

e) within three years prior to the application for commencement of insolvency proceedings, the debtor has intentionally or through gross negligence prevented or reduced the satisfaction of the creditors of the insolvency proceedings by disproportionately creating liabilities or disposing of assets;

f) the debtor has intentionally or by gross negligence provided incorrect or incomplete information in writing about his economic circumstances or the economic circumstances of the person represented by him as an organ of the association in order to obtain the performance underlying an insolvency claim and the creditor has not intentionally cooperated in this;

g) the payment plan has been refused confirmation in accordance with Art. 140 let. c; or

h) skimming proceedings were initiated less than 20 years ago before the request to open insolvency proceedings.

2) The court shall only reject the initiation of skimming-off proceedings at the request of an insolvency creditor. The insolvency creditor shall substantiate the reason for rejection.

Art. 147

Initiation of the skimming procedure

1) If there are no obstacles to initiation and the costs of the foreclosure proceedings are likely to be covered by the amounts due to the trustee, the court shall initiate the foreclosure proceedings.

2) At the same time, the court shall designate a trustee for the duration of the attachment proceedings, to whom the attachable part of the debtor's claims to income from an employment relationship or to other claims shall be transferred.

recurring benefits with income replacement function in accordance with the declaration of assignment (Art. 144 Par. 2).

Art. 148

Legal status of the trustee

1) The trustee shall notify the third-party debtor of the assignment. The trustee shall keep the amounts received through the assignment and other payments by the debtor or third parties separate from his assets, invest them fruitfully and distribute them to the creditors within eight weeks of the expiry of the declaration of assignment. In this connection, the claims of the insolvency estate, the costs of the skimming-off proceedings and, thereon, the claims of the insolvency creditors shall be satisfied in accordance with the provisions applicable to the insolvency proceedings. Distributions shall take place beforehand if there are sufficient assets to be distributed, at least if a quota of at least 10% can be distributed.

2) At the request of the creditors' meeting, the court may additionally assign to the trustee the task of verifying, by means of appropriate surveys, whether the debtor is fulfilling his obligations. The costs thereby incurred must presumably be covered or advanced. The trustee shall notify the insolvency creditors without delay if he discovers a breach of these obligations.

3) The trustee shall submit an account to the court and, at the debtor's request, also to the court annually, after the expiration of the declaration of assignment and upon termination of the trustee's activities.

4) Unless otherwise provided, the provisions provided for the insolvency administrator under Art. 4 shall apply mutatis mutandis to the trustee.

Art. 149

Change in the unattachable amount of income from an employment relationship

1) At the request of the debtor, the trustee or a creditor of the insolvency proceedings, the insolvency court shall aggregate the debtor's claims to income from an employment relationship or to other recurring benefits with an income-generating function and shall determine the debtor's claims to income from an employment relationship or to other recurring benefits with an income-generating function.

increase or redetermine the unattachable amount pursuant to Art. 214 of the Execution Code.

2) The decision under para. 1 shall be published in the Official Gazette and served on the trustee, the garnishee and the debtor.

Art. 150

Equal treatment of insolvency creditors

1) Executions by individual insolvency creditors against the debtor's assets shall not be permitted during the foreclosure proceedings.

2) An agreement of the debtor or other persons with a creditor of the insolvency proceedings granting the latter special advantages shall be invalid. Any payments made on the basis of an invalid agreement or on the basis of an obligation entered into for the purpose of enforcing such an agreement may, without prejudice to any further claims for compensation, be reclaimed within three years after the termination or discontinuation of the debt enforcement proceedings.

3) The third party debtor may set off a claim against the debtor only to the extent that he would be entitled to set-off under Articles 32 and 33 if the insolvency proceedings continued.

Art. 151

Consideration of undeclared claims during the foreclosure procedure

Insolvency creditors who have not filed their claims shall only be taken into account in the distributions if their claims have been determined and the insolvency creditors have notified the trustee accordingly.

Art. 152

Opening of insolvency proceedings during the skimming procedure

If insolvency proceedings are instituted during the skimming-off proceedings, the assets covered by the skimming-off proceedings shall not be included in the insolvency estate. Such assets shall also be exempt from execution to the extent that the debtor surrenders them to the trustee. At

If the debtor so requests, the execution shall be discontinued if the debtor agrees that the property subject to execution shall be handed over to the trustee.

Art. 153

Persons entitled to separate satisfaction and separation

1) As long as the default in the case of a right to separate satisfaction or a right to separate satisfaction in respect of claims falling due in the future has not been determined, the insolvency creditor shall send the trustee a statement of the outstanding claim 14 days before the end of the calendar year, failing which it shall not be taken into account in this distribution.

2) After the extinction of the right of segregation, the trustee shall not take into account the claim of the insolvency creditor until he receives a statement of default. The third party debtor shall notify the insolvency creditor and the trustee of the premature extinguishment of the right to separate satisfaction in accordance with Art. 137.

to notify the trustee.

Art. 154

Obligations of the debtor

1) The debtor shall be responsible for the assignment during the period of validity of the declaration of assignment:

a) To engage in reasonable gainful employment or, if without employment, to seek such employment and not to refuse any reasonable employment;

b) The person concerned shall be obliged to surrender any property which he acquires by reason of death or with a view to a future right of inheritance or by way of a gratuitous gift or as a prize in a game of chance;

c) immediately notify the court and the trustee of any change of domicile or third-party debtor;

d) not to conceal or refrain from acquiring any emoluments covered by the declaration of assignment or any assets covered by subparagraph (b);

e) to provide the court and the trustee, upon request, with information about his/her gainful employment or his/her efforts to obtain such employment, as well as about his/her emoluments and assets;

f) Provide the court and the trustee with information regarding its efforts at such times as the court may determine, at least once a year

The court shall grant the debtor a period of grace of two weeks to provide the information if the debtor has no income, no income that can be garnished or no income that exceeds the exempt amount that can be garnished; if the debtor fails to provide the information, the court shall grant the debtor a period of grace of two weeks to provide the information;

g) Make payments to satisfy creditors only to the trustee;

h) not to grant special benefits (Art. 150 par. 2) to any insolvency creditor; and

i) not to incur new debts that it will not be able to pay when due.

2) Insofar as the debtor is self-employed, it is incumbent upon him to place the creditors in such a position as if he were engaged in an appropriate gainful employment. However, the debtor must not be left with more than if he had income from an employment relationship in the amount of the profit from the self-employed activity.

Art. 155

Providing information on the fulfillment of obligations

1) The trustee shall request the debtor to report on its work situation in the event of a substantial decrease in the amounts received on the basis of the assignment.

2) If the debtor has not provided information to the trustee at his request in accordance with paragraph 1 or Article 154(1)(c), (e) and (f), the court shall hear the debtor on notification by the trustee. The debtor shall provide information on the fulfilment of his obligations.

3) If the debtor who has been duly summoned does not appear for his or her hearing without sufficient excuse or if he or she refuses to provide the information, the proceedings shall be terminated prematurely ex officio irrespective of the existence of the requirements under Art. 156 para. 1 subpara. b. The summons shall contain a reference to this legal consequence. The summons must contain a reference to this legal consequence. If the debtor has provided information on the fulfilment of his obligations, the court shall send a copy of the record to the trustee.

Art. 156

Early termination of the foreclosure proceedings

1) At the request of an insolvency creditor, the court shall prematurely discontinue the skimming procedure if the debtor:

a) has been convicted of an offence under sections 156, 158, 162 or 292a of the Criminal Code by a final judgment and this conviction has neither been expunged nor is subject to limited disclosure from the criminal record or breaches the obligation under Art. 154 para. 1 let. i; or

b) violates one of his obligations and thereby impairs the satisfaction of the insolvency creditors; this shall not apply if the debtor is not at fault.

2) The application under subsection (1) may be filed only within one year of the date on which the conviction or the breach of obligation became known to the insolvency creditor. It shall be dismissed if the requirements of subparagraph (b) are not substantiated.

3) The trustee and the debtor shall be heard prior to the decision on the application under subsection 1(b). The debtor must provide information on the fulfilment of his obligations. If the debtor, who has been duly summoned, fails to appear for his hearing without sufficient excuse or refuses to provide the information, the proceedings shall be terminated prematurely. The summons must contain a reference to this legal consequence.

4) The court shall, ex officio, prematurely discontinue the foreclosure proceedings in the event of the debtor's death.

5) The decision on early termination of the procedure shall be published in the Official Gazette.

6) The effectiveness of the declaration of assignment, the office of the trustee and the restriction of the rights of the insolvency creditors shall end upon the entry into force of the decision.

Art. 157

Resumption of insolvency proceedings

If the skimming proceedings are discontinued prematurely and sufficient assets are available or an appropriate advance on costs is paid, the insolvency proceedings shall be resumed at the request of an insolvency creditor.

Art. 158

Termination of the foreclosure proceedings Decision on the discharge of residual debt

1) At the end of the term of the declaration of assignment, the court shall declare the insolvency proceedings, which have not been discontinued, terminated and at the same time declare that the debtor is discharged from the obligations to the insolvency creditors not fulfilled in the proceedings (discharge of residual debt). If there is an application by an insolvency creditor for early termination, the court shall suspend the decision until this decision takes legal effect and shall not make a decision until the application by an insolvency creditor for early termination has been dismissed with final effect.

2) The decision on termination of the foreclosure proceedings and on discharge of residual debt shall be published in the Official Gazette.

Art. 159

Effect of the discharge of residual debt

1) If discharge of residual debt is granted, it shall be effective against all insolvency creditors. This shall also apply to creditors who have not filed their claims and to claims under Art. 54(a).

2) The rights of the insolvency creditors against guarantors or co-debtors of the debtor and against persons obliged to take recourse shall not be affected by the discharge of residual debt. However, the debtor shall be discharged vis-à-vis the guarantors and other persons entitled to recourse in the same way as vis-à-vis the insolvency creditors.

3) If an insolvency creditor is satisfied although he is not entitled to satisfaction on the basis of the discharge of residual debt, this shall not constitute an obligation to return what he has obtained.

Art. 160

Excluded receivables

The granting of residual debt discharge shall not affect:

a) Liabilities of the debtor arising from an intentional tort or intentional omission contrary to criminal law; and

b) Liabilities that have been disregarded only due to the fault of the debtor.

Art. 161

Revocation of residual debt discharge

1) At the request of an insolvency creditor, the court shall revoke the grant of discharge of residual debt if it subsequently transpires that the debtor has intentionally breached one of his obligations and thereby substantially impaired the satisfaction of the insolvency creditors.

2) The application may only be filed within two years after the decision on discharge of residual debt has become final. It shall be rejected if it is not shown to the satisfaction of the court that the requirements of subsection (1) above have been met and that the insolvency creditor was not aware of them until the end of the term of the declaration of assignment.

3) Before the decision on the application, the trustee and the debtor shall be heard.

4) The decision revoking the discharge of residual debt shall be published in the official gazette.

Art. 162

Debt counseling centers

1) Counseling and guidance of individuals in proceedings under this chapter may be provided by the Office of Social Services or private debt counseling agencies may be used for this purpose if:

a) the consultation and accompaniment is necessary;

b) the debt counseling centers are suitable for this purpose; and

c) the debt counseling centers provide this counseling and accompaniment through personal, material or financial means.

2) For the purpose specified in subsection 1, the Office of Social Services may enter into service agreements with private debt counseling agencies, subject to the approval of the government. The service agreements shall regulate

in particular:

a) the principles of service provision;

b) the range of services or the services to be provided (type, quantity, quality);

c) the form and amount of compensation for services;

d) the performance review;

e) the professional requirements that the specialized personnel must meet;

f) the data to be sent to the Office of Social Services.

3) Private debt counseling centers can be funded. The granting of funding may be made dependent on the conclusion of a service agreement. Funding for private debt counseling centers only covers expenses that are not covered by other cost units.

4) The government shall regulate the details by ordinance.

Art. 163

Supervision of private debt counseling agencies

1) Supervision of private debt counseling agencies is the responsibility of the Office of Social Services.

2) As part of its oversight, the Office of Social Services regularly verifies that:

a) the requirements for the transfer of tasks and eligibility for funding continue to be met; and

b) the provisions of this Act and of the Service Agreement are complied with.

3) Private debt counseling agencies shall provide to supervisors upon request at any time:

a) to provide the information necessary for the exercise of supervision;

b) grant access to the premises; and

c) to provide the necessary documentation.

4) If the Office of Social Services becomes aware of violations under Article 162 or this Article, it shall take the measures necessary to restore the lawful state of affairs.

5) The Office of Social Services may terminate service agreements with private school counseling agencies if:

a) in the course of supervisory activities, it is determined that deficiencies exist, the conditions for the delegation of tasks are no longer

are fulfilled or individual provisions of a service agreement are not complied with; and

b) these deficiencies or grievances are not remedied despite a reminder.

XIV Other Cancellation of Insolvency Proceedings Art.

164

Other cancellation of the insolvency proceedings

1) If in the course of the insolvency proceedings it becomes apparent that only one insolvency creditor is participating in the proceedings, the insolvency proceedings shall be terminated after satisfaction of the mass creditors. Exceptions to this rule are insolvency proceedings against legal entities and estates.

2) If, in the course of the insolvency proceedings, it becomes apparent that the assets are not sufficient to cover the costs of the proceedings, the proceedings shall be terminated. The proceedings shall not be terminated if an appropriate advance payment of costs is made (Art. 7 (3)).

3) The insolvency proceedings shall be terminated if, after expiry of the filing period, all creditors of the mass and all creditors of the insolvency proceedings who have filed claims agree to the termination.

4) The express consent of a creditor shall not be required if his claim has been satisfied or secured and if, in the case of contested claims, the time limit for bringing an action has expired and the action has not been brought not later than the date on which the termination of the insolvency proceedings is requested.

5) The provisions of Art. 14 shall apply mutatis mutandis to the termination of the insolvency proceedings in accordance with the preceding paragraphs.

XV Effects of Cancellation of Insolvency Proceedings

Art. 165

Debtor's rights after termination of insolvency proceedings

1) The debtor's right to freely dispose of his assets is restored by the final decision of the District Court that the insolvency proceedings are cancelled.

2) If the insolvency proceedings against a legal entity are terminated because its assets are insufficient to cover the costs of the proceedings (Article 164(2)), the legal entity shall be deleted ex officio.

Art. 166

Creditor rights after termination of insolvency proceedings

1) Insolvency creditors, regardless of whether they have filed their claims in the insolvency proceedings or not, may assert their unadjusted claims against the debtor's assets remaining at their free disposal or acquired after the termination.

2) If a claim has been established in the insolvency proceedings and has not been expressly contested by the debtor, execution may be levied on the debtor's assets remaining at the debtor's free disposal or acquired after the termination of the insolvency proceedings on the basis of the District Court's entry in the register of applications or on the basis of any other execution instrument in the same way as on the basis of a judgment.

3) Paragraphs 1 and 2 shall not affect the legal consequences of a legally confirmed reorganization plan.

Law

from 30 September 2020

on the amendment of the Bankruptcy

Code III.

Transitional provisions

1) This Act shall apply to insolvency proceedings commenced or resumed after 31 December 2020. Paragraphs 2 to 5 remain reserved.

2) Articles 7 and 10(3) shall apply to petitions for commencement of insolvency proceedings received by the court after 31 December 2020.

3) Art. 39, 95 and 95a shall also apply to agreements concluded before January 1, 2021.

4) The special provisions for natural persons under Articles 128 and 130 to 161 shall apply to insolvency proceedings opened or resumed after December 31, 2021.

5) Art. 129 shall apply to petitions for commencement of insolvency proceedings filed after the December 31, 2021, shall apply.

II.Probate Contract Act (NVG)

from 15 April 1936

Art. 1

This law applies to:

a) the debt-restructuring moratorium within the meaning of the Insurance Supervision Act; and

b) the debt-restructuring moratorium and the composition agreement within the meaning of the Banking Act. Art. 1a

A debtor who wishes to obtain the legal benefit of the composition agreement must submit a draft composition agreement to the district court as the probate authority, enclosing a balance sheet showing his financial situation, as well as a list of his business books, if he is obliged to keep such books.

Art. 2

After hearing the debtor, the Regional Court shall decide whether the claim is to be granted. The debtor's financial situation, the state of his bookkeeping, his business conduct and the causes of the non-performance of his obligations shall be taken into account.

The decision of the Regional Court may be appealed to the Supreme Court within 14 days of its notification.

Art. 3

1) If the district court accedes to the request, it shall grant the debtor a deferment of two months (moratorium) and at the same time appoint a trustee, whose reasonable remuneration to be borne by the debtor shall be determined by the district court. The administrator shall supervise the debtor's actions and in particular perform the duties specified in Art. 6 et seq.

2) The deferral may be extended by a maximum of two months at the request of the custodian.

Art. 4

The granting of the deferment shall be made public by edict and shall be notified to the Office of Justice (Art. 558 SR).

Art. 4a

The Financial Market Authority (FMA) shall be notified without delay of the approval of a deferral pursuant to Art. 3 if the debtor concerned is a participant in a system within the meaning of the Finalities Act.

Art. 5

During the deferment, execution against the debtor may neither be instituted nor continued and the running of any period of limitation or forfeiture which may be interrupted by execution shall be suspended.

Art. 6

1) The debtor is permitted to continue his business under the supervision of the cover pool administrator. However, since the public announcement of the moratorium, the debtor may no longer sell or encumber real estate in a legally valid manner, create pledges, enter into guarantees and make gratuitous dispositions.

2) If the debtor performs an act that is invalid under subsection (1) or acts contrary to the instructions of the cover pool administrator, the latter shall make

notify the district court thereof. The regional court may revoke the deferment after hearing the debtor. Articles 16 and 17 shall apply.

Art. 7

Immediately after his appointment, the administrator shall take an inventory of all the debtor's assets and estimate the individual assets.

Art. 8

1) The administrator shall, by public notice, request the creditors to submit their claims within twenty days, with the warning that in case of failure to do so, they will not be entitled to vote in the negotiations on the composition agreement.

2) By the same notice, the administrator shall convene a meeting of creditors to be held at the earliest after one month for the purpose of discussing the petition for probate, with the addition that the files may be inspected during ten days prior to the meeting.

Art. 8a

1) Receivables that are not directed to a cash payment or whose monetary amount is indefinite or not fixed in domestic currency shall be recognized according to their

The value in domestic currency at the time of the initiation of these proceedings must be stated.

2) Aged claims are considered due in this procedure.

3) Interest-free claims in arrears may only be asserted in the amount which, with the addition of the statutory interest for the period from the commencement of these proceedings until the due date, equals the full amount of the claim.

Art. 8b

1) Claims for the payment of annual pensions, maintenance payments or other recurring benefits of a certain duration shall be aggregated after deduction of the interim interest referred to in Art. 8a, para. 3.

2) Claims of the type referred to in para. 1 of indefinite duration shall be asserted according to their estimated value at the time of the opening of proceedings.

Art. 8c

A person who has a contingent claim may file a request for security for payment in the event of the occurrence of the condition precedent or the non-occurrence of the condition precedent, but if the condition is resolutive and if he provides security in the event that the condition occurs, he may file a request for payment.

Art. 9

The administrator obtains the debtor's declaration on the claims entered.

Art. 9a

1) Claims which were already set off at the time of the opening of the proceedings need not be asserted.

2) Set-off shall not be precluded by the fact that the creditor's or the debtor's claim was still contingent or aged at the time of the opening of the proceedings, or that the creditor's claim was not for a pecuniary benefit. The creditor's claim shall be calculated for the purpose of set-off in accordance with Articles 8a and 8b. If the creditor's claim is conditional, the district court may make the admissibility of the set-off conditional on the provision of security.

Art. 9b

1) Set-off shall be inadmissible if a creditor does not exercise a right of set-off until after the opening of the

The same shall apply if the debtor's obligor became the debtor's obligor prior to the opening of the proceedings or if the claim against the debtor was acquired only after the opening of the proceedings. The same shall apply if the debtor's obligor acquired the consideration prior to the opening of the proceedings but was aware or should have been aware of the debtor's insolvency at the time of acquisition.

2) However, set-off is admissible if the debtor's obligor acquired the counterclaim more than six months prior to the opening of the proceedings or if the debtor was obliged to assume the claim.

and neither knew nor had to know of the debtor's insolvency when entering into this obligation.

3) Receivables from contracts can also be offset:

a) which have been dissolved on the basis of the opening of the proceedings:

1. derivative transactions listed in Annex II to Regulation (EU) No. 575/2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012, including derivative instruments for the transfer of credit risk;

2. Derivative transactions not covered by subparagraph (a), provided they are traded on a regulated market or multilateral trading facility (MTF) or concluded under a master agreement, as well as spot transactions;

3. Repurchase agreements pursuant to Art. 4 par. 1 fig. 83 of Regulation (EU) No. 575/2013;

4. Securities lending transactions;

5. financial collateral pursuant to Art. 392 et seq. of the Property Code; and

b) for which it has been agreed that they will be dissolved or can be dissolved by the other contracting party upon the opening of proceedings regarding the assets of one of the contracting parties and that all mutual claims arising therefrom are to be offset.

Art. 10

1) At the creditors' meeting, the administrator shall chair the proceedings and report on the debtor's financial situation.

2) The creditors' meeting shall be free to appoint another administrator by a two-thirds majority of the votes of the creditors present who at the same time represent two-thirds of the claims.

3) The debtor shall be required to attend the meeting in order to provide information upon request.

4) The draft of the composition agreement shall be submitted to the assembled creditors for un- signed approval.

5) Declarations of consent may also be given within the next ten days after the meeting.

Art. 11

A creditor who has not agreed to the composition agreement is not deprived of his rights against co-debtors, guarantors and liable parties by the same.

Art. 12

1) A creditor who has agreed to the composition agreement shall not be deprived of his rights against the aforementioned persons if he has notified them of the place and time of the creditors' meeting at least ten days before the meeting and has offered them the assignment of his claim against payment.

2) The creditor may also, without prejudice to his rights, authorize co-debtors, guarantors and sureties to decide in his stead on joining the composition.

Art. 13

1) After ten days have elapsed since the creditors' meeting, the administrator shall submit to the probate authority all documents in the file together with his opinion on whether the probate agreement should be accepted and confirmed.

2) The authority shall make its decision after a public hearing.

3) The time of the hearing shall be publicly announced with the notice to the creditors that they may raise their objections to the composition agreement at the hearing.

Art. 14

1) The composition agreement shall be deemed accepted if two thirds of the creditors have agreed to it and the amount of the claim represented by them is two thirds of the total amount of the claims.

2) The creditors named in Art. 3 §§ 2, 3 and 4 of the Bankruptcy Code as amended in accordance with the present law shall not be counted here either for their person or for their claim; claims insured by lien shall, however, be counted in the amount which is uncovered according to the administrator's estimate.

3) The probate authority shall decide whether and to what extent contingent claims and those with an uncertain expiry date as well as contested claims are to be settled.

claims are to be counted as well. This does not prejudge the court's decision on the legal status of the claims.

Art. 15

Confirmation by the probate authority of a composition accepted by the creditors shall be made only if the following conditions apply:

1. if the debtor has not committed dishonest or very reckless acts to the detriment of his creditors;

2. if the amount offered is in proper proportion to the debtor's means of support and amounts to at least 40 percent of the estate claims. The debtor's inheritance rights may also be taken into account.

3. if the execution of the composition agreement and the full satisfaction of the registered privileged creditors are sufficiently ensured, unless the latter waive this.

Art. 16

The decision of the district court on the estate may be appealed to the higher court within 14 days of its opening.

Art. 17

1) The decision shall be made public as soon as it has become final and shall be communicated to the Office of Justice.

2) The effects of the deferral shall cease with the public announcement of the decision.

Art. 18

If the composition agreement is rejected or the deferment revoked, any creditor may assert his claims in accordance with the provisions in force.

Art. 19

If the probate authority confirms the probate agreement, it shall set a deadline for those whose claims are disputed to assert them.

deadline after which the claim can no longer be asserted.

Art. 20

The confirmed composition agreement is legally binding for all creditors; excep-

Only the pledgees for the amount of the claim covered by the pledge are included.

Art. 21

As a result of the composition agreement, attachments not granted by the court at least two months prior to the composition moratorium shall lapse in respect of all assets.

Art. 22

By order of the probate authority, the debtor shall deposit the amounts attributable to disputed claims with the Savings Bank for the Principality of Liechtenstein until the proceedings have been settled.

Art. 23

Any promise by which the debtor assures a creditor more than what is due to him under the deed of succession is invalid.

Art. 24

1) A creditor against whom the conditions of the composition agreement are not fulfilled may, without prejudice to the rights granted to him by the same, apply to the probate authority for the cancellation of the composition in respect of his claim.

2) Art. 16 shall apply accordingly.

Art. 25

1) Any creditor may request the probate authority to revoke a probate contract concluded in bad faith.

2) Articles 16, 17 and 18 shall apply mutatis mutandis.

Art. 26

1) If a debtor in bankruptcy proposes a composition agreement, the bankruptcy administration shall examine the proposal for the attention of the creditors' meeting.

2) Articles 10 to 16 and 19 to 25 shall apply mutatis mutandis, with the proviso that the insolvency administrator shall take the place of the administrator.

Art. 27

This Act shall be declared urgent and shall enter into force on the day of its promulgation.

Law of December 16, 1987 on the

III.Tariff for Lawyers and Legal Agents (RATG)

Subject of the tariff Art.

1

1) Attorneys-at-law and legal agents shall be entitled to remuneration in civil court proceedings and in arbitration proceedings pursuant to Sections 594 et seq. of the Code of Civil Procedure, as well as in criminal proceedings on a private charge and for representing private defendants in accordance with the following provisions.

2) The provisions of this Act shall apply, unless otherwise provided hereinafter, both in the relationship between the lawyer or legal agent and the party represented by him and in determining the costs to be reimbursed by the opposing party, even if the lawyer or legal agent is to be reimbursed by the opposing party for costs incurred on his own account.

Limitation of the validity of the tariff

Art. 2

1) The tariff does not affect the right of free agreement.

2) Even if a higher remuneration deviating from the tariff has not been agreed upon, the lawyer or legal agent may assert a justified higher claim than provided for in the tariff against this party due to special circumstances or due to a special claim initiated by his party.

3) The receipt of fees by the attorney in the course of criminal defense is not unlawful within the meaning of Section 165 (2) of the Criminal Code, provided that the fee is not obviously unreasonably high and does not obviously serve a defense contrary to its purpose.

Assessment basis Art.

3

The amount relevant for the application of a certain tariff rate (basis of assessment) shall be calculated in civil proceedings including security proceedings (Art. 270 et seq. of the Execution Code) according to the value of the subject matter of the dispute, in executive proceedings according to the value of the claim including ancillary fees (Art. 14), in insolvency proceedings for a creditor according to the amount of the filed claim including ancillary fees, in non-contentious proceedings according to the value of the subject matter to which the performance relates.

Art. 4

1) For the calculation of the assessment basis, the date of the filing of the action or the petition initiating the proceedings shall be decisive.

2) Accretion, fruits, interest, damages and costs claimed as ancillary claims shall not be taken into account in the calculation of the value.

Art. 5

1) If a monetary claim is asserted, the monetary amount sought shall be deemed to be the basis of assessment.

2) If only a part of a monetary claim is claimed, only the claimed part shall be decisive. If a claim is made for a surplus resulting from the set-off of the claims to which both parties are entitled against each other, the amount of the claimed surplus shall be decisive.

Art. 6

Claims in foreign currency shall be valued at the selling rate at the time of the conclusion of the negotiations, or, if there is no such rate, at the time of the performance of the service to be remunerated.

Art. 7

If the plaintiff offers to accept a certain sum of money instead of the matter addressed, or makes an alternative claim for the award of a sum of money, the sum of money stated in the complaint or in the petition initiating the proceedings shall be the basis for assessment.

Art. 8

1) In all other cases in which the object of the dispute is not a monetary amount, the plaintiff shall state this value in the complaint or in the petition initiating the proceedings. This shall apply in particular to actions for the performance of work and other personal services, for acquiescence or forbearance and for the issuance of declarations of intent.

2) In the valuation of the subject matter of the dispute, any consideration due to the plaintiff shall not be deducted.

3) In disputes under Art. 20 EO, the value of the excised items shall form the basis of assessment.

4) If the defendant finds the plaintiff's valuation of the subject matter of the dispute too high or too low, he may object to the valuation no later than at the first hearing scheduled for the oral argument. In the absence of an agreement of the parties, the court shall, if possible, without further inquiries and without the

to significantly delay the settlement of the dispute or to cause costs to be incurred, to resolve the matter in dispute within the scope of the

The court shall assess the amounts claimed by the parties. This decision may not be challenged by any legal remedy.

Art. 9

1) If, in the course of the proceedings, the value of a non-monetary object in dispute changes in such a way that the valuation made by the plaintiff in accordance with Article 8 obviously no longer corresponds to the present value of the object, the court shall, in the absence of an agreement between the parties, reassess the basis of valuation in accordance with Article 8 at the request of one of the parties. In the proceedings before the court of revision, this request may be made in the notice of revision or in the response to the revision. If the application is made in the response to the appeal, the appellate court may request a statement from the appellant.

2) If, in the course of proceedings, the basis of assessment under para. 1 has been changed, the value in dispute at the time of the decision or settlement on the obligation to pay costs shall be decisive in determining the costs of the entire proceedings preceding this determination of costs.

3) Par. 2 shall also apply in appeal proceedings, but to the costs of courts of lower instance only if such costs are determined by the court of higher instance. If the decisions of the courts of lower instance have been set aside in whole or in part, the new decision on the merits shall also be based on the most recently determined amount in dispute when determining the costs of the courts whose decisions have been set aside.

4) Para. 3 shall also apply if the exchange rate relevant for the valuation pursuant to Art. 6 has changed during the appeal proceedings.

Art. 10

1) Claims for payment of maintenance or pension contributions shall be assessed at twice the annual benefit, claims for payment of pensions in the event of bodily injury or due to the death of a person at three times the annual benefit. If the claim is made for a shorter period, the total amount of benefits claimed for that period shall serve as the basis for assessment.

2) If an increase or decrease in the amounts referred to in subsection (1) is required, in the case of maintenance or pension contributions, the

In the case of pensions for bodily injury or death of a person, three times the annual amount of the requested increase or reduction shall be taken as a basis.

3) The claim for payment of temporary maintenance shall be assessed at the simple annual amount.

Art. 11 The object shall be valued:

1. in disputes concerning actions for the protection of property with Fr. 3,000;

2. in the case of disputes arising from a tenancy agreement concerning an apartment, with Fr. 1,500;

3. in the case of disputes arising from a tenancy agreement concerning a business premises, with Fr. 3,000;

4. in disputes arising from or concerning the existence of a limited right in rem with Fr. 3,000;

5. in matrimonial and family law proceedings as well as in proceedings concerning registered partnerships, apart from any associated claims of a pecuniary nature, the amount in dispute of which is to be added, with Fr. 3,000;

6. in disputes concerning the paternity of a child born out of wedlock, apart from the associated claims of a pecuniary nature, the amount in dispute of which must be added, of CHF 1,500;

7. in matters of the Commercial Register, if the application does not indicate any other value, with the statutory share capital;

8. in criminal cases on a private prosecution:

a) in the proceedings for infringements with Fr. 1,000;

b) in the proceedings for misdemeanor with Fr. 5 000;

9. in criminal cases for the representation of private parties:

a) in the proceedings for infringements with Fr. 1,000;

b) in the proceedings for misdemeanor with Fr. 5 000;

c) in the proceedings for crime with Fr. 20 000.

Art. 12

In the case of applications for the determination of costs and in the case of appeals on costs, the amount for which the award or disallowance is requested shall serve as the basis for assessment. If the amount of the costs awarded or disallowed does not exceed

100 francs, the appellant shall be entitled against the opponent only to reimbursement of the court fees and cash expenses.

Art. 13

1) If several claims are asserted in the same action, the values of the objects in dispute shall be added together. The same shall apply to the duration of the combination of several legal disputes and to the combination of action and counterclaim for joint hearing.

2) If several claims brought in the same action are negotiated separately, the corresponding partial value shall be decisive for each of the separate negotiations during the period of separation.

3) A change in the value of the subject matter of the dispute as a result of an amendment of the claim, as a result of a limitation of the claim or as a result of a partial settlement of the dispute shall be taken into account for the services subsequent to the change in value and, if the change is effected by a declaration of the parties, also for the relevant pleading. If the amount in dispute is changed during a session, the change shall be taken into account already for the hour of the session in which the change occurs.

4) If the proceedings are limited to ancillary fees, the amount in dispute shall be 1,000 Swiss francs, but never more than half of the original amount in dispute.

Art. 14

1) In execution proceedings, the basis of assessment shall be

a) for the creditor or other beneficiary, the value of the claim to capital together with the ancillary charges incurred up to the time of the application for execution or for renewed execution and not yet adjusted;

b) for the obligor, the value of the claim affected by its application;

c) for the garnishee, the value of the garnished claim, if this is lower than the claim of the creditor, otherwise the value specified in subparagraph (a);

d) for the bidder and for the purchaser the value of the highest bid achieved.

2) The ancillary charges that have not yet been corrected shall be taken into account only if the party has indicated the amount of such ancillary charges individually and calculated their total amount when recording the costs.

Increase of remuneration in case of several persons

Art. 15

The lawyer and legal agent shall be entitled to an increase in his remuneration if he represents more than one person in a case (Article 1) or faces more than one person. The increase shall be:

a) if only on one side there are two persons represented by or facing the lawyer or legal agent 10%;

b) for each further person represented by him and for each further person opposite him 5 % each,

but never more than a total of 50% of the total earnings including the standard rate. Travel expenses, compensation for time missed and other expenses do not count towards the total earnings.

Expense

s Art.

16

The expenses for court fees, stamp duties and postal charges as well as other expenses shall be reimbursed separately, unless otherwise provided for in Art. 23.

Arrangement of several transactions during one trip

Art. 17

If several transactions are conducted during one trip, the travel expenses are to be distributed among the individual transactions in proportion to the assessment basis.

Cost lists Art. 18

The lawyer and legal agent shall not be entitled to any remuneration for drawing up the list of costs or the fee invoice to the party represented by him.

Remuneration in case of joint activity of several lawyers and legal agents

Art. 19

In the case of services rendered jointly by one party to several lawyers and legal agents, each lawyer and legal agent shall be entitled to full remuneration for his services in accordance with the tariff.

Agent for service of process

Art. 20

A lawyer or legal agent appointed as an agent for service of documents is only entitled to remuneration of expenses for sending documents and remuneration for writing and dispatching letters.

Examination by the court; remuneration above the measure of the tariff Art. 21

1) The judicial authority to examine the necessity and expediency of the individual services shall remain unaffected. If, in an individual case, the performance of the lawyer and legal agent exceeds the average considerably in terms of scope or type, the remuneration for this shall be

to be set appropriately, irrespective of the tariff, in particular taking into account the time and effort expended.

2) Even if the remuneration for services of the same or similar kind, which are not subject to the tariff, is determined by a court, the remuneration may be lowered only if the lawyer or legal agent does not demand a higher remuneration.

Separate pleadings Art. 22

In civil proceedings and in execution proceedings, pleadings are only paid separately if they cannot be joined with other pleadings or if the court recognizes their separate filing as necessary or appropriate.

Unit rate for fringe benefits Art. 23

1) Ancillary services include the drafting and dispatch of simple letters (reminders, short reports, other short communications, invitations, acknowledgements of receipt, etc.), letters of other types except those that are legal opinions or contractual documents, and meetings of all kinds.

2) In the case of remuneration for services falling under tariff items 1, 2, 3, 4 or 7, a standard rate shall be payable in lieu of all fringe benefits falling under tariff items 5, 6 and 8.

3) The lawyer or legal agent may, however, make a claim against the person he represents.

The court may charge the party in question for the individual ancillary services listed in paragraphs 1 and 2 instead of the standard rate.

4) The standard rate for an amount in dispute up to and including 15,000 francs is 50 %, in the case of an amount in dispute exceeding 15,000 Swiss francs 40 % of the amount of earnings, excluding travel expenses, compensation for time missed and other expenses.

5) The standard rate does not include such ancillary services in the course of out-of-court oral or written negotiations, which were performed before or

have been performed during legal proceedings in order to avoid a legal dispute or to reach a settlement, if they have caused a considerable expenditure of time and effort. They shall be remunerated according to the tariff item applicable to each individual service. The same shall apply to ancillary services if the case has been terminated before the main service corresponding to the ancillary services has been performed.

6) For services covered by tariff item 3 Section A Z. II, section B Z. II, Section C Z. II or Tariff item 4, Section I, items 4 and 5, and Section II, the part of the standard rate attributable to this service shall be awarded twice if the lawyer or legal agent performs the services at a place outside the country or commissions another lawyer or legal agent to perform these services and does not assert a claim for reimbursement of travel expenses and compensation for time lost, or the court does not award him such a claim because he could have been represented by a lawyer or legal agent domiciled at the place of jurisdiction.

Art. 24

The Government shall be authorized to set the tariff rates (tariff items) of remuneration for lawyers and legal agents in an ordinance.

Transitional and final provisions Art. 25

1) This Act shall enter into force on the day of its promulgation.

2) It shall apply to services rendered by lawyers and legal agents after the entry into force of this Act, unless the amount of remuneration has been agreed with the party.

Ordinance of June 30, 1992 on the

IV.tariff rates of remuneration for lawyers and legal agents (RATV)

Based on Article 24 of the Law of 16 December 1987 on the tariff for lawyers and legal agents, LGBl. 1988 No. 91, the Government decrees:

Art. 1

Tariff item 1

I. In all proceedings for the following pleadings:

a) mere notifications and communications to the court;

b) Requests to the court and other authorities for the provision of information, confirmations, certificates, transcripts or copies, for the inspection of files or for the restitution of enclosures;

c) Requests and declarations concerning deadlines, hearings, service of documents and similar procedural matters;

d) Cost Determination Requests;

e) Revocation or termination of powers of attorney;

f) Withdrawal of applications or appeals, waivers;

g) Repealed.

II. In civil procedure:

a) Applications for appointment of a curator for the litigant;

b) Accession declarations of the intervening party;

c) Requests for changes in the basis of assessment pursuant to Articles 8 and 9 of the Law of 16 December 1987 on the tariff for lawyers and legal agents and comments thereon;

d) Withdrawal of lawsuits;

e) Appeals against payment orders in debt collection proceedings and appeals against a legal command;

f) Requests for the commencement of suspended or interrupted proceedings, requests for the scheduling of a hearing;

g) Requests for correction of judgments or decisions;

h) Appeal notices that merely contain the waiver of the oral appeal hearing or the request for such a hearing without further details on the subject matter;

i) Requests for the imposition of a security for costs on appeal.

III. In execution proceedings:

a) Applications for execution on movable tangible property pursuant to Art. 9 (2) of the Execution Code;

b) Applications for a new execution or for the scheduling of a new auction;

c) Declarations by which only a proposal is approved and declarations concerning the assumption of the debt pursuant to Art. 112 para. 2 of the Code of Execution;

d) Identification of purchasers pursuant to Art. 201, para. 2 of the Execution Code;

e) Statements by the third-party debtor on the existence and amount of the garnished claim;

f) Applications for discontinuance pursuant to Art. 21 para. 1 subpara. f or Art. 131 subpara. c of the Execution Code;

g) Requests pursuant to Art. 29 or 31 of the Execution Code, including requests for supplementation or clarification of the list of assets as well as requests pursuant to Art. 29 para. 3 of the Execution Code.

IV. In the insolvency proceedings, claims filings, unless they fall under tariff post

3:

For an assessment basis: up to and including Fr. 500 .Fr. 17.- over Fr.

500.up to and including Fr. 1 000.Fr. 25.-

over Fr. 1 000.- up to and including Fr. 1 500.- Fr. 32.-

over Fr. 1 500.- up to and including Fr. 2 500.- Fr. 37.-

over Fr. 2 500.- up to and including Fr. 5 000.- Fr. 40.-

over Fr. 5 000.up to and including Fr. 10 000.Fr. 49.-

over Fr. 10 000.up to and including Fr. 15 000.Fr. 64.-

over Fr. 15 000.up to and including Fr. 25 000.Fr. 72.-

over Fr. 25 000.up to and including Fr. 50 000.Fr. 80.-

over Fr. 50 000.up to and including Fr. 75 000.Fr. 96.-

over Fr. 75 000.up to and including Fr. 100 000.Fr. 119.-

over Fr. 100 000.up to and including Fr. 140 000.Fr. 159.-

over Fr. 140 000.- up to and including Fr. 500 000.-

for each additional Fr. 20,000 or part thereof by Fr. 17.more, over Fr. 500,000 up to and including Fr. 5,000,000.

moreover, from the additional amount over Fr. 500 000.0,1 ‰

over Fr. 5 000 000

moreover, of the excess amount over Fr. 5,000,000.0.05 ‰ but in total never more than Fr. 1 426.-.

Tariff item 2

I. For the following pleadings:

1. In civil procedure:

a) Dunning suits, applications for payment orders in debt collection proceedings and applications for the issuance of a writ of summons;

b) Actions on balance, actions on loans, actions for payment of the purchase price of movable property or remuneration for work and services, actions for payment of standing interest, actions on mandates, actions on bills of exchange, actions on recourse under the law of checks, actions for divorce (under Articles 75 and 92 of the Marriage Act) and applications for the opening of proceedings;

c) Replying to lawsuits and objections to payment orders if such pleadings are limited to merely disputing the information in the lawsuit and requesting that the lawsuit be dismissed or the payment order set aside;

d) Notices of termination and motions pursuant to Section 567 of the Code of Civil Procedure as well as objections thereto, if such pleadings are limited to stating or contesting the grounds for termination and do not contain a statement of facts;

e) other pleadings not mentioned in tariff item 1 or 3.

2. In execution proceedings:

for all pleadings not mentioned in tariff item 1 or 3.

3. In the legal care process:

a) short submissions around entries in the land register or public registers;

b) Requests to initiate the procedure for invalidation of documents;

c) Requests for remittance and requests for expulsion.

4. In insolvency proceedings:

Petitions for commencement of insolvency proceedings and all other pleadings of a creditor not mentioned in tariff items 1 or 3:

For an assessment basis: up to and including Fr. 500.- Fr. 80.- over

Fr. 500.- up to and including Fr. 1 000.- Fr. 119.-

over Fr. 500.up to and including Fr. 1 000.Fr.

119.- over Fr. 1 000.up to and including Fr. 1 500.Fr.

159.-

over Fr. 1 500.- up to and including Fr. 2 500.- Fr. 175.-

over Fr. 2 500.- up to and including Fr. 5 000.- Fr. 198.-

over Fr. 5 000.up to and including Fr. 10 000.Fr. 238.-

over Fr. 10 000.up to and including Fr. 15 000.Fr. 317.-

over Fr. 15 000.up to and including Fr. 25 000.Fr. 357.-

over Fr. 25 000.up to and including Fr. 50 000.Fr. 396.-

over Fr. 50 000.up to and including Fr. 75 000.Fr. 476.-

over Fr. 75 000.up to and including Fr. 100 000.Fr. 594.-

over Fr. 100 000.up to and including Fr. 140 000.Fr. 792.-

over Fr. 140 000.- up to and including Fr. 500 000.-

for each additional Fr. 20,000.- or part thereof by Fr. 80.- more than Fr. 500,000.- up to and including Fr. 5,000,000.

moreover, of the excess amount over Fr. 500,000.0.5 ‰

over Fr. 5 000 000

moreover, of the excess amount over Fr. 5,000,000.0.25 ‰ but in total never more than Fr. 7 128.-.

II. For the following sessions:

1. In civil procedure:

a) first day hearings, even if one of the procedural acts referred to in Section 250(1) of the Code of Civil Procedure is performed;

b) Sessions that are extended before a hearing has taken place;

c) Sessions which, before the facts of the case have been discussed, are to be held at

a judgment by default, acknowledgement or waiver or the conclusion of a settlement;

d) Sessions that have been ordered solely for the purpose of concluding a settlement;

e) Sessions before the requested judge at which the taking of evidence was not conducted due to the non-appearance of the persons to be heard;

f) The court shall hold an opening hearing if the other party does not appear or if the claim is not contested.

2. In execution proceedings:

a) Sessions at which the parties are merely questioned outside the hearing and which do not serve the purpose of taking evidence, insofar as they do not fall under tariff item 3;

b) Sessions at which the oath of disclosure is to be taken.

3. In the legal care process:

Sessions at which the parties are merely heard and which do not serve the purpose of giving evidence, insofar as they do not fall under tariff item 3.

4. In insolvency proceedings:

Meetings at which the lawyer acts as the creditor's representative:

For the first hour of each session, the remuneration set forth in Section I, but never more than Fr. 7,128.-, for each additional hour, even though

for each hour of a session started, half of this remuneration, but never more than Fr. 3,564.

Notes on tariff item 2:

1. If several applications for execution are combined, with the exception of the application for custody of seized property, an increase of 10% of the remuneration due for the first application shall be due for each additional application.

2. For the time of waiting for a meeting mentioned in tariff item 2 after half an hour of waiting time until the performance of the official act, a quarter of the remuneration according to tariff item 2 shall be due for each additional half hour, even if only begun, but never more than Fr. 40.00 for the half hour.

3. If the lawyer has appeared at a hearing referred to in tariff item 2, of which he has not been informed in time or which has not been held due to the lack of an admission card, half of the remuneration shall be due.

according to tariff item 2, but never more than

Fr. 80.

Tariff item

3 A.

I. For the following pleadings:

1. In civil procedure:

a) Actions, insofar as they do not fall under tariff item 2;

b) Replying to complaints and objections against payment orders, unless they fall under tariff item 2;

c) Notices of termination and applications pursuant to Section 567 of the Code of Civil Procedure as well as objections thereto, unless they fall under tariff item 2;

d) preparatory pleadings admissible under Section 257 of the Code of Civil Procedure or ordered by the court;

e) Requests for preservation of evidence.

2. In execution proceedings:

Execution applications based on acts and deeds established abroad and objections to such execution permits.

3. In the legal care process:

all pleadings, unless they fall under tariff item 1 or 2.

4. In insolvency proceedings:

a) Applications for the opening of reorganization proceedings;

b) pleadings in which a right to separate satisfaction or a right to segregation is asserted.

5. In all procedures:

a) Applications for temporary restraining orders, statements of the opposing party on such applications and objections to the temporary restraining order granted;

b) Cost appeals:

With an assessment base:

up to and including Fr. 500.Fr. 159.-

over Fr. 500.up to and including Fr. 1 000.Fr.

238.- over Fr. 1 000.up to and including Fr. 1 500.Fr.

317.-

over Fr. 1 500.- up to and including Fr. 2 500.- Fr. 349.-

over Fr. 2 500.- up to and including Fr. 5 000.- Fr. 396.-

over Fr. 5 000.up to and including Fr. 10 000.Fr. 476.-

over Fr. 10 000.up to and including Fr. 15 000.Fr. 634.-

over Fr. 15 000.up to and including Fr. 25 000.Fr. 713.-

over Fr. 25 000.up to and including Fr. 50 000.Fr. 792.-

over Fr. 50 000.up to and including Fr. 75 000.Fr. 951.-

over Fr. 75 000.up to and including Fr. 100 000.Fr. 1 188.-

over Fr. 100 000.up to and including Fr. 140 000.Fr. 1 584.-

over Fr. 140 000.- up to and including Fr. 500 000.-

for each additional Fr. 20,000.- or part thereof by Fr. 159.- more over Fr. 500,000.- up to a final Fr. 5,000,000.

moreover, of the excess amount over Fr. 500,000.1 ‰

over Fr. 5 000 000

moreover, of the excess amount over Fr. 5,000,000.0.5 ‰ but in total never more tha Fr. 43 200.-.

II. For the following sessions:

1. In civil procedure:

for all daily meetings, unless they fall under tariff item 2.

2. In execution proceedings and in legal welfare proceedings:

a) Sessions with taking of evidence;

b) Sessions attended by several parties or participants not represented by the same lawyer, or hearings on conflicting motions:

for the first hour of each session, the remuneration set forth in Section I. For each additional hour of a session, even if only begun, half of this remuneration.

B.

I. For appeals, notices of appeal, insofar as these do not fall under tariff item 1, representations, appeals, insofar as they do not fall under section A or C fall, and complaints:

With an assessment base:

up to and including Fr. 500.Fr. 198.-

over Fr. 500.- up to and including Fr. 1 000.- Fr.

297.- over Fr. 1 000.- up to and including Fr. 1 500.-

Fr. 396.-

over Fr. 1 500.- up to and including Fr. 2 500.- Fr. 436.-

over Fr. 2 500.- up to and including Fr. 5 000.- Fr. 495.-

over Fr. 5 000.up to and including Fr. 10 000.Fr. 594.-

over Fr. 10 000.up to and including Fr. 15 000.Fr. 792.-

over Fr. 15 000.up to and including Fr. 25 000.Fr. 891.-

over Fr. 25 000.up to and including Fr. 50 000.Fr. 990.-

over Fr. 50 000.up to and including Fr. 75 000.Fr. 1 188.-

over Fr. 75 000.up to and including Fr. 100 000.Fr. 1 485.-

over Fr. 100 000.up to and including Fr. 140 000.Fr. 1 980.-

over Fr. 140 000.- up to and including Fr. 500 000.-

for each additional Fr. 20,000.- or part thereof by Fr. 198.- more than Fr. 500,000.- up to a final Fr. 5,000,000.

moreover, from the excess amount over Fr. 500,000.1.25 ‰

over Fr. 5 000 000

moreover, of the excess amount over Fr. 5,000,000.0.625 ‰ but never more in total. than Fr. 54 000.

II. For oral hearings on an appeal, presentation or complaint:

For the first hour of each hearing the remuneration set in Z. I, and for each additional hour of a hearing, even if only begun, half of this remuneration.

C.

I. For appeals, responses to appeals and appeals to the Supreme Court:

With an assessment base:

up to and including Fr. 500.Fr. 238.-

over Fr. 500.up to and including Fr. 1 000.Fr. 357.-

over Fr. 1 000.up to and including Fr. 1 500.Fr. 476.-

over Fr. 1 500.- up to and including Fr. 2 500.- Fr. 524.-

over Fr. 2 500.- up to and including Fr. 5 000.- Fr. 594.-

over Fr. 5 000.up to and including Fr. 10 000.Fr. 713.-

over Fr. 10 000.up to and including Fr. 15 000.Fr. 951.-

over Fr. 15 000.up to and including Fr. 25 000.Fr. 1 070.-

over Fr. 25 000.up to and including Fr. 50 000.Fr. 1 188.-

over Fr. 50 000.up to and including Fr. 75 000.Fr. 1 426.-

over Fr. 75 000.up to and including Fr. 100 000.Fr. 1 782.-

over Fr. 100 000.up to and including Fr. 140 000.Fr. 2 376.-

over Fr. 140 000.- up to and including Fr. 500 000.-

for each additional Fr. 20,000.- or part thereof by Fr. 238.- more over Fr. 500,000.- up to a final Fr. 5,000,000.

moreover, from the excess amount over Fr. 500,000.1.5 ‰

over Fr. 5 000 000

moreover, of the excess amount over Fr. 5,000,000.0.75 ‰ but in total never more th Fr. 64 800.-.

II. For oral hearings on appeals:

For the first hour of each hearing the remuneration set in Z. I, and for each additional hour of a hearing, even if only begun, half of this remuneration.

Notes on tariff item 3:

1. If several applications for execution are combined, with the exception of the application for custody of seized property, an increase of 10% of the remuneration due for the first application shall be due for each additional application.

2. For the time of waiting for a hearing mentioned in tariff item 3 after half an hour of waiting time until the performance of the official act, a quarter of the remuneration according to tariff item 2 shall be due for each additional half hour, even if only begun, but never more than Fr. 80.00 for the half hour. The time spent in consultation with the Court shall be included in the waiting time.

3. If the attorney has appeared at a hearing referred to in tariff item 3,

If a meeting is not cancelled in due time or if the meeting was not held due to lack of an assignment card, half of the remuneration according to tariff item 2 shall be due, but never more than Fr. 160.

4. If the application for a temporary injunction is combined with the lawsuit, with an application for an order for payment or with an application for execution, an increase of 10% of the remuneration for applications for separate residence in matrimonial matters or in proceedings concerning registered partnerships, and of 25% of the remuneration for other applications, shall be due for the pleading.

Tariff item 4

I. In criminal proceedings on a private prosecution:

1. For charges:

a) for violations Fr. 150.-

b) for misdemeanor Fr. 375.-

2. For requests for evidence and for all other submissions, unless they are covered under

Z. 3 of this tariff item or under tariff item 1, which are fixed for charges of

set remuneration, but as far as very short applications are concerned, half. 3.

a) For appellate filings:

one-fourth of the remuneration set for indictments;

b) For appeals other than appeals for costs, for appeals, for requests for reinstatement, and for requests for rehearing:

double the remuneration set for indictments;

c) For statements on appeal and for statements on revision and counterstatements thereto:

three times the remuneration set for indictments;

d) For cost complaints:

the remuneration set in tariff item 2, but never more than the remuneration set for charges, the value of the object shall be calculated in accordance with Art. 12 of the Act of 16 December 1987 on the tariff for lawyers and legal agents.

4. for main hearings or for participation in a judicial eye-witness examination or in any other taking of evidence outside the main hearing, furthermore for a judicial seizure:

for the first half hour double, for each further half hour, even if only started, one times the remuneration set for charges.

5. for hearings of second instance:

for the first half hour three times, for each additional half hour, even if only started, one and a half times the remuneration set for charges.

II. For the representation of private parties:

a) In violation cases:

the remuneration set forth in Section I, item 1, subparagraph a, and items 2 through 5;

b) In misdemeanor cases:

the remuneration set forth in Section I, item 1, letter b and items 2 to 5;

c) In felony cases:

twice the remuneration set forth in Section I, item 1, subparagraph b, and, in lieu thereof, the remuneration set forth in Section I, items 2 through 5.

Notes on tariff item 4:

1. For the time of waiting for a hearing or for the performance of another official act after a half-hour waiting period until the beginning of the hearing or the official act, an amount of Fr. 17 shall be due for each additional half-hour, even if only begun, in criminal cases pursuant to Section I item 1 subparagraph a and Section II subparagraph a of this tariff item and an amount of Fr. 33 shall be due pursuant to Section I item 1 subparagraph b and Section II subparagraph b of this tariff item. The time of the court's deliberation shall be included in the waiting time.

2. If the attorney has appeared at a hearing or other official act of which he was not informed in time or which was not held due to a lack of proof of service, an amount of Fr. 33.- shall be due in criminal cases pursuant to Section I item 1 letter a and Section II letter a of this tariff item and an amount of Fr. 66.- shall be due pursuant to Section I item 1 letter b and Section II letter b of this tariff item.

3. If a person charged with a misdemeanor is found guilty of only one misdemeanor, only a payment in accordance with Section I, item 1, subparagraph (a) of this tariff item shall be due in the proceedings for reimbursement of costs.

Tariff item 5

For writing and dispatching simple letters (reminders, short reports and other short communications, invitations, acknowledgements of receipt and the like):

For an assessment basis: up to and including Fr. 1 000.- Fr. 8.- over Fr.

1 000.- up to and including Fr. 2 500.- Fr. 10.-

over Fr. 2 500.- up to and including Fr. 5 000.- Fr. 12.-

over Fr. 5 000.up to and including Fr. 10 000.Fr. 17.-

over Fr. 10 000.up to and including Fr. 25 000.Fr. 33.-

over Fr. 25 000.up to and including Fr. 50 000.Fr. 50.-

for each additional Fr. 20,000.00 or part thereof by Fr. 17.00 more, but never more than Fr. 100.00.

Tariff item 6

For the writing and dispatching of letters of other kinds, with the exception of those which are legal opinions or contractual documents:

twice the remuneration stipulated in tariff item 5, but never more than Fr. 330.

Note on tariff items 5 and 6:

The remuneration for the information from the files or with the party shall be half of the remuneration according to these tariff items.

Tariff item 7

1) For the performance of business outside the law office, which is usually performed by an employee of the attorney, in particular for inquiries in the land register or otherwise with the court or another authority, for the filing of an execution, for participation in the execution of execution (security) orders, for the execution of a judgment, for the execution of an order, for the execution of a judgment, for the execution of a judgment, for the execution of a judgment, for the execution of a judgment, for the execution of a judgment, for the execution of a judgment, for the execution of a judgment, for the execution of a judgment.

)and the like during the whole time spent on the execution of the transactions:

for each half hour, even if only begun, the same remuneration as according to tariff item 6, but never more than Fr. 220.for the half hour.

In addition, the fee for the use of a means of mass transportation or the fee for a motor vehicle may be charged.

2) If a transaction of the type described in paragraph 1 was performed by a lawyer or an articled clerk, twice the remuneration according to paragraph 1 shall be due, however, not more than an amount of CHF 440 per half hour, provided that the performance of the transaction by the lawyer or the articled clerk was necessary in the individual case.

3) Pursuant to para. 2, also such business conducted outside the office is to be

The lawyer shall be remunerated for all services which do not fall under any other tariff item and which are regularly performed by a lawyer or a trainee, e.g. study of files with authorities, commissions to the speaker, performance of an examination by a court of law for information purposes and the like.

Tariff item 8

1) For meetings of any kind, also by telephone, a fee shall be paid for each half hour, even if only started:

With an assessment base:

up to and including Fr. 1 000.Fr. 30.-

over Fr. 1 000.- up to and including Fr. 2 500.- Fr. 45.-

over Fr. 2 500.- up to and including Fr. 5 000.- Fr. 53.-

over Fr. 5 000.up to and including Fr. 10 000.Fr. 75.-

over Fr. 10 000.up to and including Fr. 25 000.Fr. 135.-

over Fr. 25 000

for each additional Fr. 20,000.00 or part thereof by Fr. 15.00 more, but never more than Fr. 600.00 for half an hour.

2) For meetings lasting less than 10 minutes, the remuneration shall be /10 of the remuneration according to paragraph 1, but never more than Fr. 240.

Note to tariff item 8:

Very short messages by telephone, excluding legal instructions, are to be paid according to tariff item 5.

Tariff item 9

When conducting business in court proceedings outside the place where the lawyer's office is located, the following travel expenses and compensation for lost time shall be due, in addition to the remuneration for conducting the business, if the place where the business is conducted is more than five kilometers away from the place where the lawyer's office is located:

1. as travel expenses

a) the cost of transportation by a means of mass transportation (railroad, streetcar, bus, ship, airplane and the like); a lawyer or a trainee shall be entitled, for distances covered by railroad, ship or airplane, to the remuneration for the highest, to another

Lawyer's servant for the next lower class actually held;

b) if a means of mass transportation cannot be used at all or without a significant loss of time, the allowance for a motor vehicle;

c) in all other cases a travel allowance of Fr. 17.- for each hour, even if only started;

2. as meal expenses, if the absence from the lawyer's place of residence lasts at least three hours, for each day on which this condition applies, an amount corresponding to the costs of the main meals customarily served during the period of absence;

3. as accommodation costs, if an overnight stay outside the lawyer's place of residence is necessary, for each night an amount corresponding to the costs of reasonable accommodation customary in the locality;

4. as compensation for loss of time, unless the transaction falls under tariff item 7, for each hour, even if only begun, spent on the way to or from the place where the transaction is to be carried out or at this place in addition to the time required for carrying out the transaction itself, an amount of Fr. 75.

Note to tariff item 9:

In the case of the use of an own motor vehicle, the same remuneration shall be due as under no. 1 of this tariff item.

Art. 2

1) The Ordinance of February 3, 1988, on the tariff rates of remuneration for lawyers and legal agents, LGBl. 1988 No. 10, as amended by the announcement of May 10, 1988, LGBl. 1988 No. 13, is repealed.

2) This Ordinance shall enter into force on the day of its promulgation.

3) It shall apply to services rendered by lawyers and legal agents after the entry into force of this Regulation, unless the amount of remuneration has been agreed with the party.

V.Legal Security Order (RSO)

from 9 February 1923

I give my consent to the following resolutions adopted on the basis of Articles 2, 27 and 114 of the Constitution by the Diet at its session of December 20, 1922:

Table of contents RSO

1. Main part Enforcement protection

1. Section: General provisions (repealed) 1-14

2. Section: Security Orders and Official Orders (Arrest and Restraining Orders) (repealed) 15-36

3. Section: Special safeguards for existing contracts (repealed) 37-41

4. Section: Enforcement pending freezing (repealed) 42-48.

5. Section: The Opening of Legal Proceedings Art. 49-53

2. Main part

of sworn statement and order of contestation

1. Section: Sworn Statement (Oath of Disclosure) Art. 54-63

2. Section: Contestation Regulations Art. 64-75

3. Main part

Special safeguards in the legal care procedure

1. Section: Security entries in the land register Art. 76

2. Section: (repealed) 77-80

3. Section: Authentication and Enforceable Instruments Art. 81-98

4. Section: Prohibitions on holding office and official notices Art. 99-107

4. Main part Exercise of rights,

self-defense and self-help Art. 108-110

5. Main Part Final and Transitional Law

Art. 111-124

1. Main part

Enforcement protection

1. Section General Provisions

Art. 1 to 14

Repealed

2. Section Security messengers and official orders

(Arrest and restraining orders)

Art. 15 to 36 Repealed

3. Section

Special safeguards for existing contracts Art.

37 to 41

Retrieved

4. Section Enforcement until seizure

Art. 42 to 48

Repealed

5. Section

The legal proceedings Art. 49

Admissibility

1) A creditor who has filed an objection against a payment order or a legal proposal against a legal proposal in debt collection proceedings may have the objection or legal proposal set aside by the court (opening of proceedings) if

a) the claim asserted in the debt collection proceedings is based on an official document or on an acknowledgement of debt confirmed by the signature of the debtor or the debtor's legal representative, deputy or legal predecessor and in both cases

b) the claim is for payment or surrender of money or any other thing or for the granting of a right under the law.

2) Documents within the meaning of the foregoing paragraph shall include, in particular:

a) all documents considered public under domestic or foreign law, insofar as they are presented in original or certified copy;

b) private acknowledgements of debt which expressly or otherwise conclusively contain a signed acknowledgement of debt (e.g. acknowledgement in a letter, simple promissory bill, commitment, signed current account invoices, purchase contracts, surety bonds, checks, insurance policies), irrespective of whether this acknowledgement of debt was made domestically or abroad.

3) The provisions of Art. 44 Para. 2 Letters b and c are to be observed mutatis mutandis in the proceedings to initiate legal proceedings.

Art. 50

Procedure General principles

1) The district court shall initiate and conduct the proceedings for commencing legal proceedings within the shortest possible period of time, which shall not normally exceed five days.

2) The creditor may apply to the district court

a) either submit the request to commence legal proceedings separately after service of the objection or legal proposal orally on the record or submit it in writing in accordance with the existing provisions for legal actions or

b) at the same time as the application for the issuance of a payment order or a legal bid in the event that an objection or a legal proposal is raised; in both cases, the application must be accompanied by the original or a certified copy of the documents.

3) In these proceedings, the judge shall summon the parties to a hearing within a short reasonable period of time; the creditor shall be free to appear and the debtor shall be summoned on pain that in case of unexcused absence, a decision will be made without further ado on the basis of the files. Other consequences of default shall not occur.

4) In proceedings for the opening of insolvency proceedings, the creditor may only prove his claim by means of documents, whereas the obligor must immediately substantiate his objections to the request for the opening of insolvency proceedings and to the debt by means of documents or witnesses brought to the hearing; other means of substantiation are not admissible.

Art. 51

The decision to initiate proceedings

1) The District Court shall decide on the application for opening of proceedings by means of a decision (order) which shall be served on the parties in accordance with the provisions applicable to actions and shall contain, in addition to the pronouncement, a statement of the grounds and a statement of the law.

2) The legal instruction shall contain:

a) upon issuance of the judgment opening the debtor the remark that he may, within the non-extendable period of fourteen days from the date of service, bring an action in ordinary litigation to have the claim set aside (action for a declaratory judgment), but that in the case of injunction, subject to reinstatement in accordance with the Code of Civil Procedure, execution may be demanded from the creditor on the basis of the judgment opening until satisfaction is obtained;

b) in the event of rejection of the request to open a legal action, the remark for the creditor that he must assert his right against the obligor in ordinary litigation proceedings.

3) The decision to initiate legal proceedings shall also rule on the costs raised by the parties.

4) Apart from an action for revocation, no appeal is admissible against the decision granting the request to open a legal action; an appeal against the decision rejecting the request to open a legal action is admissible within fourteen days of service.

Art. 52

Effect of the decision to initiate legal proceedings

1) The creditor who has been granted a judicial opening may, on the basis of the decision granting a judicial opening, immediately demand enforcement in accordance with the provisions of Section 4 of this Part (Art. 42 et seq.) until security is provided for his claim, including ancillary fees and the costs awarded for the judicial opening.

2) The effect of the decision to initiate legal proceedings shall only extend to the debt collection or legal proceedings in which legal proceedings were initiated.

3) After the expiry of six months from the date of service on him of the decision to initiate legal proceedings, the creditor may no longer file a request for security on the basis of the same decision.

Art. 53

The action for disqualification

1) If legal proceedings have been instituted against the obligee, the latter may, within fourteen days from the date of service of the decision to institute legal proceedings, bring an action against the court.

for withdrawal of the claim asserted by the creditor before the regional court.

2) Retrieved

3) The burden of proof in the revocation process remains the same as if the believer had initiated the process himself.

4) The claim seeks a declaration that the claim does not exist in whole or in part or that it is currently irrecoverable and that the opening of proceedings be lifted.

5) The relevant provisions of the Code of Civil Procedure shall apply to the claim for costs in the revocation proceedings, and if the

If the creditor is unsuccessful, he shall also be ordered to pay the costs of the proceedings and the costs incurred by the parties in the legal proceedings.

2. Main section

Oath and order of contestation

1. Section

Sworn statement (oath of disclosure) Art. 54

Admissibility and content

1) Retrieved

2) Retrieved

3) Before bringing an action for avoidance, the debtor shall, at the request of the creditor, in the cases referred to in Articles 65 to 67, take an oath in respect of a legal act designated by the creditor as voidable, to the effect that he was not aware of the facts giving rise to the voidability.

4) Retrieved

5) Retrieved

6) Retrieved

7) Retrieved

Art. 55

Oath of revelation about an administration or epitome

1) Who is obligated,

a) account for any administration involving income or expenses.

The person entitled to file a claim shall provide the beneficiary with an invoice containing an orderly compilation of the income or expenses and, if receipts are required, shall submit supporting documents;

b) to hand over a list of items or to provide information on the inventory of such a list shall submit a list of the inventory to the person entitled.

2) The foregoing obligations may be enforced by means of a legal bid or action.

3) Is there reason to believe,

a) that the information on income or expenditure contained in the invoice has not been provided with the required diligence, the obligor shall, upon request and after the enforcement order has become final, take an oath of disclosure to the effect that, to the best of his knowledge, he has provided information on income or expenditure as completely as he is able to do so;

b) that the list has not been drawn up with due care, the obligor shall, upon request and after the enforcement order has become final, take an oath of disclosure to the effect that, to the best of his knowledge, he has stated the inventory as completely as he is able to do so.

4) The district court may make a change to the oath formula in accordance with the circumstances.

5) In matters of minor importance, there is no obligation to take an oath of disclosure.

Art. 56

Repealed

Art. 57 to 63Discontinued

2. Section Rescission Order

Art. 64

Purpose Contesting power

1) The legal acts referred to herein (Art. 65 to 68) which affect the assets of a debtor may be challenged in accordance with the following provisions for the purpose of satisfying a creditor and may be declared invalid against the latter.

2) Any creditor with an enforceable claim shall be entitled to contest such claim irrespective of the time at which it arose (Anfech-

The court shall have the power of execution if the execution has not led to full satisfaction of the creditor or, at the time of granting the execution, it may be assumed that it will not lead to such satisfaction.

3) The challenge may be asserted by action (counterclaim) or defense, by payment order or legal command.

4) If the opposing party proves that the contesting creditor himself intended the contestable legal act, agreed to it or subsequently approved it with knowledge of the contestable circumstances, the claim for avoidance shall be rejected.

Art. 65

Contestation of gratuitous and equivalent dispositions

1) The following legal acts performed within one year prior to the granting of compulsory enforcement may be contested:

a) gratuitous dispositions (e.g. waiver of a right not yet acquired, disclaimer of an inheritance) for which the debtor was not legally obligated and all completed gifts, insofar as these legal acts are not the fulfillment of a legal obligation, customary occasional gifts (e.g. Christmas, New Year's, birthday, engagement or wedding gifts) if they do not exceed a customary amount or are made for charitable purposes. The debtor shall be obliged to pay the costs of the legal proceedings if the debtor is not legally obliged to pay the costs of the legal proceedings if the debtor is not legally obliged to pay the costs of the legal proceedings if the debtor is not legally obliged to pay the costs of the legal proceedings if the debtor is not legally obliged to pay the costs of the legal proceedings if the debtor is not legally obliged to pay the costs of the legal proceedings if the debtor is not legally obliged to pay the costs of the legal proceedings if the debtor is not legally obliged to pay the costs of the legal proceedings if the debtor is not legally obliged to pay the costs of the legal proceedings;

b) the acquisition of the debtor's property free of charge or in the same way as a result of an official order (e.g. in execution and administrative enforcement proceedings), if the payment was made from the debtor's funds;

c) Legal transactions in which the debtor has accepted a consideration which is disproportionate to his own performance, in particular purchase, exchange or delivery contracts entered into, provided that the other party knew or should have known that there was a disproportion between the performance and the consideration in the transaction or that there was otherwise a squandering of assets to the detriment of the creditor;

d) Legal transactions by which the debtor has acquired a life annuity or usufruct for himself or a third party;

e) the securing or restitution of the marriage property, provided that the debtor for this purpose

RSO

The spouse shall not be obliged to pay the amount of the marriage settlement or the widow's salary if he or she was not obliged to do so by a contract concluded at the time of the marriage or at the time of the appointment of the marriage property, or by law in the event of the termination of the marital union.

2) The burden of proof for the existence of the facts and circumstances justifying the right of rescission lies with the rescission creditor.

Art. 66

Contestation due to overindebtedness

1) Furthermore, the following legal acts are voidable if the debtor has performed them within the last year prior to the granting of compulsory enforcement and if he was already over-indebted at the time of their performance:

a) Establishment of a lien or rights having the same legal effect as a lien, for the purpose of securing existing liabilities which the debtor was not previously obligated to fulfill by law or in a legal transaction;

b) Repayment of a monetary debt by means other than cash or other customary means of payment;

c) the payment of a debt that has not expired.

2) However, voidability is excluded if the beneficiary proves that he was not aware of the debtor's financial situation.

3) Avoidance is excluded, in particular, if financial collateral has been provided as collateral under Art. 392 of the Property Code and the debtor has previously:

a) has undertaken to top up the financial collateral in the event of changes in the value of the financial collateral or in the amount of the secured liability; or

b) The Company has granted the Company the right to substitute a financial collateral arrangement with a financial collateral arrangement of the same value.

Art. 67

General right of rescission

1) Finally, all legal acts which the debtor has performed with the intention, recognizable to the other party at the time of their performance, to disadvantage his creditors or to favor individual creditors to the disadvantage of others are voidable, irrespective of the time at which they were performed.

2) It is sufficient if the third party, according to the actual circumstances of the individual case (e. g. B. close relationship or other personal relationship of the debtor to the

third parties, rumors circulating about the debtor) had been able to recognize the debtor's intention to disadvantage his creditors or to favor individual ones of them to the disadvantage of others.

3) The burden of proof for all circumstances (legal act, intention to disadvantage or favor, recognizability of the same) lies with the contesting creditor.

Art. 68

Challenge of omissions

1) Legal acts within the meaning of the preceding articles shall also include omissions by the debtor as a result of which he loses a right or as a result of which pecuniary claims against him are established, preserved or secured.

2) The same applies with regard to the omission

a) the acceptance of an inheritance, or

b) Contesting the violation of the compulsory portion or

c) finally, the challenge of an improper disinheritance.

Art. 69

Compulsory enforcement and rescission

1) A challenge shall not be excluded by the fact that an enforcement title has been acquired for the action subject to challenge or that it has been effected by compulsory enforcement.

2) If the legal act is declared invalid, the validity of the enforcement order also expires vis-à-vis the creditor.

Art. 70

Contestant

The avoidance may be directed against those persons who have concluded the voidable legal transactions with the debtor or have been satisfied by him in a voidable manner or have received a pecuniary advantage by his omission in a voidable manner; furthermore, against their heirs and against third parties acting in bad faith.

Art. 71

Scope of service

1) Any person who has acquired assets of the debtor by a voidable legal act shall be obliged to return the same in accordance with the following paragraphs.

2) Claim. For the reimbursement of a consideration or for a claim which is reinstated as a result of the avoidance, the opposing party in bad faith may only claim against its debtor; otherwise, the consideration shall be reimbursed by the contesting creditor insofar as it is still in the hands of the debtor or the debtor has been enriched by it; beyond this, a claim may only be asserted as a claim against the debtor.

3) Set-off. A counterclaim against the debtor may not be set off against the claim for avoidance except for the assertion of claims in accordance with the preceding paragraph.

4) If the voidable legal act consisted in the repayment of a claim, the claim shall be reinstated with the restitution of what has been received, subject to the protection of bona fide guarantors and pledgees.

5) The bona fide recipient of a gift shall be obliged to reimburse only up to the amount of his enrichment, except in the case that his acquisition would be contestable even if it were for valuable consideration.

6) If bona fide third parties have acquired incontestable rights to property to be restituted, the party during whose possession the encumbrance took place shall be obliged to compensate the creditor for the damage if his acquisition was contestable. The preceding paragraph shall apply.

7) Multiple avoidance. Even if the same legal act is contested by more than one creditor, the creditors who are entitled to contest the act shall not be entitled to

The liability of the opposing party shall in no case exceed the amount stipulated in this article.

Art. 72

Action for annulment

1) If a challenge is made by means of an action, the action shall state the extent to which and the manner in which the defendant is to perform or tolerate something for the purpose of satisfying the creditor.

2) Even before filing the action or at the same time as filing the action, the party entitled to avoidance may apply to the District Court for the registration of the action to be filed or already filed in the land register, in which the execution of the avoidance claim requires entries.

3) As a result of this priority notice, the judgment on the action for annulment shall also have effect against persons who have acquired rights after the entry in the register.

4) If an action for avoidance has been filed prior to the filing of the action, the creditor must file an action for avoidance within fourteen days of service of the notice of avoidance, otherwise the notice must be deleted by means of a decision at the request of the opposing party and at the expense of the creditor.

5) An exception to the preceding paragraph exists in the case of Art.

74.

Art. 73

Contestation before execution (plea)

1) The contestation may be exercised by means of a plea before the creditor's claim has become enforceable.

2) Likewise, the contestation in the proceedings for distribution of proceeds obtained by way of compulsory execution may also take place before the claim of the contesting creditor has become enforceable.

Art. 74

Contestation period extension

1) The action for rescission (counterclaim) shall become time-barred upon the expiry of five years from the date on which the legal act subject to rescission was performed.

2) The claim for rescission may also be asserted against the opposing party within the permissible rescission period.

3) As a rule, the legal act that can be contested is deemed to have been performed at the time when it became effective for the creditors.

4) Extension. If, before the creditor's claim has become enforceable or before it becomes apparent that compulsory enforcement against the debtor's assets has not led or will not lead to full satisfaction of the debtor's claim, the creditor has notified the person against whom a voidable legal act has been performed or his heirs or third parties of his intention to contest the claim by service of a writ, the contestation period shall be calculated back from the time of service, provided that it may be assumed that execution against the debtor's property would not have led to full satisfaction of the creditor even at the time of such service and that the contestation has taken place up to the expiry of five years from that time.

Art. 75

International legal provisions

1) The law of the debtor's domicile or registered office and, in the absence of a domicile, the law of the place of residence at the time of the performance of the acts shall determine whether and which legal acts are voidable.

2) Furthermore, the challenge is only admissible if it is also admissible under the law governing the acquisition transaction.

3) In the event of a difference between the law on avoidance of the domicile (seat) or residence and the law on avoidance of the acquisition transaction with regard to the prerequisites for avoidance or time limits, the provisions that are milder for the opposing party shall apply.

4) The challenge before the domestic court shall be dismissed if it concerns such claims of a creditor arising abroad for which enforcement is to be refused until security is provided in accordance with Art. 44.

or for which the assertion is otherwise excluded according to the law here.

5) Outside of the order of avoidance, the avoidance of a legal transaction and in particular the plea of a sham transaction is to be judged according to the law of the place to which this legal transaction is subject under international law according to Liechtenstein law.

3. Main section

Special safeguards in out-of-court proceedings

1. Section Security-wise land register entries

Art. 76

General

Security entries in the land register (priority notices) are permitted in accordance with the provisions on property law, this Act and other laws.

2. Section

Safeguards in probate proceedings Art. 77 to

80Discontinued

3. Section

Public notarization, official certification and enforceable deeds

A. Public notarization and official certification

Art. 81

Application Jurisdiction

1) For the public certification and official certification, where such is prescribed or required by the parties involved, the following shall apply under

Unless otherwise provided by law or regulation, the following provisions.

1a) The provisions of the Notaries Act shall apply to the drawing up of notarial deeds and notarial certification.

2) The district judge and the legal officer are responsible for public certification. In commercial register and land register matters, the head of the Office of Justice and his deputy are exclusively responsible; the Government may confer this authority on other employees of the Office of Justice.

3) The head of the Office of Justice and his deputy are exclusively responsible for certifying the authority of a person to sign for a legal entity entered or deposited in the Commercial Register. The Government may confer this authority on other employees of the Office of Justice.

4) Except for special provisions, the following shall be responsible for the official certification of signatures or hand signs, book extracts, copies and the like:

a) the district court;

b) the head of the Office of Justice and his deputy; the Government may confer this authority on other employees of the Office of Justice;

c) Two municipal employees authorized by the municipality to do so; and

d) in public law matters also the head of the government or the secretary of the government.

5) A notary public shall recuse himself/herself if:

a) they themselves are involved in the legal transaction or are or were married to a party, live or have lived in a registered partnership, lead or have led a de facto cohabitation or are related by blood or marriage up to the fourth degree. Elective, step and guardianship relationships are treated the same as natural child relationships;

b) an order is made for their own benefit or for the benefit of one of the persons referred to in subparagraph (a);

c) it is a representative, agent, employee or organ of a party.

6) Failure to comply with the duty to abstain shall result in the invalidity of the public notarization.

7) Paragraph 3 of Art. 77 shall apply mutatis mutandis.

Procedure Art. 82 *Documents*

1) The documents to be notarized may be signed by the parties involved.

The documents may be drafted and brought to the court by the applicant himself/herself, or their drafting may be entrusted to the certifying officer.

2) The notary must ensure in particular that the identity and capacity to judge of the persons appearing before him or their representatives is established.

3) Authorized representatives shall present a power of attorney for the relevant transaction and this presentation shall be recorded in the document itself.

4) The will of the parties shall be clearly and completely set forth in the document.

5) The notary public shall observe the forms prescribed by law, if any, and shall ensure a truthful representation of the event he or she is notarizing.

Art. 83

Signature

1) The public deed must be signed personally by the persons involved.

2) If a participant is unable to sign, the notary must mention this fact in the document, stating the reason, and call in a witness.

3) Repealed.

Art. 84

Foreign language

1) If the official document has to be drawn up in a foreign language or if a party does not understand German, the notary shall call in a translator if he or she does not speak the language himself or herself or if a party so requests.

2) The translator shall sign the document, which shall contain the reason for his or her involvement, certifying that the translation has been carried out conscientiously.

had taken place.

3) The translator can be a witness at the same time.

Art. 85

Contents of the certificate

1) Except for special provisions of this Act or other laws, the document must contain, in order to avoid the invalidity of the notarization:

a) Place and date of construction;

b) the sufficiently clear designation of the parties, the representatives acting on their behalf and the persons otherwise involved in the establishment (name, profession, place of residence, home country, if any);

c) the statements of the parties or their representatives.

2) If a document is referred to in the declaration and attached to the deed and marked with the official seal of the certifying officer, it shall form part of the deed.

3) The notary certifies on the document that it contains the will of the parties communicated to him and that it has been brought to the attention of the participants.

4) In addition to his signature, the notary shall affix his seal or stamp; however, the omission of the seal or stamp shall not invalidate the notarization.

Art. 86

Logging

1) The District Court and the Office of Justice shall record the deed in a protocol.

2) Retrieved

3) With regard to founding documents, in particular the articles of association of a company within the meaning of the provisions of the Persons and Companies Act, it shall be sufficient for the document to be registered in extracts or for a clear reference to it to be made in the minutes. The Government may issue more detailed regulations by decree.

Art. 87

Certifications

1) The certification of a signature or a hand sign shall only take place if the signature is executed or acknowledged in the presence of the certifying officers or if the authenticity of the signature is otherwise unobjectionable for the

Certified is created.

2) However, the authenticity of a signature that has not been executed or acknowledged before the notary public himself/herself may not be certified by him/her on the basis of the mere testimony of a third party.

3) The certification shall be effected by means of a note to be placed next to or under the signature, which shall contain: The name of the person who executed the signature, a statement of the facts on the basis of which the certifier is convinced of the authenticity of the signature, the date and place of the certification, the signature and the seal, if any, of the certifying person.

Art. 88

International-legal provision

1) Foreign public documents shall also be deemed public documents under domestic law if they have been issued in accordance with the law of the place of issue, unless special statutory exceptions apply.

2) A confirmation that the deed is a public deed according to the law of the place of establishment may be required by the courts or administrative authorities if concerns arise.

B. Enforceable documents

Art. 89

Requirements

1) The parties may have a public deed enforceable in accordance with the following provisions drawn up at the Regional Court in respect of a legal transaction.

2) The parties are also free to draw up deeds and to have them provided with the enforceability clause at the district court.

3) The documents drawn up by these offices shall, if their content is legally admissible and their form does not appear questionable, enjoy the status of a public document before all authorities.

4) Unless otherwise provided in this Part, the provisions on public documents shall apply mutatis mutandis.

Art. 90

Content in general

The certificate must contain:

a) a specific, precisely defined subject of the obligation under the contract,
specifying the time and place of performance,

b) their legal basis, provided that it must be stated in accordance with the provisions of private law,

c) exact designation of the persons involved,

d) the obligor's consent to enforceability,

e) Signature of the parties and the district judge.

Art. 91

Subject of the liability

1) The obligation must contain a claim to a determination, performance or legal arrangement that is subject to the parties' power of disposition.

2) In the deed not only the main debt, but also all associated ancillary liabilities (such as interest, interest on arrears, contractual penalty) must be determined in a manner that excludes any doubt if the latter are to be endowed with enforcement effect.

3) The provisions of this Act shall apply to the content of documents intended for entry in the land register or other public registers, unless other laws, such as property law, have provided for a deviation.

4) If the subject matter of the legal transaction is otherwise specific movable property, it shall be described in a manner that establishes its recognizability.

Art. 92

The legal ground

Any reason that gives rise to a claim that can be determined in more detail in the above sense (e.g. purchase, loan, gift) shall be considered as such.

Art. 93

Persons involved

1) The persons participating in the establishment of the certificate must be precisely identified with their first and last names, status and place of residence.

2) The designation of a person (company) declared as entitled in the deed must be made in such a way that confusion with other persons is excluded.

3) Powers of attorney on the basis of which such a document is to be drawn up must, if they are not already a public document, be certified by a court, which must be noted by the court in the document; in addition, the powers of attorney must comply with any special regulations that may exist.

4) The creditor's participation in the execution of the deed is not required if only a unilateral acknowledgement of debt is to be issued.

Art. 94

Time, place and type of commitment

1) The time of performance, acquiescence or omission must be fixed with an indication of a specific calendar day and year or in such a way that the calendar day can be inferred with certainty from the circumstances.

2) The document shall specify the place of performance or delivery, if such place is agreed upon.

3) Such deeds may stipulate all types of obligations which the parties may legally establish on their own initiative.

Art. 95

Enforceability clause

1) The deed must contain a specific and unambiguous statement by the obligee that the deed is to be enforceable with respect to the acknowledged debt immediately or from a specified date.

2) The enforceable nature of a claim shall be unambiguously recorded in the deed, as by expressions: in case of other execution, in case of avoidance of execution and other expressions.

3) The effect of the enforceability clause varies depending on whether it is a clause relating to a claim already due at the time of the execution of the deed, or whether this claim is conditional, aged or subject to a condition or consideration at that time.

4) If the deed is for the immediate payment of money or other fungible property or other specific items, without any ancillary provision (condition, time limit or requirement) or consideration being dependent thereon, execution may be demanded in the same way as a court settlement.

5) In all other cases, however, execution on the basis of public documents may be demanded from the entitled party only if he proves by means of a public document or an enforceable title that he has fulfilled the ancillary provisions or has paid the consideration; However, on the basis of such a deed, provisional enforceability shall be granted at the discretion of the court, or, if the other requirements are met, a security bid or an official order may be obtained without the provision of security or prima facie evidence of a risk on the part of the entitled party, or the

legal opening proceedings are initiated.

Art. 96

Position of the obligor

1) If enforcement has been granted on the basis of an enforceable deed, the obligor shall have the remedies and legal remedies granted in the enforcement proceedings.

2) If enforcement has been granted until security has been provided, the beneficiary shall file an action for the determination of his claim with the court within fourteen days from the date of service of the decision on enforcement until security has been provided.

3) If a protective order or an official order has been issued, or if the opening of insolvency proceedings has been granted, the beneficiary or obligor must proceed in accordance with the relevant provisions.

Art. 97

Land register treatment

1) If an enforceable deed contains an admissible disposition of real property or a right attached thereto, it may be used for entry in the land register as a deed for the purposes of the land register (capable of being entered in the land register) if it also contains the required land register information.

2) In any case, on the basis of such a deed, a notice or annotation in the land register may be made in accordance with the provisions on property law.

3) If enforceability has been agreed for a claim in accordance with Art. 95 (5), this may be noted in the land register entry.

Art. 98

General provision

1) If an application is made to the district court or an administrative authority on the basis of a deed made under this part, the legal admissibility of the agreement and its scope shall be examined in each case.

2) Retrieved

3) Appeals against the District Court shall be filed and heard by the Supreme Court in accordance with the provisions of the Act on Non-Contentious Proceedings.

4. Section Prohibitions and official notices

A. Bans from office

Art. 99

I. Application and buses

1) Any owner (owner, tenant, leaseholder, etc.) of a plot of land may request the municipal council to issue an official order in the form of an official ban also for disturbances of possession or actions (e.g. walking, driving) on a plot of land against unspecified persons or groups of persons.

2) A prohibition from holding office under this section is not permissible if it is requested only against a specific known person.

3) The culpable violation of such an official ban may be punished with a fine of 1 to 100 Swiss francs.

II. Procedure

Art. 100

Prohibition request

1) The request for prohibition shall be submitted to the municipal council of the municipality in which the property or its larger part is located.

2) The written or oral request must contain, in addition to the general requirements of a pleading:

a) the land register designation of the property in respect of which an official ban is to be issued, furthermore, if applicable, its name and the names of the boundary neighbors;

b) the facts and reasons of the request and

c) the more detailed content of the ban from office to be issued;

d) the rights granted by the applicant to walk, drive, ride, drag, etc., as well as the name and place of residence of the person entitled.

3) The written application shall be submitted in two copies and, if the land lies on municipal boundaries, in as many copies as municipalities are involved.

Art. 101

Examination and announcement of the application

1) The municipal council shall have the application examined in all possible directions by inspecting the land register and shall make the necessary arrangements for its completion.

2) The application, if necessary after required supplement, is

a) by the head of the municipality in which the land is located and, if it concerns several municipalities, by all the heads, if any.

b) also, at the request of the applicant or at the discretion of the municipal council, other eligible municipal authorities

to be delivered for the attention of the municipality and for publication on the website of the municipality.

3) The border neighbors are to be officially informed by the head of the prohibition request.

4) The municipal council may publish an excerpt of the prohibition request in the official gazettes.

Art. 102

Objections

1) Within 14 days from the date of publication on the website of the municipality or in the official gazettes, objections to the issuance of a ban from holding office may be lodged with the head of the municipality.

a) the head of the municipality concerned on behalf of the latter because of existing public footpaths, driveways and watering places or passages and similar public use, irrespective of whether there is a relevant entry in the land register or not,

b) anyone who claims to have rights or possession of the land contrary to the prohibition to be issued, regardless of whether or not there is a relevant land register entry in respect thereof.

2) If such objections are received in writing or are reported orally to the head of the department concerned, an official memorandum shall be issued.

to make. The heads of the other municipalities shall inform the competent municipal council.

3) The applicant may take legal action against objections received in due time.

4) The unused expiry of the objection period has the effect that, in accordance with the provisions of private law, walking, driving, watering, dragging or similar rights to the property concerned that are not recorded in the land register can only be asserted by subsequent objectors against the applicant by means of an action for declaratory judgment if the third party demonstrably had no knowledge of the notification or if, despite knowledge, he was unable to assert the objection in good time due to an insurmountable or insurmountable obstacle.

5) However, in the case of the preceding paragraph, the prohibition from holding office shall remain in effect against the third party until the final determination of his right.

Art. 103

Issuance of the ban from office

1) The ban on holding office is issued by the municipal council under threat of punishment, subject to objections and the rights recognized by the applicant, which are to be listed in the ban.

2) The prohibition shall be announced by the municipal council by publication on the website of the municipality and may be announced in another suitable manner, in particular by publication in the official announcement organs.

3) If at all possible, the prohibition shall be made known to the general public, in part and with the threat of penalty, in a conspicuous place on the land in question or by means of a warning sign.

Art. 104

Enforcement of the fine

1) The administrative fine threatened in the prohibition is to be imposed by the district court by means of a penalty order on the culpable violator of the prohibition at the request of the applicant or his legal successor.

2) The sentence imposed shall not be entered in the criminal record and shall not be mentioned in any subsequent criminal proceedings.

3) The administrative fine may be imposed repeatedly on the same offender.

4) Retrieved

Art. 105

Supplementary provisions Costs

1) Insofar as no deviations result from the above articles or circumstances are not regulated, the provisions of the Act on Non-Contentious Proceedings (in particular on the pre-trial proceedings) shall apply in addition.

2) The costs incurred by the issuance of a ban from office shall be borne by the applicant.

3) An appeal against a ban from office may not be lodged by third parties; in other respects, the appeal procedure shall be governed by the extrajudicial procedure.

B. Official announcements Art. 106Discontinued

Art. 107

II. By the district court

1) A declaration of intent to be made in accordance with the provisions of civil law shall be deemed to have been received even if it was made through the intermediary of the Regional Court in accordance with the provisions of the Service of Documents Act.

2) If the person making the declaration is unaware of the identity of the person to whom the declaration is to be made, or if the whereabouts of this person are unknown, service may be effected by public notice (Art. 28 ZustG).

3) The costs and fees shall be borne by the declarant without prejudice to any claim for compensation to which he may be entitled.

4) Art. 77 par. 3 shall apply mutatis mutandis.

4. Main section

Exercise of rights, self-defense and self-help Art. 108

A. Exercise of rights and self-defense

1) The exercise of a right is inadmissible if it can only have the purpose of causing harm to another.

2) An act required by self-defense is not unlawful.

3) Self-defense is the defense which is necessary to avert a present unlawful attack against oneself or another.

4) Anyone who damages or destroys another person's property in order to avert a threat of danger to himself or another person is not acting unlawfully if the damage or destruction is necessary to avert the danger and the damage is not disproportionate to the danger (state of necessity).

5) If the person acting is responsible for the danger, he is obliged to pay damages.

6) In particular, the owner of an object is not entitled to prohibit the interference of another person with the object if the interference is necessary to avert a present danger and the threatened damage is disproportionately great compared to the damage resulting from the interference to the owner.

7) The owner may claim compensation for the damage incurred.

Art. 109

B. Self-help

1) Who takes away, destroys or damages a thing for the purpose of self-help,

or who, for the purpose of self-help, arrests an obligor suspected of absconding or eliminates the obligor's resistance, which the obligor is obliged to tolerate,

does not act unlawfully if assistance from the authorities (Art. 25) cannot be obtained in time and if, without immediate intervention, there is a risk that the realization of the claim will be frustrated or made considerably more difficult.

2) Self-help must not go further than is necessary to avert the danger (proportionality).

3) In the event of the removal of property, unless execution is obtained until the property is secured or compulsorily enforced, a protective order or an official order must be applied for.

4) In case of arrest of the obligee, unless he is set free again, the security of the person of the obligee (Art.

24) with production of the same to the district court.

5) If an order within the meaning of the third and fourth paragraphs is delayed or refused, the return of the thing taken away and the release of the obligor shall take place without delay.

6) Whoever performs one of the acts referred to in the first paragraph in the mistaken belief that the conditions required for the exclusion of unlawfulness exist, shall be liable to pay damages to the other party, even if the mistake is not due to negligence.

Art. 110

Scope

1) The foregoing provisions on self-defense and self-help shall not affect any measures of a similar nature provided for in other laws, such as self-attachment, in the right of possession, in the right of tenancy and lease, collection of property on another's land, cutting of roots and overhanging branches.

2) The provisions on the exercise of rights and self-defense apply to all areas of private law.

5. Main section

Final and transitional law

I. Application to the foreclosure

Art. 111

In general

Repealed

Art. 112

Repeal and replacement of previous laws on the right of execution.

Repealed

Art. 113

II. Application to the legal care process

Repealed

Art. 114

III. Application to the administrative enforcement procedure

Repealed

Art. 115

IV. Application to insolvency law

1) The provisions of the avoidance order shall also apply if a creditor has not been fully satisfied in the bankruptcy proceedings.

2) The insolvency administrator and, if there is no insolvency administrator or if the insolvency administrator refuses to contest the insolvency estate, any creditor pursuant to the first paragraph, shall be entitled to contest the insolvency estate.

3) Two months backwards from the date of commencement of the insolvency proceedings, all liens granted by the court shall lapse, apart from any other possibility of avoidance, and the debtor shall be entitled to claim the lien.

The creditor concerned may only obtain satisfaction in the insolvency proceedings. Article 136 (3) of the Insolvency Code remains reserved.

V. Criminal provisions

Art. 116

Obstruction of justice

1) Whoever destroys his own thing in whole or in part or takes it away from another

and thereby intentionally frustrates the exercise of a right or a right of usufruct, usufructuary right, right of use or right of retention, shall be punished by the District Court for a misdemeanor with a fine of up to 50,000 Swiss francs or, in the case of non-collectibility, with imprisonment for a term of up to six months.

2) Likewise, whoever performs the act with the consent or for the benefit of the owner shall be punished.

3) The offense shall be prosecuted only upon application; if it is directed against relatives or in-laws in a direct line, adoptive or foster parents, adoptive or foster children, spouses, registered partners, siblings and their spouses or registered partners, and fiancées, the application may be withdrawn. The period for filing an application shall be three months from the date of knowledge of the act and in all cases not more than one year from the date of commission of the obstruction of justice.

4) These provisions are not applicable to tenants and lessees.

Art. 117

Obstruction of enforcement

Repealed

Art. 118

Reckless debt creation

Repealed

Art. 119

Transitional and final provision

1) The foregoing provisions shall apply to acts committed before the entry into force of this Act only to the extent that they would be subject to more severe punishment.

2) The second paragraph of Section 183 of the General Penal Code shall be repealed.

3) The general provisions of the Criminal Code and its supplementary laws on misdemeanors as well as the provisions of the Code of Criminal Procedure and its supplementary laws in the procedure for misdemeanors shall apply accordingly.

Art. 120

Disobedience penalty

Repealed

Art. 121

VI. Time application

Repealed

Art. 122

VII. Repeal or amendment of existing laws and regulations

1) All regulations in conflict with this law are repealed, in particular:

a) §§ 275 to 297 of the General Court Rules of May 1, 1781, introduced here by decree of February 18, 1812, and all supplementary decrees relating to these provisions;

b) the Act of July 5, 1883, LGBl. 1883 No. 1, on the Reciprocation of Section 389 of the West Galician Judicial Code;

c) the Ordinance of September 20, 1846, on the Procedure for the Execution of Property in Which Third Parties Claim to Have Ownership or Other Rights;

d) those provisions of the General Civil Code and the Criminal Code which are inconsistent with the provisions of this Act, before

in particular, are in conflict with Articles 37 to 40, 108 to 110 and 116 to 119;

e) the Austrian Court Decree of 5 November 1819, No. 1621 (and all addenda thereto), which is also applicable in Liechtenstein, concerning the description by way of a lien of the movables brought in by tenants and lessees;

f) the Act on the Thwarting of Foreclosures of July 25, 1892, LGBl. 1892 No. 3;

g) Articles 5 to 8 of the Act on the Handling of Aliens' Relocations of December 4, 1911, LGBl. 1911 No. 6, replaced by Articles 77 to 80 of this Act;

h) the decree of June 22, 1843;

i) the Act of October 17, 1921, LGBl. 1921 No. 20, concerning the amendment and supplementation of provisions on compulsory execution proceedings;

k) the Act of October 16, 1891, LGBl. 1891 No. 9, concerning the enforcement of foreign civil court judgments;

l) the Act of August 16, 1892, LGBl. 1892 No. 4, amending and supplementing provisions of the exe- cution proceedings;

m) the Law of July 13, 1897, LGBl. 1897 No. 4, concerning the in the Principality of

Liechtenstein enforceable Austrian execution title;

n) the Law of October 9, 1865, LGBl. 1865 No. 5, concerning the debt drive in the Principality of Liechtenstein;

o) the law of April 15, 1884, LGBl. 1884 No. 2, concerning supplementation of the Kon- kursordnung.

2) Retrieved

3) Retrieved

4) Retrieved

5) Retrieved

6) Retrieved

7) Retrieved

8) Retrieved

Art. 123

VIII. Costs and fees

1) The relevant statutory provisions shall apply with regard to the payment of costs, including official costs and fees.

2) Retrieved

3) Retrieved

4) When drawing up public deeds, fees are to be collected from the authenticators for the attention of the state treasury in addition to the stamp:

a) for certifications of signatures, transcripts, extracts 1 to 50 francs;

b) for the drawing up of other documents, 1 to 100 francs, depending on the value and significance of the document.

5) Retrieved

6) Retrieved

7) Retrieved

8) Retrieved

Art. 124

IX. Referendum clause and implementation

1) This Act is declared non-urgent and shall enter into force on the day of its promulgation.

2) The government is charged with its implementation.

VI. Service of Documents Act (ZustG)

from 22 October 2008

on the service of official documents

I. General provisions Art. 1

Subject

This Act regulates the service of documents to be transmitted by public authorities in execution of laws, as well as the service of documents of foreign authorities to be carried out by them.

Art. 2

Definitions; Designations

1) For the purposes of this Act means:

a) "Recipient": the person designated by name by the authority in the service order (Art. 5), in whose power of disposal the document to be served is to come;

b) "Document" means a record, regardless of its technical form, esp. an official written execution;

c) "Delivery address" means a designated domestic delivery point (subparagraph (d)) or an electronic delivery address (subparagraph (e));

d) "Drop-off location:

1. the recipient's home or other accommodation, place of business, registered office, place of business, office or workplace;

2. in case of service on the occasion of an official act, its place;

3. a place indicated by the addressee to the authority for service in a pending or concurrently pending proceeding or recorded in an official register;

4. the facility operated by a delivery service or a public authority for holding the documents to be delivered, provided that an agreement to this effect exists with the addressee;

e) "electronic address for service" means an electronic address provided by the recipient to the Authority for service in a pending or concurrently pending proceeding;

f) "Delivery service" means any universal service provider under the Postal Act that has been entrusted to make deliveries under this Act;

g) "Proof of service" means the certification by the service agent of an act of service, in particular of the place, time and form of service.

2) The personal terms used in this Act shall mean members of the male and female genders.

Art. 3

Implementation of the delivery

1) Unless the regulations applicable to the procedure provide for another form of service, service shall be effected by a service agent, by organs of the authority or, if this is in the interest of expediency, simplicity and speed, by organs of the municipalities.

2) Service by the authorities or municipalities may be ordered in particular if:

a) no delivery service is set up for the delivery point;

b) in case of delivery by a delivery service, the delivery would be too late or the proof of delivery would not be available in time;

c) the recipient or his delivery address is not known exactly and is to be determined only by the deliverer;

d) the document must be delivered at a time when deliveries are not made by a delivery service;

e) the document is to be delivered on the occasion of another official act or to an arrested person (prisoner).

3) Authorities and municipalities may make deliveries only within their local jurisdiction.

Art. 4

Position of the deliverer

The person entrusted with service (service agent) acts as an organ of the authority whose document is to be served with regard to the observance of the lawfulness of service.

Art. 5

Order for service

The service shall be ordered by the authority whose document is to be served.

shall. The service order shall designate the addressee as clearly as possible and contain other information necessary for service.

Art. 6

Multiple delivery

If a document has been served, the new service of the same document shall not have any legal effect.

Art. 7

Cure for delivery defects

In the event of any deficiencies in the delivery procedure, delivery shall nevertheless be deemed to have been effected at the time when the document was actually received by the addressee.

Art. 8

Change of delivery address

1) Parties, involved persons and their representatives as well as persons authorized to receive service who change their previous address for service during proceedings of which they are aware shall notify the authority thereof without delay.

2) If this notification is omitted, service shall be effected without an attempt at service by deposit with the authority (Art. 25), unless the procedural rules provide otherwise, if another address for service is not known to the authority or can be ascertained with simple aids.

3) Par. 2 shall apply mutatis mutandis if a document cannot be served on a legal entity, a partnership, a sole proprietorship or its representative within the meaning of Art. 16 par. 3 at the address for service entered in an official register.

Authorized recipient

Art. 9

a) Issuance of the power of attorney for service

1) Unless otherwise provided in the procedural rules, parties and participants may expressly authorize other natural or legal persons or partnerships to receive documents (power of attorney for service).

2) A natural person, legal entity or partnership that does not have a delivery office in Germany cannot effectively be granted a power of attorney for service.

Art. 10

b) Effects of the power of attorney for service

1) If a person authorized to receive service has been appointed, the authority shall designate that person as the recipient, unless otherwise provided by law. If this is not done, service shall be deemed to have been effected at the time when the document actually reached the person authorized to receive service.

2) If several parties, involved parties or their representatives have a common representative for service of documents, the service of a document shall be deemed to be service of the document.

If service is effected on a party, a party or his representative, service shall be deemed to have been effected on all the parties or interested persons by means of a single copy of the document addressed to him. If a party, interested person or their representative has more than one agent for service, service shall be deemed to have been effected as soon as it has been effected on one of them.

3) If an application is filed jointly by several parties or participants and no person authorized to receive service is named, the person named first shall be deemed to be the joint person authorized to receive service.

Art. 11

c) Duties of the agent for service

The agent appointed by an individual to receive service shall transmit to him without delay the documents intended for him and served on him. Likewise, unless otherwise agreed, the joint agent for service shall transmit the documents received without delay to the persons for whom he has accepted service and shall allow them to inspect the documents to be kept by him and to copy them further.

Art. 12

d) Appointment of an agent for service in special cases

1) Parties and involved persons who do not have a filing office in Austria may be instructed by the authority to name an agent for service (Art. 9) within a period of at least 14 days for certain or all proceedings pending or to be made pending before this authority. If the party or the involved party does not comply with this order within the time limit, service shall be effected without any attempt at service by deposit with the authority (Art. 25); this legal consequence shall be pointed out in the order.

2) Service by deposit with the authority is no longer permissible, so- soon as the party or the party concerned:

a) has named an authorized person to receive service of process; or

b) has a domestic delivery point and has notified this to the authority.

Art. 13

Special cases of delivery

1) Service abroad shall be effected in accordance with existing international agreements or, if necessary, by the means permitted by the laws or other legal provisions of the country in which service is to be effected or by international practice, if necessary by diplomatic channels.

2) For service on foreigners or international organizations entitled to privileges and immunities under international law, the Government's mediation shall be used, regardless of their place of residence or seat.

3) For deliveries to persons abroad who are not among the recipients listed in para. 2, the Government may, by decree, permit delivery by a delivery service using the return coupons customary in world postal traffic to those countries in which delivery in accordance with para. 1 is not possible or involves difficulties.

4) If the confirmation of service is not received within a reasonable time, service may be effected by public notice (Art. 28) or by appointment of a curator upon application or ex officio. The same shall apply if service abroad has been attempted in vain or if the request for service is unsuccessful due to an obvious refusal of legal assistance by the foreign authority.

Art. 14

Service of foreign documents within the country

1) Service of documents of foreign authorities in Liechtenstein shall be effected in accordance with existing international agreements or international practice, or, in the absence of such agreements or practice, in accordance with this Law. However, a request for compliance with a specific procedure deviating from this may be complied with if such service is compatible with the fundamental values of the Liechtenstein legal system.

2) The service of a foreign, foreign-language document to which no certified German-language translation is attached is only permissible if the recipient is willing to accept it; this is

unless he or she declares within 14 days to the authority that served the document that he or she is not prepared to accept it; this period begins with the service and cannot be extended. The recipient shall be informed of this right.

3) If the declaration under para. 2 is late or inadmissible, it shall be rejected; otherwise, the authority shall certify that the service of the foreign-language document shall be deemed not to have been effected due to the recipient's unwillingness to accept it.

Art. 15

Time of delivery

1) On Saturdays, Sundays and public holidays, service may only be effected on the basis of an order of an authority, unless it is effected by a delivery service. The service must be urgent because of the risk of expiry of a time limit or loss of a right or for a similar important reason. The order must be indicated on the document to be served.

2) The order under subsection (1) shall be made upon request or ex officio and may not be challenged by an appeal.

3) The above provisions shall also apply if delivery is to be effected at night.

II. Physical delivery Art.

16

Delivery to the recipient

1) The document shall be delivered to the addressee at the place of delivery. However, if the document is to be delivered to a person other than the addressee by order of an authority, that person shall take the place of the addressee.

2) In the case of service by the bodies of a delivery service or a municipality, service may also be effected on a person authorized by the delivery service or the municipality to receive such documents, unless this is excluded by a note on the document.

3) If the recipient is not a natural person, the document must be delivered to the representative within the meaning of Art. 239 PGR or to another representative authorized to receive it, in particular the managing director or an authorized signatory.

4) If the addressee is a professional representative of the party, the document may be served on any clerical employee; by organs of a delivery service

may not be served on certain clerks or may be served only on certain clerks if the party representative has requested this in writing to the relevant service. The authority shall exclude clerical staff of the party's representative from service on account of their interest in the matter or on the basis of a written declaration previously submitted to the authority by the party's representative by means of a note on the document and the proof of service; service may not be effected on them.

Art. 17

Delivery to addressee in an institution

If the addressee is subject to the rules of an institution and if documents may be delivered to him/her by law only by the head of the institution or by a person designated by him/her or by the examining magistrate, the document shall be handed over by the deliverer to the head of the institution or to the person designated by him/her in order to effect the delivery.

Art. 18

Substitute delivery

1) If the document cannot be delivered to the recipient and a substitute recipient is available, delivery may be made to this recipient (substitute delivery).

2) A substitute recipient may be any person capable of acting (Art. 10 et seq. PGR) who lives in the same household as the recipient or is an employee or employer of the recipient.

3) Delivery may not be made to certain substitute recipients by organs of a delivery service or may only be made to certain substitute recipients if the recipient has requested this in writing to the delivery service concerned.

4) The authority shall exclude persons from substitute service because of their interest in the matter or on the basis of a written declaration by the addressee by a note on the document and the proof of service; service may not be effected on them.

5) Substitute service shall be deemed not to have been effected if the addressee or his representative within the meaning of Article 16(3) satisfies the authority that he was unable to become aware of the service within three working days, but service shall take effect on the day following the removal of the impediment.

6) In the case of professional representatives of parties, legal entities, partnerships and sole proprietorships, service shall be deemed to have been effected irrespective of the time at which the addressee or the addressee's representative within the meaning of Art.

16 Para. 3 effective.

Art. 19

Deposit

1) If the document cannot be delivered at the place of delivery, it must be deposited at its competent office in the case of delivery by a delivery service, but at the competent municipal administration or at the delivering authority in all other cases.

2) The recipient shall be notified of the deposit in writing. The notification shall be deposited in the delivery facility designated for the place of delivery. It shall indicate the place of deposit, the beginning and duration of the period for collection and the effect of the deposit.

3) The deposited document must be kept ready for collection for at least 14 days. This period begins on the day on which the document is first made available for collection. Deposited documents shall be deemed to have been delivered on the first day of this period. They shall not be deemed to have been served if the addressee or his or her representative as defined in Art. 16 par. 3 proves to the satisfaction of the authority that he or she was unable to become aware of the service within three working days, but the service shall take effect on the day following the removal of the impediment within the collection period on which the deposited document could be retrieved.

4) Service made by way of deposit shall be valid even if the notice referred to in para. 2 has been damaged or stolen.

5) Retrieved

Art. 20

Forwarding

1) The document shall be forwarded to another delivery point in the country if it:

a) is to be served by organs of a delivery service and according to the regulations applicable to the carriage of such documents the forwarding is provided for;

b) is to be delivered by organs of the authority or the municipality and the other delivery point is known to the authority or the municipality or can be determined with simple aids.

2) Documents whose forwarding is excluded by a note affixed to them are not to be forwarded.

Art. 21

Deferral to the authority

1) Documents that cannot be served or are to be forwarded, or that have been served by deposit but not picked up, shall be returned to the authority.

2) The reason for the deferral must be noted on the document.

3) In case of deposit, a copy of the notification pursuant to Art. 19 par. 2 shall also be transmitted. Art. 24 paras. 3 and 4 shall apply mutatis mutandis.

Art. 22

Refusal to accept

1) If the addressee or a substitute addressee living in the same household as the addressee refuses to accept the document without a legal reason, the document shall be deposited at the delivery facility designated for the delivery point or, if this is not possible, it shall be deposited in accordance with Article 19 without the written notification provided for therein.

2) The document is then considered delivered.

3) If the deliverer is denied access to the delivery point, if the recipient denies his presence, or if he allows himself to be denied, this shall be deemed a refusal of acceptance.

Art. 23

Delivery to own hands

1) Documents to be delivered to the addressee for his own attention may only be delivered to the addressee or to a representative authorized to accept such documents or, in matters relating to the operation of a business, for the attention of an authorized signatory (collective authorized signatory) of the addressee.

2) If service is effected abroad by authorities of the State in which service is effected, it shall be sufficient to comply with those rules which the law of that State provides for the service of corresponding documents. This shall not apply if the application of these provisions would be incompatible with the fundamental values of the Liechtenstein legal system.

Art. 24

Proof of delivery

1) The delivery must be certified by the deliverer on the proof of delivery (delivery receipt, return receipt).

2) The recipient of the document must confirm the receipt on the proof of delivery by signing it and adding the date and, if he is not the recipient, his relationship to the recipient. If he refuses to confirm, the deliverer shall note the fact of refusal, the date and, if applicable, the close relationship of the acceptor to the addressee on the proof of delivery. The proof of delivery shall be sent to the authority without delay.

3) The electronic transmission of a copy may take the place of the transmission of the proof of delivery if the authority has not excluded this by a corresponding note on the proof of delivery. The original of the proof of delivery shall be kept for at least three months after transmission and shall be transmitted to the authority without delay upon its request.

4) If the technical requirements for this are available, the certification of service can also be made electronically. In this case, the transferee must sign on a technical device. The

The data concerning the certification of service shall be transmitted to the authority without delay.

Art. 25

Deposit without delivery attempt

1) If the authority has ordered on the basis of a statutory provision that a document is to be deposited without a prior attempt to serve it, it shall be kept available for collection immediately at the competent office of the delivery service in the case of service by a delivery service, but at the competent municipal administration or at the authority serving the document in all other cases.

2) The deposit shall be certified by the competent office of the service or by the municipal administration on the proof of service, or by the serving authority in another way.

3) The authority shall notify the addressee of the deposit and request him to provide another address for service within a period of 14 days or to name a person authorized to accept service (Art. 9). This notification may also be made by public announcement (Art. 28).

4) The deposited document must be kept for collection for at least 14 days.

This period begins on the day on which the document is first made available for collection. Deposited documents are deemed to have been delivered on the first day of this period.

Art. 26

Immediate compliance

1) The recipient can be issued:

a) documents ready for dispatch directly to the authority;

b) documents that the authority has transmitted to another service, immediately at that service.

2) The handover shall be certified by the authority or the service; Art. 24 par. 2 to 4 shall apply mutatis mutandis.

Art. 27

Delivery at the place of meeting

1) The recipient may be served at any place where he is found, if he:

a) is ready for acceptance; or

b) does not have a domestic delivery point.

2) The service shall be certified; Art. 24 paras. 2 to 4 shall apply mutatis mutandis.

Art. 28

Service by public notice

1) Service on persons whose place of delivery is unknown, or on a plurality of persons unknown to the authority, may be effected by publication in the official gazette that a document to be served is ready for delivery, unless the matter concerns criminal proceedings, no agent for service has been appointed, and no action is to be taken in accordance with Art. 8.

2) If the recipient is found to receive the document (Art.

26), unless otherwise provided by law, service shall be deemed to have been effected if 14 days have elapsed since publication in the Official Gazette. This legal consequence shall be pointed out in the publication.

Art. 29

Delivery without proof of delivery

1) If service has been ordered without proof of service, the document shall be delivered to the addressee.

by placing it in the delivery facility designated for the delivery point or, if this is not possible, by depositing it in accordance with Article 19 without the written notification provided for therein.

2) Service shall be deemed to have been effected on the third working day after delivery to the person to be served. In case of doubt, the authority shall establish the fact and the time of service ex officio. Service shall not be effected if the addressee or his representative within the meaning of Article 16(3) proves to the satisfaction of the authority that he was unable to become aware of the service within three working days, but service shall take effect on the day following the removal of the impediment.

3) In the case of professional representatives of parties, legal entities, partnerships and sole proprietorships, service shall be effective irrespective of the time at which the addressee or his representative within the meaning of Art. 16 Para. 3 becomes aware of the service.

IIa. Electronic service Art.

30

Scope

Unless the rules applicable to the procedure provide otherwise, electronic service shall be effected in accordance with the provisions of this chapter.

Art. 30a

Deposit of the qualified electronic delivery address

1) Any person may apply to the competent authorities for the registration of an electronic address for service in the Central Register of Persons (ZPR) for service by electronic collection (qualified electronic address for service).

2) An application under paragraph 1 may be submitted using an electronic identity (eID).

3) The Government shall regulate the details, in particular the competent authorities pursuant to subsection 1, by ordinance.

Art. 30b

Delivery with proof of delivery by electronic collection

1) In the case of service with proof of delivery by electronic collection, the authority shall make the document to be served available electronically for collection.

2) If the document is ready for collection, the authority shall immediately send an electronic notification to the qualified electronic delivery address. The electronic notification shall contain the following information in particular:

a) the date of dispatch;

b) the Internet address where the document to be delivered is available for collection;

c) the indication that the document is to be collected by entering the password stored in the eID register or by using the eIDA;

d) the end of the collection period; and

e) a reference to the date on which service takes effect.

3) Delivery shall be deemed to have been effected upon collection of the document. If the document is not collected within 48 hours of the notification being sent, a second electronic notification must be sent. If the document is not picked up within another 24 hours, delivery shall be deemed to have been effected.

4) The authority must ensure that documents held ready for collection can only be collected by persons who are authorized to collect them and have proven their identity and the authenticity of the communication with the password stored for the qualified electronic delivery address or with the eIDA. The recipient and, if this has not been excluded by the authority, a person authorized to receive the document are authorized to collect the document. The authority shall record all data on the notifications pursuant to paras. 2 and 3 and the collection of the document; the totality of these data shall constitute proof of delivery.

Art. 30c

Delivery without proof of delivery through electronic pickup

1) Service without proof of delivery by electronic collection may be effected to an electronic delivery address or a qualified electronic delivery address. The provisions of Art. 30b apply mutatis mutandis.

2) The data logged in accordance with Art. 30b Para. 4 last sentence shall not be considered as proof of assignment.

Art. 30d

Delivery without proof of delivery to an electronic delivery address

1) Deliveries without proof of delivery can also be made to an electronic delivery address.

2) The document shall be deemed to have been delivered at the time of receipt by the recipient. If there is any doubt as to whether or when the document was received by the recipient, the authority must establish the fact and time of receipt ex officio.

III. Final provisions Art. 31

Executive Orders

The Government shall issue the regulations necessary for the implementation of this Law, in particular on:

a) the delivery services and bodies;

b) the forms of delivery;

c) the equipment of the documents to be delivered;

d) the forms to be used for delivery;

e) the technical requirements necessary for the electronic transmission of a copy of the proof of service and for the storage and transmission of the data relating to the certification of service;

f) the establishment and operation of electronic delivery.

Art. 32

Change of designations; repeal of previous law

1) It is to be replaced, in each case in the grammatically correct form:

a) in Article 13(2) of the Local Publications Act, the words "by mail" shall be replaced by the words "by a delivery service";

b) in Article 11(2) of the Municipal Act, the words "by public announcement" shall be replaced by the words "by publication on the website of the authority";

c) in Article 15 of the Marriage Act, the phrase "at the domicile of both bride and groom" shall be replaced by the phrase "by publication on the website of the authority";

d) in Article 48quater, paragraph 1 of the Unemployment Insurance Act, the words "on the court notice board" shall be replaced by the words "by publication on the court's website";

e) in Article 15(1) of the Final Act, the words "the posting of the edict on the court notice board" shall be replaced by the words "the publication of the edict on the court's website";

f) in Art. 18(1) of the Lawyers' Act, Art. 20 of the Law on the Tariff for Lawyers and Legal Agents, Art. 52(1) of the Legal Assistance Act, the designation "document" shall be replaced by the designation "document";

g) in Article 15(2) of the Lawyers' Act, Article 11(2) of the Trustees' Act, Article 16(2) of the Patent Attorneys' Act and Article 10(2) of the Act on Auditors and Auditing Companies, the words "documents, image, sound or data carriers" shall be replaced by "documents, image, sound or data carriers (documents)";

h) in Art. 7 par. 4, Art. 12 par. 2, Art. 32 par. 2 and Art. 63 of the Act on Postal Improvements, the words "by messenger against receipt or by registered letter" and "by messenger or by registered letter against receipt" shall be replaced by the words "in accordance with the delivery law with proof of delivery";

i) in Article 5(1) of the Act on the Promotion of Potato Seed Breeding, the words "by registered letter or by the local sergeant personally against receipt" shall be replaced by the words "in accordance with the law on delivery with proof of delivery".

2) Art. 26 of the Commercial Code and Art. 22 of the Road Transport Code are repealed.

Art. 33

Entry into force

Subject to the unused expiry of the referendum period, this Act shall enter into force on 1 January 2009, otherwise on the day of promulgation.

VII. Service Ordinance (ZustV)

from 16 December 2008

on the service of official documents

Based on Article 31 of the Act of 22 October 2008 on the Service of Official Documents (Service Act; ZustG), LGBl. 2008 No. 3311, the Government decrees:

I. Physical delivery Art.

1

Proof of delivery

1) Each proof of delivery (delivery receipt, return receipt) must contain the following minimum information:

a) Business number of the document to be served;

b) Date of delivery;

c) Place of delivery;

d) Identification of the deliverer;

e) Name, signature and capacity of the transferee (consignee, representative of the consignee, substitute consignee).

2) Special circumstances, such as refusal to confirm acceptance, must be noted separately by the deliverer on the proof of delivery.

3) Systems for the electronic transmission of proof of service and for the electronic certification of service pursuant to Art. 24 paras. 3 and 4 of the Act may only be used with the approval of the Government.

Art. 2

Notification of the deposit

1) For the notification of the filing pursuant to Art. 19 Para. 2 of the Act, the form according to the Annex shall be used. In the fields marked with "< >" in the form, the relevant form of the information must be entered.

2) The notice of deposit shall be placed in the drop-off facility designated for the drop-off point or, if this is not possible, left at the drop-off point or affixed to the entrance door (apartment door, house door, garage door).

Art. 3

Information from the authority

The bodies entrusted with the execution of service shall inform the serving authority without delay about circumstances relevant to service which are known to them or become known to them on the occasion of an attempt at service; this includes in particular a longer absence of the addressee or a change of the address for service.

II. Electronic delivery Art.

3a

Deposit of the qualified electronic delivery address

The application for registration or change of a qualified electronic address pursuant to Art. 30a of the Act must be submitted to the Office for Information Technology using the online entry form.

Art. 3b

Establishment and operation of the electronic delivery service

1) An electronic delivery service shall be established for the electronic delivery of official documents pursuant to Articles 30b and 30c of the Act.

2) The government appoints an operator for the electronic delivery service.

3) The operator shall meet the technical and organizational requirements necessary for the proper operation of the delivery service. For this purpose, the operator must submit the following documents:

a) a security and operational concept showing in particular how delivery with proof of delivery is guaranteed by electronic collection in accordance with Art. 30b of the Act;

b) a sample of the contract that the operator intends to conclude with its customers;

c) Information on the design of barrier-free access to the delivery service and multilingualism.

4) It must provide annual evidence of the guarantee of data protection in accordance with data protection legislation and data security.

5) It shall support the technical interfaces and formats specified by the Office of Information Technology.

6) He has to provide:

a) electronically delivered documents to authorized persons and authorities

during 12 months;

b) other data of delivery to the authorized authorities during 24 months.

III. Final provision Art.

4

Entry into force

This Regulation shall enter into force on 1 January 2009.

VIII. Judges Appointment Act (RBG)

from November 26, 2003

I. General provisions Art. 1

Subject

1) This Act regulates the organizational requirements and the procedure for appointing judges in accordance with Articles 11, 95, 96, 101(1), 102(1) and (2) and Article 105 of the National Constitution.

2) Judges within the meaning of this Act are the judges of all ordinary courts (Regional Court, High Court, Supreme Court), the Administrative Court and the State Court.

Art. 2

Designations

The personal and functional terms used in this Act shall be understood to mean members of the male and female genders.

II. The Panel for the Selection of

Judges Art. 3

Composition

1) A special Judicial Selection Board (Board) is appointed to select candidates for appointment to a judicial vacancy. The chairman of the panel shall be the Reigning Prince.

2) The panel is composed of:

a) the sovereign;

b) one deputy from each electoral group represented in the Landtag; these are sent by the Landtag after each Landtag election for the term of office of the Landtag;

c) the member of the government responsible for the administration of justice;

d) a number of additional members equal to the representatives of the Diet; these shall be appointed to the body by the Reigning Prince for the term of office of the Diet after each election to the Diet.

Art. 4

Tasks

1) The Board shall be responsible for evaluating and selecting candidates for appointment as judges in accordance with Articles 11, 96, 101(1), 102(1) and 105 of the National Constitution and the provisions of this Act.

2) The Board may adopt rules of procedure for the further implementation of the statutory provisions on the appointment of judges. These rules shall be published in the official gazette of the province.

Art. 5

Right of proposal

1) In the case of judicial positions that are not publicly advertised, all members of the Board shall have the right to nominate candidates to the Board for the selection procedure in accordance with the criteria provided by law for advertising the judicial positions to be filled.

2) The panel shall consider whether a candidate nominated by members of the panel meets the criteria for judicial office provided by law for a particular judicial position and whether the candidate is personally qualified to hold the judicial office in question.

3) On the basis of this examination, the committee decides on a corresponding proposal to the Landtag.

Art. 6

Confidentiality of the consultations

1) The panel's deliberations on individual judicial nominees are confidential.

2) The members of parliament delegated to the body by the Diet may report confidentially to the Diet on the deliberations of the body with a view to dealing with this business in closed session. Likewise, the member of the Government responsible for the administration of justice may report to the Government on the deliberations in confidence.

Art. 7

Compensation of the committee members

1) The Prince Regnant and the member of the Government responsible for the administration of justice do not receive separate compensation for their work in the Board.

2) The compensation of the members of the Landtag delegated to the body er-

follows in analogous application of Art. 2 of the Act on the Remuneration of Members of the Diet and of Contributions to the Groups of Voters Represented in the Diet.

3) The remuneration of the members of the Board appointed by the Reigning Prince shall be paid in accordance with the provisions of the Act on the Remuneration of Members of the Government and Commissions and of Part-Time Judges and Ad Hoc Judges applicable to the members of Commissions.

III. Initiation of the selection procedure and procedure within the body Art. 8

Convocation and meetings

1) The committee is convened by the chairperson as needed.

2) In addition, the Board shall be convened at the request of the Government, which shall notify the Board in due time when judicial vacancies are to be filled.

3) The meetings of the panel shall be scheduled in such a way as to allow sufficient time for the evaluation of individual candidates, and so that judicial vacancies can be filled in a timely manner even if there is an understanding between the panel and the Diet, or if there is a popular election of judges.

Art. 9

Public tender

1) Full-time judgeships shall in any case be publicly advertised. The board may decide to put other judgeships out to public tender. The invitations to tender shall be issued by the government.

2) The government informs the board of the result of the public tender. The notification shall include a list of the applicants and the application documents.

3) Candidates who do not meet the requirements according to the advertisement may be highlighted separately by the government in its notification to the panel.

4) In the case of judgeships that are not publicly advertised, the nomi- nation of candidates is made by the members of the panel (Art. 5).

Art. 10

Consulting

1) The board shall deliberate on the candidates identified by public advertisement and those nominated in accordance with Art. 5 and may invite candidates for interviews.

2) In its deliberations, selection and decision-making on the nomination of candidates to the Diet, the Board shall be guided by the criteria for the appointment of judges provided for by law and, in the sense of the invitation to tender, by the principle of qualification. In addition, the body shall also examine the personal suitability of a candidate for the position of judge.

Art. 11

Vote and decision on the proposal

1) The decision of the body on the selection of candidates for certain judgeships to be proposed to the Diet for acceptance by election shall be taken by a simple majority of votes. The body shall constitute a quorum if at least three-fourths of its members are present. In the event of a tie, the Reigning Prince, as Chairman, shall have the casting vote. Candidates may be proposed by the body to Parliament only with the consent of the Reigning Prince.

2) In urgent cases or when routine business is involved, circular resolutions may be passed. For a circular resolution to be valid, the written consent of all body members is required for the resolution to be passed by circular. Paragraph 1 applies to the adoption of the resolution itself.

Art. 12

Proposal to the Diet

After the conclusion of a selection process, the panel notifies the Diet in writing of its proposal, gives reasons for its decision, and provides information on the qualifications of the proposed candidate. This report is public. The panel may also propose more than one suitable candidate to the Diet for selection for a judicial vacancy.

IV. Election of judges by the Diet Art. 13

Procedure for the election of proposed candidates

1) The Diet shall elect the judges to be appointed from among the candidates proposed by the panel by a simple majority vote.

2) The Diet shall notify the Prince Regnant and the Board of the results of the election.

3) The candidates proposed by the panel and elected by the Diet are appointed judges by the Prince Regnant.

Art. 14

Procedure in case of rejection of all proposed candidates

1) If the Diet rejects the candidates proposed by the panel pursuant to Art. 12, it shall immediately notify the panel of its decision.

2) The notification to the body shall contain the result of the vote. The notice shall be accompanied by an excerpt from the minutes of the relevant discussions in the public session of the Diet.

3) If no agreement can be reached between the body and the Diet on a new candidate within four weeks, then the Diet must propose an opposing candidate and call a referendum (Art. 96 par. 2 LV).

V. Election of judges by

popular vote

Art. 15

Arrangement of a popular election

1) If the Diet and the body cannot reach an agreement, the Diet shall notify the Government thereof for the purpose of holding a popular election without delay. The order for the popular election shall be published by the Government in the official gazettes.

2) The government shall set the date for the popular election by means of an official announcement in such a way that, for the submission of election proposals, it is possible to

The election shall in any case take place no later than four months after the official announcement. In any case, the popular election must take place no later than four months after the official announcement.

Art. 16

Candidates

1) The candidates standing for election are:

a) a candidate proposed by the panel;

b) an opposing candidate proposed by the state legislature;

c) any candidates proposed for election by the people.

2) The submission of election proposals by the people shall be governed by Art. 86a

of the Act on the Exercise of the People's Political Rights in National Matters.

Art. 17

Implementation of the popular election and appointment

1) The candidates standing for election shall be presented by the Government to the citizens of the Land entitled to vote by means of an information brochure. The brochure shall contain a description of the judicial position to be filled, the criteria for the appointment of a judge as provided by law, the conditions of the advertisement and information on the qualifications of each candidate relevant to the exercise of the judicial office in question.

2) The candidate who receives the absolute majority of the validly cast votes shall be deemed elected.

3) If more than two candidates are available and none of the candidates achieves an absolute majority in the first ballot, then a second ballot must be held on the two candidates who received the most votes in the first ballot in accordance with Art. 113 para. 2 LV.

4) The candidate elected by the people is appointed judge by the sovereign.

VI. Final provision

Art. 18

Entry into force

1) This Act shall enter into force on the day of its promulgation.

2) After the entry into force of this Act, the body for appointing judges shall be constituted for the first time.

3) The new appointment procedure for judges will apply for the first time after the expiry of the current terms of office for the individual courts.

IX.Law on the remuneration of the government

and the commissions as well as the part-time judges and the ad hoc judges of

December 17, 1981.

I. General provisions

Art. 1

Subject and designations

1) This law regulates the remuneration:

a) of the members of the Government and their deputies; subject to the provisions of the Salaries Act;

b) of the members of the commissions appointed by the Diet or the Government;

c) of part-time judges and ad hoc judges of the following courts:

1. State Court;
2. Administrative Court;
3. Supreme Court;
4. Superior Court;
5. Criminal Court;
6. Juvenile Court.

2) The designations of persons, professions and functions used in this Act shall be understood to mean members of the female and male sexes.

II. Members of the Government

Art. 2

Government

1) Members of the Government shall be entitled to reimbursement of expenses incurred by them in attending meetings and conferences abroad.

2) The deputies of the members of the Government shall be entitled to the same travel allowance and the same sitting allowance for attending the meetings of the Government as the members of the Landtag.

IIa. Members of commissions

Art. 3

Principle

1) Members of commissions appointed by Parliament or the Government shall be entitled to a meeting allowance (Art. 4) and to reimbursement of travel expenses (Art. 6) for attending meetings.

2) The presidents and chairmen of commissions shall receive an annual lump-sum compensation of between 1,000 and 20,000 francs, to be determined by the Government, for preparatory and preparatory work, half of which shall be paid in arrears at the middle and half at the end of the year.

2a) Time-intensive preparation and execution work shall be remunerated with an hourly compensation of 80 Swiss francs. Presidents and chairmen do not receive hourly compensation.

3) Special expenses are reimbursed according to the actual costs incurred.

4) Compensation specified in other laws is reserved.

Art. 4

Attendance fees

1) The meeting fees are 280 francs for a full day and 180 francs for a half day.

2) Half a day is counted up to four hours, the whole day up to eight hours. Only one attendance fee may be received for different meetings on the same day.

3) State and municipal employees who are appointed to a commission by the government within the scope of their duties shall not be entitled to attendance fees and compensation pursuant to Art. 3.

Art. 5

Special compensation

1) The Government shall be authorized to pay compensation that deviates from Art. 4 to members of the Commission residing abroad.

2) Parliament may fix compensation for members of commissions it has appointed that deviates from Articles 3 and 4.

Art. 6

Travel expenses

The persons named in Art. 3 shall be entitled to a travel allowance to be determined by the Government in analogous application of the Ordinance on Expenses.

IIb. Part-time and ad hoc judges Art. 6a

Principle

1) The part-time judges and the ad hoc judges of the courts referred to in Art. 1, para. 1, subpara. c shall be entitled to:

a) a meeting allowance for attending a meeting (Art. 6b);

b) a case fee for the settlement of a case (Art. 6c);

c) a reimbursement of expenses (Art. 6d).

2) To compensate for their expenses, they are entitled to a presidential allowance (Art. 6e):

a) the President of the State Court and his deputy;

b) the President of the Administrative Court and his deputy;

c) the President of the Supreme Court and his deputy.

Art. 6b

Attendance fees

1) The meeting fees are:

a) for judges with a certificate of education within the meaning of Art. 5 of the Lawyers' Act:

1. at the criminal court and the juvenile court: 800 francs for the whole day and 480 francs for half a day;

2. at the High Court: 1 000 francs for the whole day and 600 francs for half a day;

3. at the Supreme Court and the Administrative Court: 1,200 francs for the whole day and 720 francs for half a day;

4. at the State Court: 1,400 francs for the whole day and 840 francs for half a day;

b) for all other judges: 280 francs for the whole day and 180 francs for half a day.

2) In all other respects, Art. 4 Para. 2 shall apply mutatis mutandis.

Art. 6c

Flat rates per case

1) The case rates are:

a) at the criminal court and the juvenile court: 700 francs;

b) at the higher court: 1,400 francs;

c) at the Supreme Court and the Administrative Court: 2,100 francs;

d) at the State Court: 2 800 francs.

2) One third of the lump-sum case fees pursuant to para. 1 shall be paid in the case of cases that are easy to settle, and half of the lump-sum case fees pursuant to para. 1 shall be paid in the case of decisions in presidential cases.

3) In the case of cases which are difficult to settle, up to twice or, with internal written justification by the respective President, up to three times the flat-rate case fee pursuant to para. 1 may be paid. Notwithstanding the foregoing, Parliament may, at the justified request of a President, fix a separate lump-sum case fee for the settlement of a case that is extraordinarily difficult to settle.

4) The flat rates per case take into account:

a) the study of files;

b) the preparation of meetings;

c) the implementation of the unit;

d) the issuance of decisions, including preliminary and interim decisions as well as decisions on measures after the final hearing;

e) keywording and the preparation of leading sentences for final, legally binding decisions.

5) The classification into easy, average and difficult cases is made in the regulations according to Art. 6f para. 1 b).

Art. 6d

Reimbursement of expenses

1) Part-time judges and ad hoc judges are entitled to reimbursement of expenses for the following, applying mutatis mutandis the provisions for state personnel:

a) meals away from home, overnight accommodation and official travel;

b) business use of private telephone equipment;

c) Utilization of office supplies;

d) Photocopies and postage;

e) Representations.

2) Full-time judges who additionally serve as part-time judges or as ad hoc judges shall not be entitled to reimbursement of expenses pursuant to para. 1.

3) Retrieved

4) For special expenses, a special reimbursement may be established by Parliament upon the proposal of the Government.

Art. 6e

Presidential lump sum

1) The presidential allowance is annually:

a) at the state court:

1. for the President: 20,000 Swiss francs;

2. for his deputy: 7,000 Swiss francs;

b) at the Administrative Court:

1. for the President: 15,000 Swiss francs;

2. for his deputy: 3,000 Swiss francs;

c) at the Supreme Court:

1. for the President: 15,000 Swiss francs;

2. for his deputy: 3,000 Swiss francs.

2) The presidential allowance includes all expenses related to presidential activities, in particular:

a) the activities related to the budgeting and control of the compensation according to Art. 6f;

b) the performance of representative duties;

c) the completion of special tasks.

d) Retrieved

3) Judges who perform presidential duties on behalf of the persons referred to in paragraph 1 shall be paid the presidential allowance pro rata temporis. The presidential allowances referred to in para. 1 shall be reduced accordingly.

Art. 6f

Budgeting and control

1) The presidents of the respective courts are responsible for:

a) the budgeting of compensation;

b) the issuance of regulations on the classification of cases into easy, average and difficult cases. These regulations shall be brought to the attention of the Government and the Finance Commission of the Diet;

c) the classification of a settled case as simple, average or difficult and the issuance of an order to that effect at the request of the judge concerned;

d) confirming the accuracy and completeness of the compensation settlement forms and compliance with the regulations by signing them and forwarding them to the Office of Personnel and Organization;

e) monitoring the budget and supplementary budgets approved by the Diet and the other obligations under the provisions of the Finance Budget Act.

2) In the event of a personal interest, the duties pursuant to subsection 1(c) and (d) shall be performed by the deputy of the respective president.

Art. 6g

Accounting and payment of compensation

1) Compensation statements must be submitted to the Office of Personnel and Organization:

a) in the case of attendance fees, flat-rate case fees and reimbursement of expenses: at least quarterly;

b) in the case of presidential lump sums: at the end of each year or, for judges under Art. 6e, para. 4, after the end of their service.

2) The compensation is paid to the entitled person after the Office of Personnel and Organization has checked the arithmetic of the respective statement.

Art. 6h

Appeals

1) An appeal may be lodged in writing within 14 days of service against orders of a President pursuant to Art. 6f para. 1 letter c.

2) The decision on complaints under paragraph 1 is incumbent on:

a) in the case of single judges of the regional court, a senate to be composed of three regional judges;

b) at the Supreme Court to a senate to be formed from the three senate presidents;

c) in all other cases, to the respective Court or Senate.

3) Decisions under paragraph 2 are final.

III. Final and transitional provisions Art. 7

Repeal of laws

Upon the entry into force of this Act, the Act on Daily Allowances and Travel Compensation as amended by the Act of November 21, 1961, LGBl. 1962 No. 1, and the Act of May 23, 1969, LGBl. 1969

No. 31, repealed.

Art. 8

Transitional law

The compensation accrued in 1981 is based on previous law.

Art. 9

Entry into force

This Act shall enter into force on January 1,

1982.