THE CODE OF CIVIL PROCEDURE

OF THE REPUBLIC OF ALBANIA

Based on article 16 of Law No. 7491, dated 29.04.1991 "For the Main Constitutional Provisions", upon the proposal of the Council of Ministers,

PEOPLE'S ASSEMBLY OF
THE REPUBLIC OF ALBANIA

PART ONE

GENERAL PART

TITLE I

GENERAL PRINCIPLES OF THE LEGAL PROCESS

Article 1

The Code of Civil Procedure of the Republic of Albania determines obligatory, identical and equal rules for the trial of civil disputes and other disputes provided in this Code and in specific laws.

The court cannot refuse to consider and make decisions on issues, which are presented to it for consideration, on the ground of lack of law, it being incomplete, contradictory or unclear.

Article 2

Only the parties can set the court in motion for starting a legal process, unless the law provides otherwise.

The parties are free to withdraw the lawsuit at any time, but always before it is terminated due to the effect of the trial or on basis of the law.

Article 3

The request of the parties for the start of legal proceedings is related to the fulfillment, on their part, of obligations that result from those proceedings, in the forms and time-periods provided in this Code.

Article 4

The court takes care for the due development of legal proceedings. On basis of authority given by this Code, the court decides on the time-periods and orders the necessary measures to be taken.

Subject of Dispute

Article 5

The subject of the dispute is determined in the claims of the parties.

The claims are presented in the act initiating legal proceedings as well as during the exercise of the rights resulting from such proceedings. The subject of the dispute may change in conformity with requests emerging during the proceedings, when such requests are sufficiently related to the initial claims.

Article 6

The court which tries the dispute must express an opinion on anything requested and only on what has been requested.

Facts

Article 7

A fact is considered any behavior of a person, social event or natural phenomena, which is charged by the law with legal consequences.

Article 8

The parties have the obligation to present the facts on which they base their claims.

Article 9

The court invites parties to give explanations on the facts it considers necessary for the solution of the dispute.

Article 10

The court bases its decision only on the facts, which have been presented during the legal proceedings.

Evidence

Article 11

Evidence is data which is taken in the form provided in this Code and which prove or invalidate the claims or recourses of the parties in the proceedings.

Article 12

The party which claims a right has the obligation to prove, in conformity with the law, the facts on which it supports its claim.

Article 13

It is not necessary to prove publicly or officially known facts.

Facts, on which there exists a legal assumption, must not be proved by the party on whose favor the assumption is.

Article 14

The court has the duty to perform a full and comprehensive court investigation in conformity with the law.

Article 15

The parties are obligated to render their assistance for the normal development of the court investigation. The court charges them with responsibility in case of guilty omission or obstruction on their part.

The right

Article 16

The court resolves the dispute in conformity with legal provisions and other norms in force, which it is obliged to apply. It makes an accurate evaluation of the facts and actions related to the dispute, without being bound to the determination, which may be proposed by the parties.

Nevertheless the court cannot change the legal basis of the lawsuit without the request of the parties.

Article 17

The court invites the parties to give explanations from the legal viewpoint, which it considers necessary for the settlement of the dispute.

Adversarial Procedure

Article 18

No party can be tried without being heard or without being summoned to trial.

Article 19

The parties must make known to each other, in due time, the means and the facts on

which they base their claims, the evidence they shall present and the legal provisions they shall refer to, in order to make it possible for each party's interests to be defended in trial.

Article 20

The court must itself abide by the adversarial principle and must request this principle be applied.

It supports its decision only on the means, explanations, documents and other evidence shown or brought by the parties, when the latter have been in a position to debate in conformity with the adversarial principle.

Article 21

When the law allows and the circumstances of the case dictate the taking of a court decision, independently from the knowledge of one party, the latter has the right to appeal in a court way against the decision made.

Defense

Article 22

The parties may defend themselves, except for the cases when representation is mandatory.

Article 23

The parties are free to set up the defense of their interests in trial through representation or through any other legal assistance, in conformity with provisions in force.

Article 24

The court always hears the parties directly, unless the law provides otherwise.

Reconciliation of parties

Article 25

It is a task of the court to make efforts to reconcile the parties in dispute.

Public character of court process

Article 26

The court sessions are open, unless otherwise provided in this Code.

The court may not allow the participation of mass media when it estimates that such participation is not to the benefit of the case.

Use of Albanian language in trial

Article 27

The Albanian language is used in all trial stages.

Persons who do not know Albanian language, use their own language. They receive knowledge on the evidence and for the whole development of the trial through the interpreter.

The court in civil legal proceedings

Article 28

The court must express its opinion on all the requests presented in the lawsuit, without surpassing its limits, and based on the right and on the principle of impartiality.

Article 29

1 The court bases its decision on the evidences presented by the parties or by the attorney, taken in court session.

The court evaluates the evidences which are in the acts and on basis of its inner conviction, formed by the consideration of the circumstances of the case in their entirety.

Publication of the final decision

Article 30

When it is appraised that the publication of the final decision serves to the reparation of damage, the court, on the request of the interested party, orders the publication of the decision in one or more specified newspapers.

When the notice is not given within the time-period determined by the court, the party, in whose favor the decision was made, has the right to request publication at the cost of the person obligated.

TITLE II
LAWSUIT

Article 31

Filing a lawsuit is the right of a person, who raises the claim, to be heard on the foundation of such a claim, in order for the court to declare it based or not.

The lawsuit gives the right to the opposing party to discuss the foundation or legal basis of such a claim.

Article 32

A lawsuit is initiated when the person has a legal interest in the acknowledgement or rejection of the claim.

Article 33

No lawsuit can be initiated by a person who lacks juridical capacity to act.

Article 34

The person who abuses the right to initiate a lawsuit, while being conscientious of its being unfounded and not based on law or uses deceit, may be punished by the court with a fine of up to 50 000 lek, without taking into account compensation for damages that might be requested.

TITLE III
THE COURT, JURISDICTION AND POWERS

CHAPTER I
COMPOSITION OF THE COURT

Article 35

The district court tries by means of a panel composed of one judge and two assistant judges, in conformity with the subject matter authority provided in this Code.

The Court of Appeal and the Court of Cassation, as a rule, try civil disputes by means of a panel composed of three judges.

CHAPTER II
JURISDICTION

Article 36

All civil disputes and other disputes provided in this Code and in specific laws fall under the jurisdiction of the courts.

Civil court jurisdiction is exercised in conformity with the provisions of this Code and other laws.

No other institution has the right to accept for consideration a civil dispute which is being tried by the court.

Any agreement entered into contrary to this provision is invalid.

Article 37

Jurisdiction of Albanian courts cannot be transferred to a foreign jurisdiction by agreement, except for when the trial is related to an obligation between foreigners or between a foreigner and an Albanian citizen, not dwelling or residing in Albania and when such exemptions have been stipulated in the agreement.

Article 38

The Albanian court does not cease or suspend trial of a dispute, when the latter or an other issue related to it is being tried by a foreign court.

Jurisdiction on consular and diplomatic missions

Article 39

Members of consular and diplomatic missions residing in Albania are not subject to the jurisdiction of Albanian courts except when:

a. they accept voluntarily,

b. the subject of the lawsuit has to do with immovable objects situated in the Republic of Albania.

Article 40

Civil jurisdiction of the Albanian courts does not extend to the representatives of other states and to their accompanying group, when they are staying in the Republic of Albania upon an official invitation

CHAPTER III
POWERS

A. SUBJECT MATTER POWERS

Article 41

All civil disputes and other disputes provided in this Code and other laws fall under the powers of the district court.

B. TERRITORIAL AUTHORITIES

Article 42

Lawsuits are brought in the court of the place where the defendant has its domicile or its residence, and in those cases when it is not known, at the court of the place where he has a temporary residence.

When the defendant has neither a domicile, residence nor temporary residence in the Republic of Albania, the lawsuit is brought at the court where the plaintiff has its residence.

Article 43

When the defendant is a legal person, the lawsuit is initiated at the place where the legal person has its seat.

Lawsuits which result from a legal relationship with a local branch or agency of the legal person may be brought also in the court where this branch or agency has its seat as well as in the court of the district where the legal person has a building in which he conducts its activity or a person authorized to appear in the court for the lawsuit.

Article 44

Lawsuits against minors, who have not reached the age of fourteen years or against persons who have been totally deprived of the capacity to act, are brought in the court where their legal representative has its residence.

Article 45

Lawsuits on real rights to immovable objects, and on the division of common objects and possession are brought in the court of the place where these objects are or where their greater part is located.

Lawsuits resulting from denouncement of a new work and of a possible damage are brought in the court of the place where the action on which the lawsuit has been brought took place.

Article 46

Lawsuits resulting from inheritance, lawsuits on invalidity of testament and those on division of inheritance are brought in the court of the place where the person leaving the inheritance has had his latest residence and, when the residence is not known, in the court of the place where all the properties or its greatest part are.

When the person leaving the inheritance is an Albanian citizen and at the time of his demise did not have a residence in the Republic of Albania, lawsuits as provided in the first paragraph may be brought in the court of the place where the person leaving the inheritance has had his last residence in Albania or in the court of the place where the greater part of his properties are situated. In case the person leaving the inheritance did not have any last residence, or property in the Republic of Albania, the above mentioned lawsuits are brought in the court of the capital city.

Article 47

Lawsuits on the demand for sustenance and lawsuits resulting from labor relations may be brought either in the court where the defendant has his residence or in the court where the plaintiff has his residence.

The lawsuit on the termination or reduction of the decided sustenance is brought in the court of the place where the plaintiff has his residence.

Article 48

Lawsuits resulting from damage may be brought either in the court of the place where the plaintiff has his residence or in the court of the place where the damage has been caused.

When compensation for damage caused by death or impairment of health is requested, the lawsuit may also be brought in the court of the place where the plaintiff has his residence.

Article 49

Lawsuits, requesting enforced execution on things, are brought in the court of the place where these things are or the greatest part of their value is.

Lawsuits requesting enforced execution on performance of or omission to perform a

certain action are brought in the court of the place where such enforcement must be fulfilled.

Article 50

Lawsuits having as subject the objection of actions performed by the sheriff for enforced execution are brought in the court of the place of execution.

Article 51

Lawsuits on proving the existence or non-existence of marriage, on annulment of marriage and on its dissolution, may be brought either in the court of the place where the spouses had their latest common residence or in the court of the place where the defendant has his residence. When the defendant does not have a domicile, residence or temporary dwelling in the Republic of Albania, the lawsuit is brought in the court of the place where the plaintiff has his domicile, residence or temporary dwelling, and when even the plaintiff does not have one of them, the lawsuit is brought in the court of the capital city.

Article 52

Territorial authority may be changed by written agreement of the parties, except for the cases provided in Articles 45 and 46 of this Code, and when the law prohibits such an agreement.

Article 53

When there are several defendants, who have their domicile or residence in different places, the lawsuit may be brought in the court of the place where each of the defendants has his domicile or residence.

Article 54

The right to choose between several competent courts rests with the plaintiff and is exercised through the bringing of the lawsuit.

C. CHANGES OF COMPETENCIES DUE TO CONNECTION BETWEEN DISPUTES

Article 55

The court which tries the main lawsuit has the authority to consider also the secondary requests, the counter-lawsuit or the main intervention. In this case, the court decides to join them in a single case.

Article 56

The court which has authority to consider the dispute, upon the request of the parties, may decide to transfer the case to another court which also has authority only when:

a- In the other court, the dispute may be settled faster and easier rather than in the court chosen by the plaintiff;

b- The request of the defendant is regarded as appropriate, and whose resident was not known, with regard to the trial of the dispute in the court of the place where he has the present residence.

Article 57

Lawsuits against several defendants that are reviewed by the court by different adjudicating panels, when connected among them with regard to the subject, may be joined into a single case and considered by the court of the place of the residence of one of the defendants.

Article 58

When at the same court, or at different courts, disputes between the same parties are reviewed at the same time, and have the same cause and subject, the court decides to cease the trial of the disputes presented after the one first registered one.

D. OBJECTION TO THE JURISDICTION AND TO THE COMPETENCE

Article 59

The court, at any phase and level of the trial, and even on its own, considers whether the case under review falls under court or administrative jurisdiction.

Separate appeal may be presented to the Court of Cassation against the decision issued for such a case.

Article 60

When a state institution claims that the dispute accepted by the court for review falls under the administrative jurisdiction, the dispute is settled by the Court of Cassation upon the request of the state institution or the attorney.

The initiated trial is suspended until the decision on the settlement of the dispute on jurisdiction is issued. The court may take only measures with regard to insuring the lawsuit and conduct emergent procedural actions.

Transfer of the case to competent court

Article 61

When the court finds that is not competent to try cases upon its own initiative or the request of the parties, decides that the case does not fall under its competence, transfers materials to the competent court.

Article 62

Against the decision of the court that has issued its lack of competency to try the dispute, as well as against its decision based on Article 60 of this Code, a particular appeal may be raised to the Court of Cassation by the parties and the prosecutor.

The appeal suspends the trial

Article 63

According to the Article 62 of this Code upon filing of the appeal, the trial of the case is suspended and the court might conduct only emergent procedural actions.

The Court of Cassation reviews the appeal not later than thirty days from the day of the filing of the case.

The Court of Cassation, on its decision to regulate the competency, gives the necessary instructions for the court process that has taken place, and on its continuation by the court which declares itself as competent.

Obligation to accept a case for trial

Article 64

The case, which is sent for consideration from a court to another one of the same level or by a higher court, should be accepted and reviewed by the court to which the case is sent.

Conflicts between the courts regarding authority are not permitted, but the court, without interrupting the trial of the case, has the right to present its attitude to the Court of Cassation which decides on regulating authority.

CHAPTER IV
RULES ON THE DETERMINATION OF THE VALUE OF THE LAWSUIT

Article 65

The value of the lawsuit is estimated at the moment of its filed to the court. Requests presented in the same process against the same person are put together including matured interest, expenses and claimed damages.

When it is requested by several persons or against several persons, the fulfillment of an obligation by shares, the value of the lawsuit is determined by the entire obligation.

Article 66

The value of the lawsuit related to the existence, validity or dissolution of a legal relation of obligation is determined on basis of that part of the ratio which is under dispute.

If the lease contract of immovable things has terminated, the value is determined on basis of the amount of requested rent, but if there are contests on the continuation of the lease contract, the value is determined by adding up the lease payments for the contested period.

On a division of property the value is determined by the value of the requested part.

Article 67

In case of request for a periodic sustenance obligation, when title is objected, the value is determined on basis of the total amount which should be given over two years.

In cases related to life rents, when title is objected, the value is determined by the sum of the values for twenty years, whereas in case of temporary rents, the value is determined by the annual sums requested for up to ten years.

Article 68

When a sum of money or a movable thing is requested, the value is determined on basis of the indicated amount or, of the declared value by the plaintiff. In the absence of the indication or declaration, it is accepted that the determination of the value is a competence of the court.

The defendant may object the value declared or assumed as above, but only at the beginning of his defense.

Article 69

When an immovable property or real rights on it are requested, the value of the lawsuit is determined by the real value of the property or, requested rights.

Article 70

The value of the lawsuit objecting the obligatory execution is determined by the pretended credit for which the lawsuit is filed. The value of the lawsuit of a third person who objects the obligatory execution depends on the value of the things for which the objection is made.

CHAPTER V
DISMISSAL OF JUDGE, REQUEST FOR DISMISSAL

Article 71

Criteria to be nominated as a judge are determined by law.

Cases for dismissal of the judge

Article 72

The judge is obliged to withdraw from a case when:

1. he has an interest in the case or in another dispute which is related to it in the trial.

2. he or his spouse has kin relations to the fourth degree or in-law to the second degree, or is related by obligations of child adoption, or lives together in a permanently with one of the parties or attorneys.

3. he or his spouse is in legal conflict or in enmity or in relations of credit or loan with one of the parties or one of the representatives.
4. he has given advise or has expressed opinion on the case in trial or has participated in the trial of the case in a different level of the process, has been questioned as a witness, as expert or representative of one or the other party.
5. he is guardian, employer of one of the parties, administrator or has an other task in an entity, association, society or other institution which has interests in the case in trial.
6. in any other event when, according to concrete circumstances, serious reasons for partiality are verified.

The request for resignation is presented to the chairman of the respective court who decides. The chairman of the Court of Appeal decides on the presentation of the resignation of the chairman of the district court, and the Chairman of the Court of Cassation decides on the request of the chairman of the Court of Appeal.

The parties are notified on the content of the request.

Resignation of judge from trial of case
Article 73

The judge who on his conscience assesses that there are reasonable causes not to take part in the revision of a case, requests the chairman of the court to be replaced. If the chairman of the court considers the request justified, he orders his substitution with another judge of that court.

Procedure for dismissal of the judge
Article 74

In cases where the resignation of a judge is mandatory, each of the parties may request his dismissal.

The request, signed by the respective party or his representative, should be deposited with the secretariat of the court when the name of the judge or judges who adjudges the case have been announced, or otherwise immediately after the announcement of the judge or judges who shall try the case.

The later submission of the request is permitted only when the party has been notified later on the grounds of the dismissal, or when during the exercise of his functions the judge has expressed biased opinion and in an inappropriate manner on the facts and circumstances subject of the trial, but nevertheless not later than three days from receiving notice.

The request must contain the grounds for dismissal, documents and other evidence available.

The judge should make known in writing his position on the grounds of dismissal. A copy of the request for dismissal should be notified to the judge.

Its submission suspends the court process.

Authority to examine the request
Article 75

The Court of Appeal decides on the request for the dismissal of judges of the District Court; a different college of the Court of Appeal decides on the dismissal of Appeal Court

judges; and a college of the Court of Cassation, different from the one in which the judges who are requested to be dismissed sit, decides on their dismissal.

The decision is given after the respective judge has been notified and if that is the case after the given evidence has been reviewed.

The issued decision cannot be appealed.

Sanctions on the request declared unacceptable
Article 76

The request for dismissal is considered unacceptable when it has not been made in the way and time-periods provided for in Article 74 of this Code.

The decision which declares the request unacceptable, or which does not accept the dismissal of the judge, contains the relevant court fees as well as a fine of up to 5 000 lek to the party or its representative who guiltily have presented an unjust appeal.

CHAPTER VI
COURT SECRETARIAT

Tasks of court secretary
Article 77

For all effects, in the instances and manners provided by law, the court secretary files proper activities of the court, the parties and other participants in the process.

The secretary is present in all activities of the court on which the record should be held.

The secretary issues copies and authentic extracts of the compiled documents, registers the cases being handled, creates the court files by inserting in documents or copies certified in conformity with the law and immediately marks the date of deposition, keeps them, compiles the communications and the notices provided by law or by the court and other tasks related to the court process.

Court clerk
Article 78

The court clerk participates in the court session and takes measures for the implementation of orders, follows the procedure for the notification of the acts and performs either tasks related to the court process.

Responsibility for damage caused
Article 79

The court secretary is charged with civil responsibility, for the damage caused to the parties according to the provisions in force, when without justified reasons he renounces from the filling in the acts as required by law or does not perform such actions within the determined time-periods, that have been fixed by the respective court upon the request of the parties.

CHAPTER VII
EXPERT

Article 80

When specific knowledge in the field of science, technology or art is requested for the assessment or clarification of facts related to the dispute in trial, the court will call one or more experts.

Experts are selected from among persons registered in special lists and in conformity with the rules determined in this Code.

Article 81

The expert gives his opinion in writing, but may be heard in a court session and be asked by the court and the parties.

The opinion of the expert is not mandatory for the court and when the court has a dissenting opinion with that of the expert, it must reason in details such an opinion in the final decision or in the decision given during the trial.

It is not up to the expert to give a juridical opinion.

Article 82

The expert is obligated to fulfil the tasks given by the court except for when he presents justified grounds which are accepted by the court.

The failure of the expert to appear in court without legitimate grounds, causes his bringing to the court by enforcement.

The dismissal of the expert from his participation in trial is made when the conditions provided in Article 72 of this Code are met.

Responsibility of the expert

Article 83

The expert bears responsibility in conformity with the Penal Code in case he refuses to perform the task he has been given to him or performs a false expertise.

The expert is obligated to compensate damages, which have been caused to the parties or other participants in the process because of his guilt.

TITLE IV
ATTORNEY

Right to exercise civil lawsuit

Article 84

The attorney exercises the civil lawsuit in the instances provided by the law.

Right to participate in the trial of cases
Article 85

The participation of the attorney in the trial of cases is mandatory in:
- lawsuits related to the condition and capacity of persons to act;
- lawsuits related to interests of minors when they are under guardianship;
- cases considered by the Court of Cassation;
- cases as provided by law.

Article 86

The court, which reviews cases from those provided in Article 85 of this Code, orders the notification of the acts to the attorney's office in order for it to have the possibility to participate in trial.

Procedural rights of the attorney
Article 87

The attorney, when participating in trial, has the same procedural rights as those enjoyed by the parties in conformity with the law.

The attorney cannot perform actions, which constitute disposal of the lawsuit as well as beyond the requests presented by the parties.

Article 88

The attorney has the right to appeal against the decision of the court in those cases he has brought the lawsuit or in the trial he has participated. The time-period for the appeal starts on the announcement of the decision.

Article 89

The person, in whose interest the attorney has brought a lawsuit, may participate as a party at any stage of the trial of the case.

TITLE V
LODGING OF LAWSUIT

CHAPTER I
PARTIES

Definition
Article 90

Parties on a civil trial are physical or juridical persons on behalf of or against whom the

trial takes place.

No one may represent the rights of others in a civil trial, unless otherwise is provided by the law.

Capacity to act

Article 91

Persons that freely exercise their rights, which should be respected by others, have capacity to act in a civil trial.

Persons who do not have the capacity to act in a civil trial may participate in trial only when they are represented in conformity with provisions regulating their capacity.

Representation in trial

Article 92

Juridical persons participate in trial through his representative in conformity with legal provisions.

Article 93

Persons, having capacity to act, may perform all procedural actions themselves except when law provides differently.

Article 94

When the person, who must be represented in trial in conformity with the second paragraph of Article 91 of this Code, is absent and there are justified reasons which require a quick performance of certain procedural actions, a special guardian may be appointed until the case is attended by the person who is designated to represent him.

It is acted in the same way for the designation of a special guardian for the represented person when there is a conflict of interest with the representative.

Article 95

No one can make valid on his name the right of another person in a civil legal process, except when expressly provided by law.

CHAPTER II
DEFENDERS

Providing the attorney with power of attorney

Article 96

When parties are represented in trial by an attorney, he should be given the power of attorney. The power of attorney may be general or specific. It is made in writing according to the provisions of the Civil Code as well as orally in front of the court, which reviews the dispute.

Rights of attorney in trial

Article 97

When the parties are represented in trial by an attorney, he may perform and acquire in the interest of his party all acts necessary for the process, which are not prohibited by law.

In any event he may not perform acts which bring about a possession of right, except for the cases when he has expressly gained such right.

Repeal and renunciation of power of attorney

Article 98

The represented may repeal the power of attorney at any time and the attorney may resign at any time from it, but the repeal and the resignation are not effective for the other party unless the substitution of the attorney is made.

Article 99

The party or the person representing it, when he has the necessary attribute to exercise the right of the attorney through the power of attorney, may appear in trial without the presence of any other attorney, except for when the law provides differently.

CHAPTER III
TASKS OF PARTIES AND OF ATTORNEYS

Article 100

Parties are obligated to sustain the respect dictated by the legal process.

The court, according to the gravity of the breach, takes measures against in conformity with the rules provided for in this Code.

Article 101

Parties and their representatives should not use inappropriate or offending expressions in the documents presented to the court and in the discussions during the legal process.

The court may order inappropriate or offending expressions to be stricken in any phase of the trial and in its final decision may assign in favor of the offended person and charge the author of the offence or of the inappropriate expressions an amount of lek as compensation for non-property damage when the offending expressions are not related to the subject of the dispute.

CHAPTER IV
RESPONSIBILITY OF PARTIES FOR EXPENSES DURING THE LEGAL PROCESS AND DAMAGES DURING THE LEGAL PROCESS

Composition of court expenses

Article 102

Court expenses consist of fees on acts, expenses for the acts made, as well as other expenses necessary for the trial.

The fee on acts is determined by law.

Article 103

When the subject of the lawsuit is reduced, the fine of the paid acts for the lawsuit is not returned whereas when the subject of the lawsuit increases part is fined.

Way of determination

Article 104

When the value of the lawsuit is not determined or when the determined value has obvious differences with the real value, the court determines the value of the lawsuit in conformity with the rules provided in this Code.

If it is difficult to determine the value of the lawsuit in the time the lawsuit is brought, the fine on acts is determined by the court in an approximate way. If in the announcement of the decision the value of the lawsuit is higher or lower than the value determined by the court, additional tax is requested or the excess amount collected is returned.

Payment in advance of court expenses

Article 105

Expenses for witnesses, experts and for the examination of things or the examination of place are paid in advance by the party who has requested them to the amount determined by the court. But the court, considering the circumstances of the case and the situation of wealth of the parties, may appoint one or both parties to pay their expenses irrespective whom of them has requested the testimony of witnesses, the performance of expertise or examination.

Which party is charged

Article 106

In its final decision the court charges the party whose lawsuit has been dropped to pay court expenses in conformity with Article 102 of this Code, including also the payment for one attorney.

If the lawsuit has been partially accepted, expenses are paid in proportion to the accepted or refused part of the lawsuit.

The defendant has the right to request payment of expenses incurred even when the cessation of the trial has been decided.

Expenses are described, calculated and recorded by the court secretary and attached to the decision. Expenses for sending notice of the decision are added to that amount.

Article 107

The party who, with the aim of unjustified delay, causes the postponement of the trial of the case is charged with the expenses made for such postponement.

When the defendant, through his behavior, has not given cause for the bringing of the lawsuit, court expenses are charged to the plaintiff even if the lawsuit is accepted.

Article 108

When the dispute is settled through reconciliation, expenses are charged to each party except when an agreement exists to the contrary.

Article 109

A third person who makes secondary intervention is not charged of court expenses.

Article 110

A separate appeal can be made for erroneous calculation of fines on acts and other court expenses.

CHAPTER V
LEGAL MEANS OF DEFENCE

Appeal
Article 111

Appeal is the act through which parties or participants in the process present objections to decisions of the court and actions of the sheriff in order to defend their rights and interests.

Recourse
Article 112

Recourse is the act by which parties or other participants in the process present their objections to the decision of the court of the district and the decision the Court of Appeal to the Court of Cassation, in conformity with the rules provided in this Code.

Request for review
Article 113

The request for review is the act by which the review of an final decision of the court is requested, upon the conditions provided for in this Code.

Objection of the third party
Article 114

Objection of the third party is the act through which a third person, under the conditions

provided for in this Code, objects the final decision of the court when his rights have been violated.

TITLE VI
PROCEDURAL ACTS, NOTICE AND TIME-PERIODS

CHAPTER I
FORMS OF THE ACT

Form and language of act's drafting

Article 115

Procedural acts, for which the law does not require specific forms, may be made in the most beneficial form to achieve their aim.

Article 116

Procedural acts are written in the Albanian language.

The court calls a translator when persons giving their testimony do not know the Albanian language or for the translation of documents written in a foreign language.

The translator who does not appear without legitimate grounds is enforced to come. He has civil and criminal responsibility like the expert.

Content of procedural act

Article 117

Unless otherwise provided for by the law, the subpoena to the trial, the request to sue, the counter-lawsuit should indicate the court, the parties, the subject, the legal grounds of the request and the conclusions as well as the date of drafting and should be signed by the party which presents the act or by its representative both in original and copies for notice.

Article 118

The court record should indicate the persons who participate in the actions on which the act is made, the circumstances of the place and time in which the act is made, description of activity performed, and facts as well as declarations. In the record is also reflected the content of recording tapes, slides, films which are attached to the documents of the case.

The court record is signed by the secretary and the judge. If there are other persons present and unless otherwise provided for in this Code, the secretary reads to them the records and invites them to sign. When any of them cannot or does not wish to sign, he expresses this position in writing.

CHAPTER II

INVALIDITY OF ACTS

Proclamation of invalidity

Article 119

The procedural act, which has not been made in the form expressly required by the law, should be proclaimed invalid.

The act should also be proclaimed invalid when it lacks the essential data for the achievement of its aim.

The invalidity cannot be proclaimed when the act has achieved the aim for which it is destined.

Article 120

The invalidity of a procedural act cannot be proclaimed without the request of the party, unless otherwise provided by the law.

Only the party on whose interest the request has been made, may object the invalidity of an act due to the lack of the request itself.

Invalidity cannot be objected neither by the party who has presented it nor by the one who has tacitly given up.

Partial invalidity

Article 121

The invalidity of an act is not relevant with regard to previous acts when they are independent from it.

The invalidity of a part of an act does not affect the other parts which are independent.

When the shortcoming of a procedural act hinders a certain effect, the other effects produced resulting from it, for which it has been made, are valid.

Invalidity of notice

Article 122

Notice is invalid when the provisions related to the manner and the person to whom a copy of the act should be delivered are not applied, or when there is full uncertainty as to the person or the date of such notice.

Invalidity of court decisions

Article 123

The invalidity of court decisions, which might be reviewed by the Court of Appeal or on which a request may be made in the Court of Cassation, is assessed within the limits and the rules determined for these means of objection.

Renewal of the act

Article 124

The court which proclaims the invalidity of a procedural act, when possible, should take

action for the complete or partial renewal of the act.

When the invalidity of the procedural act is a consequence of the guiltiness of the secretary, sheriff or attorney, the court, through a decision, charges the responsible person for the renewal of the act.

On the request of the damaged party, the court, on the decision ruling the dispute, obligates the responsible person to compensate the damage caused by the invalidity in conformity with the rules provided for in Article 79 of this Code.

CHAPTER III
DECISIONS OF THE COURT

Intermediary decisions
Article 125

Intermediary decisions are given by the court in court session with the purpose of ensuring the conduction of the trial in conformity with the provisions of this Code.

Final decisions
Article 126

The final decision is given by the court at the end of the trial to settle the case fundamentally.

The final decision as well as decisions, which conclude the court civil process as provided by in article 127 of this Code, are issued "On the behalf of the people" and each one should contain the legal basis on which the settlement of the dispute is based, the analysis of evidence and the manner of the settlement.

Non-final decisions
Article 127

Non-final decisions are the decisions that cease the case by which the court or the judge, in cases provided in this Code, terminate the court civil process without settling the case fundamentally as well as any other decision, which without settling the case fundamentally, terminates the initiated court proceeding.

CHAPTER IV
NOTICES

Writ
Article 128

The summons to the court is made through means of a writ which, as a rule, is notified by court clerk.

Article 129

The writ should contain the court which has issued it, the name and surname of the person summoned, time and place of the court session, the dispute on which summons are called on, as well as the legal consequences in case the person summoned does not appear before the court.

Rules for the announcement of acts
Article 130

Notification, unless otherwise provided for, is made by means of the delivery of a copy of the act by the court clerk which should be notified to the person defined as receiver anywhere he would be within the territory of the court jurisdiction, where the court clerk is employed.

If the person refuses to receive the notification, the court clerk makes the appropriate notes in the writ and, when possible, certifies it with the signatures of two present witnesses.

Article 131

When it is not possible to make the notification in conformity with the above provision, it is made in the domicile or residence of the receiver or in the office or the place where he exercises handicraft, industrial or commercial activity.

If the receiver is not found in any of these places, the notification is delivered to a person of the family who has attained sixteen years of age and, when no one of them is present, the notification should be handed over to neighbors who accept to deliver it by hand to the person summoned, to his office or place of work, except when the person summoned is a minor, under sixteen years of age, or does not have capacity to act.

When it is not possible to make the notification in conformity with the above paragraph, the copy of the notification is delivered to the doorman of the dwelling, the office or the place of work.

In all these cases the person who receives the notification should sign the original or its copy undertaking the commitment to deliver it to the person summoned. In the copy held by the clerk of the court it should also be noted the relationship of such person with the person to whom the notice is addressed.

Article 132

When the person summoned to the court or the members of his family do not accept to receive the notification, as well as when those and the neighbors to whom the notification is handed over to be delivered to the person summoned do not know or cannot sign, another note is made on the copy of the announcement which should be signed by at least one witness.

In this case the notification should be considered completed.

Article 133

When the receiver does not have a domicile, residence or temporary dwelling in the Republic of Albania or has not chosen a dwelling or has not appointed his representative, in conformity with Article 131 of this Code, the announcement of the act should be made through posting a copy at the court of the place where the dispute shall be tried, as well as at the place where the notice is displayed in the Commune where he had his residence, and in case such a place is not known, at his birthplace.

When there are bilateral or multilateral agreements in which the Republic of Albania has become a party, the above provision is applied only when it is impossible to execute the announcement in one of the ways stipulated in those agreements.

Announcement of acts of a foreign state

Article 134

Notification of acts coming from institutions of a foreign state to the direction determined by the authorities of that state, is made through their simple delivery according to the rules provided in this Code.

Article 135

The announcement of acts of a foreign state is done through the Ministry of Justice, which passes them on to the district court of the place where the announcement should be made.

When there is a reciprocal agreement providing legal aid the dispatching for notification and the notification is made directly between the competent governmental bodies of two states or in any other manner stipulated in the agreement.

When the Ministry of Justice assesses that the request for notification of an act is not in conformity with the rules provided in this Code, or in the respective international agreement, it returns the documents back to the governmental bodies of the sending state giving full specifications on the necessary adjustments.

Article 136

The party requesting the notification should follow the request with the payment necessary for the notification, in conformity with existing international agreements, except when the law or those agreements stipulate the exemption from payment in advance of expenses.

Article 137

The act is notified in the language of the country from which it is sent, but the receiver who does not know the language in which the act is made has the right to refuse the notification and to request that it should be translated into the Albanian language or into an other language known by the receiver on behalf of the requesting party and at its expense.

Article 138

Records are held or a certificate is filled in on the notification of the act, in which it is obligatorily mentioned the place, the date of notification, the person to whom the act was delivered, his relationship to the person to whom the act is addressed, the signature and, if it is the case, also the reasons which have hindered the notification.

Article 139

For documents on the execution or non-execution of the requests of the announcement is acted upon in the same manner as for sending the requests for notification.

Article 140

The execution of a request of the announcement or transmission may be refused by the competent Albanian authorities when the sovereignty or security of the state is jeopardized, as well as when they have not been presented in conformity with the provisions of this Code.

Notification for juridical persons

Article 141

Notifications for institutions, enterprises and other juridical persons are made through the delivery of the copy to the office of the chief executive officer and to the persons responsible for receiving acts.

Notifications for non-governmental juridical persons are made to their headquarters through the delivery of the copy of the act to the representative or person responsible to receive notification, and in their absence, to another person who works in those headquarters of that juridical person.

Notification for persons in the military service

Article 142

Notifications for persons who are in the military service or in the units of the Ministry of Interior is made through the command of the unit to which they are subordinate.

Other ways of notification

Article 143

Notification should also be made through the mail service, except when it is prohibited by law. The court clerk should also mark the post office on the original and on the copy of the notification through which the copy is sent to the receiver by registered mail. The receipt issued by the post office should be attached to the original of the act.

Article 144

The court may order through a decision or other ways of notification provided by law as well as by a return telegram, facsimile, where the delivery is confirmed in writing by a written notice handed over and other ways which guarantee a regular notification, when required by special circumstances or by the necessity of a fast notification.

CHAPTER V
TIME-PERIODS

Article 145

The time-periods for the performance of procedural acts are determined by law and, if permitted by law, also by the court.

The time-periods may be preclusive if the law expressly provides so.

Article 146

The time-periods set by the law are ordinary, except when the law expressly provides them to be rigid.

The rigid time-periods cannot be shortened or extended, even with the consent of the parties.

Extension of time-periods
Article 147

Before the end of the time-period, the court may extend by decision a time-period which is not rigid before the end of the time-period. The extension cannot be longer than the initial time-period, except when there are particularly grave reasons which legitimize the request.

Calculation of time-periods
Article 148

When the time-period has been determined in days and hours, the day and hour, on which the event has started or the time on which the time-period shall start, are excluded.

The time-period determined in weeks, months or years terminates with the passing of that day of the last week, or of the last month which has the same name or number with that of the day when the time-period started. When such a day is lacking in the last month, the time-period terminates with the passing of the last day of that month.

When the last day of a time-period is a holiday, the time-period terminates on the working day following the holiday.

Article 149

The last day of the time-period continues until its 24-th hour, but, when a procedural act is to be made or any request or other act is to be presented to the court, the time-period terminates at the moment when the official working day ends.

The time-period is not considered passed when the request or act is sent by mail even on the last day of the time-period.

Time-periods and suspension of trial
Article 150

When the trial is suspended all the other time-periods which have started to count but have not terminated are suspended too. In this event the suspension of the time-period starts from the moment in which the event has happened which has triggered the suspension of the trial.

Reinstatement of time-period
Article 151

When the parties or the attorney who has brought the lawsuit, for different reasons, have surpassed the legal time-period or the one determined by the court, they may request from the court the reinstatement of the time-period, unless the time-periods have a preclusive character.

Article 152

The request to reinstate the surpassed time-period is examined by the court to which also the documents, which justify or for which the reinstatement of the time-period is requested, must be presented. A separate appeal may be made against the decision of the court.

PART TWO
TRIAL IN FIRST LEVEL

TITLE I
LODGING OF LAWSUIT

CHAPTER I
DRAFTING, PRESENTATION TO THE COURT AND NOTIFICATION OF LAWSUIT

Drafting of lawsuit

Article 153

The trial of a case in court starts with the presentation of the request to sue in writing.

Article 154

The request to sue is written in the Albanian language and must contain :

- the court to which it is presented;
- - first name, father's name, surname, domicile or residence of the plaintiff and of the defendant and of the persons representing them respectively, when there are such;
- the determination of the subject of the request to sue;
- the indication of the facts, circumstances, documents and other proving means and of the right on which the request to sue is based;
- the request of the plaintiff;
- the value of the lawsuit, if its subject is appraisal.

The acts which prove the notification of the lawsuit and the date of the session are delivered immediately to the secretariat, which deposits them in the respective file.

Preliminary notification of lawsuit

Article 155

A time-period of not less than ten days between the date of notification of the lawsuit and the date of its presentation to the court must be allowed.

When the place of notification is outside the district or abroad, the time-period for the presentation to the court must be such as to ensure a normal notification of the lawsuit and the presentation to the court of the defendant or of third persons.

In cases in which it is necessary to make a fast notification of the lawsuit, on the request of the plaintiff, the judge, when he considers it appropriate, may allow disrespecting of the above-mentioned time-period provided in the first paragraph of this article, but always

the notification must be convincing, in conformity with the rules provided in articles 132 and 133 of this Code and without affecting the right of defence to the defendant.

Acts which are attached to lawsuit
Article 156

Together with the request to sue must be presented:
a. power of attorney, if the request to sue is presented on behalf of the plaintiff by his representative;
b. as many copies of the request to sue and of the proving acts as there are defendants as well as for the case provided in article 197 of the Civil Code.

On the presentation of the request to sue is paid the tax on acts as well as the necessary expenses for the notifications and other court services.

To the request to sue is attached the summons in which are indicated the date of appearing before the court as well as the instruction that on that date must be accurately defined the evidence that the plaintiff claims that should be heard by the court.

Presentation of lawsuit
Article 157

The request to sue is presented to the court by the plaintiff or by his representative equipped with power of attorney. The lawsuit may be presented to the court also by mail, but when it does not fulfil the conditions mentioned in the above articles, the single judge returns it to the plaintiff at the time of its presentation or notifies him in writing on the fulfillment of the shortcomings and after the date of presentation is noted in the lawsuit a time-period is designated to fulfil the shortcomings. Until such date the lawsuit remains without action.

When the plaintiff does not fulfil the shortcomings within the designated time-period, the request to sue is considered as not presented and is returned to the plaintiff together with the other acts.

Against the decision of the single judge on the return of the request to sue may be made a separate appeal.

When the shortcomings of the request to sue have been fulfilled within the designated time-period, it is considered registered on the date it has been deposited with the court. In the same way is proceeded when the shortcomings of the request to sue are assessed during the trial of the case.

Registration of lawsuit and constitution of file
Article 158

With the lodging of the lawsuit with the secretariat its registration in the relevant basic register is made and the file is opened in which are deposited the lawsuit, the act of its notification to the defendants and to the other participants in the process, the written evidence and any other document the parties have presented in relation to the case in trial. They have the right to get acquainted with their content with the permission of the court, but the parties or third persons summoned by the court cannot withdraw the documents presented, make photocopies of them without the permission of the court and without them being indicated in

the file.

The notification of the lawsuit is made in conformity with the rules provided in article 130 and 131 of this Code.

Joined of Claims

Article 159

In a request to sue may be presented many claims, if the court has authority for all the claims. When the court assesses that their joint consideration shall cause visible difficulties in the development of the trial, it decides that they be considered separately.

Counter-lawsuit

Article 160

The defendant has the right to present counter-lawsuit when the claim of the counter-lawsuit is related with that of the lawsuit or when between them compensation may be made.

The counter-lawsuit may be presented until court investigation has not ended and is subject to all the rules determined for the lodging of lawsuit.

When the shortcomings of the counter-lawsuit are not fulfilled within the time-period designated by the court, it may be considered separately.

CHAPTER II
SUITS BY SEVERAL PLAINTIFFS AGAINST SEVERAL DEFENDANTS

Article 161

Lawsuit may be brought jointly by many plaintiffs or against many defendants (co-participants) if :

a. they have joint rights or obligations on the subject of the lawsuit;

b. their rights or obligations have the same basis from the point of view of the fact or of the law.

Article 162

Each of the co-participants is represented in an independent manner against the opposing party in order that his procedural actions or omissions do not bring neither damage nor benefit to the others.

When, due to the nature of the juridical relations which are in conflict or due to a legal provision, the effect of the decision which shall be given is extended to the entire co-participants, the procedural actions which have been carried out by some co-participants have effect also on other co-participants who have not appeared in court or who have not undertaken any action in the designated time-period.

CHAPTER III
ADMINISTRATION OF THE PROCESS

Rights of the court for development of court process and means for their execution

Article 163

The court exercises all the rights provided in this Code which are necessary for the development of the court process to the best degree possible.

The court designates the sessions and the time-period within which the parties and the other persons summoned by it must perform the procedural acts and the other actions requested from it.

The court administers the court process through decisions and orders. The decisions and the orders announced in court session, are considered known by the parties present or which should have appeared in court. The announced decisions outside the session and those against which appeal is allowed are communicated to the interested parties by the secretary of the session not later than three days from their announcement.

Article 164

Non-final decisions and orders issued by the court in court session must be justified and must not prejudice the solution of the case.

They may be changed or revoked by the court which has announced them except when:

a. they have been announced on basis of an agreement of the parties in cases when they may deliberate themselves. Nevertheless they may be revoked by the court if this is stipulated in the agreement;

b. in this Code is provided that against them may be made separate appeal;

c. the law declares them irrevocable.

CHAPTER IV
FINES

Non-appearance in court without reasonable cause

Article 165

When the witness or expert who has been summoned to court does not appear, without reasonable cause, the court punishes him with fine up to 30 000 lek and orders his enforced appearance.

Objection to give evidence

Article 166

When without a reasonable cause the witness objects to give evidence or the expert to give his opinion, the court punishes him with fine of up to 30 000 lek.

Non-presentation in trial of document or thing by the third person

Article 167

When a third person who is not a party does not accept to present a document or a thing which is proved to be by him and which has been requested to him by the court is punished with fine of up to 30 000 lek.

Disobeying order of chairman of court session

Article 168

When the persons who participate in the trial of the case as well as other persons who assist do not obey the orders of the chairman of the court session, they may be punished with fine of up to 30 000 lek by court decision. This provision is not applied to the attorney or the advocate who participates in the case.

Objection to punishment decision

Article 169

The persons who have been punished by fine, in conformity with the above mentioned provisions, within three days may present to the court who has punished them, the request for the removal of the punishment, by indicating also the causes.

When the court finds those causes grounded, it revokes the decision of the punishment with fine as well as the order of enforced appearance. It may also only diminish the designated fine. Otherwise it rejects the request.

The time-period to present the request starts from the date of the court session and in the cases provided in articles 165 and 167 from the date of the announcement of the punishment decision.

The decision given by the court in the above mentioned cases is irrevocable and no appeal is permitted against it.

TITLE II
CONSIDERATION OF THE CASE

CHAPTER I
PREPARATORY ACTIONS

Article 170

The chairman of the court, the deputy or the judge designated by him, on the presentation of the request to the court, appoint the judge who shall conduct its trial.
In order for the case to be prepared as well as possible to be solved rapidly and justly, the single judge performs the following actions by decision:
- requests from the plaintiff that the request to sue to be completed with all the necessary elements provided in articles 154 and 156 of this Code;
- decides on the exemption of the plaintiff from the payment of the tax on acts, in the cases provided by the law;
- when he considers it necessary designates the preparatory session in which are summoned the defendant or the third person in order to determine the nature of the dispute, asks from

them to give the explanations he considers necessary as well as to determine the evidence for the verification of their claims and objections;
- decides which witnesses shall be called from the court in court session and requests from the defendant or other persons acts which are by them;
- when it is the case, decides on the placement of seizure or on the taking of any other measure for the security of the lawsuit;
- when it is the case, decides on the security of property;
- decides the suspension of the trial of the case in the cases provided in article 297 of this Code;
- decides the cessation of the trial of the case when there exist the conditions provided in letters "b" and "c" of article 299 of this Code;
-decides on the joiner of suits in a single trial, when there exist the conditions provided in this Code;
- decides on the lack of authority of the court when he estimates that the case falls under the authority of another court and sends to it the request to sue together with the acts presented.
Against the decision of the single judge by which the suspension, the cessation or the lack of authority of the court is decided, may be made a separate appeal.

Conciliation actions

Article 171

The judge, as a single judge, during the preparatory actions makes all efforts to settle the dispute by conciliation, when the nature of the case allows for it. For this purpose, when it is the case, he also orders the appearance of the parties themselves.

The efforts for conciliation may be repeated in any stage of the court investigation.

When the conciliation is reached before the start of the court session, minutes are held which are signed by the parties. The judge approves the conciliation by decision.

When the conciliation is reached in the court session, the conditions of the agreement are reflected in the court minutes. The court issues decision on its approval, but in any case it must not be in conflict with the law.

Against the decision on the solution of the dispute by conciliation or on the non-acceptance of the conciliation may be made a separate appeal.

CHAPTER II
THE COURT SESSION

Article 172

The consideration of the case before the court is made orally, but the parties may present in writing their explanations and claims with regard to the case in trial.
Minutes are held in the court session in which are reflected the explanations of the parties, the evidence taken, as well as the orders announced by the court.

Trial behind closed doors

Article 173

In conformity with article 26 of this Code, the trial of the cases entirely or partially in a session behind closed doors is allowed by a justified decision of the court only when :

a. it is necessary to maintain a state secret and public order;

b. trade, invention secrets are mentioned the publication of which would affect interests protected by law;

c. circumstances from the intimate private life of the parties and of other participants in the process are mentioned.

During the trial of the case behind closed doors only the parties, their representatives, witnesses, experts and, by permission of the court, also other persons are allowed to stay in the court room. The presence in the court session of minors under 16 years of age is not allowed except when called by the court. The decision for the development of the trial behind closed doors must be publicly announced.

Opening and development of court session

Article 174

On the designated day and time the parties or their representatives are obligated to notify the court on their presence.

Before the start of the court session the secretary or the court clerk calls the parties or their representatives and invites them to take the designated places.

Article 175

After the court session is declared open the court verifies the presence of the parties and investigates the causes if one or both of them have not appeared in the session.

If the non-appearance has occurred because of illness or any other legitimate cause, the court adjourns the trial to another day.

Legalization of parties to the case

Article 176

The court verifies the legalisation as parties of the persons or of their representatives present and if it is the case invites them to fulfil the acts and documents which result with shortcomings, including here also the acts related to representation and if it considers it necessary determines a time-period to the parties.

Administration of court investigation by the chairman of the session

Article 177

The chairman of the court session administers the court investigation and the talks of the parties in conformity with the rules provided in this Code.

When any of the parties makes remarks against the actions of the chairman of the court session, by claiming that their rights are being limited or violated, these must be reflected in the minutes.

Ensuring law and order in a court session

Article 178

The chairman of the court session takes care for the maintenance of law and order in the session. He has the right to order the persons who disturb the order and quietness of the development of the court session to leave the court room. When the attorney or the advocate do not obey the orders of the chairman of the court session, the court notifies the relevant organ of the Attorney□s office or the managing council of the chamber of advocates and requests from them the taking of disciplinary action. The court may decide to adjourn the session until another attorney or advocate is designated.

Legal consequences of non-appearance by parties

Article 179

If the plaintiff or none of the parties without any reasonable cause do not appear in the first session, both in the preparatory actions and in the court session and results that they have due knowledge, the court or the single judge decide on the cessation of the trial.

If the defendant does not appear in the first session and the plaintiff does not demand that the trial proceed in absence, the court designates another court session.

If the defendant does not appear even in the next session and the plaintiff does not demand that the trial proceed in absence, the court decides to cease the trial.

Announcement of adjudicating body and explanations by parties

Article 180

After the above mentioned action have been performed, the composition of the adjudicating body is announced and the preliminary claims of the parties are solved.
The court in the first court session requests the parties to give the necessary explanations, on basis of the facts claimed by them, by pointing out the issues which it considers necessary and beneficial for the trial of the case from the procedural point of view.

At first the plaintiff gives explanations with regard to the claims presented in the lawsuit, then the defendant and the other participants in the case. Each of them is obligated to determine the facts and evidence on which their claims and rebuts are based.

They may request from the court the acquisition of other evidence besides those

determined in the preparatory session or acquired in court session only when from the explanations of the other party or from the circumstances emerged recently their acquisition is to the benefit of the trial of the case.

When the court considers it necessary it may give to the interested parties a time-period of not more than 10 days to determine the other facts and evidence.

Conclusion of trial by same adjudicating body

Article 181

The court must organise the work in order that the trial of the case be concluded by the same adjudicating body.

When for causes provided in paragraph three of article 62 of this Code, or for other justified causes, the composition of the adjudicating body changes, the new member must get acquainted with the content of the court process, except when it is requested by him that the case be considered from the beginning.

When more than one of the members of the adjudicating body are change the case starts from the beginning.

Appearance of parties in person

Article 182

At any stage of the trial the court has the right to request that the parties appear in person in order to be questioned on circumstances it estimates that are important for the solution of the case, regardless of the fact that they have representatives or that the trial is conducted in their absence.

When despite the request of the court in conformity with the above paragraph the summoned party has not appeared without any legitimate cause or refuses to answer the questions asked, the court considers its attitude in harmony with the other evidence.

Settlement of claims of parties

Article 183

Regarding the claims presented by the parties in conformity with articles 180 and 182 of this Code, the court pronounces itself by means of a decision. In special cases, which present difficulties in trial it may adjourn the announcement of the decision up to three days.

The court, by decision, allows the acquisition of evidence when it is the case also the way of acquiring them. The refusal for acquiring the requested evidence must be reasoned by the court, without prejudicing the case.

Replacement of parties

Article 184

When during the trial emerges that the lawsuit is brought by a person who has no right to bring it, or is brought against a person against whom it must not have been brought, on the request of the interested party the court may allow the replacement of the first plaintiff or defendant by the plaintiff who enjoys the right to bring the lawsuit or by the defendant against whom the lawsuit must have been brought. For such replacement the court must first receive the approval of both parties and of the person who comes in their place as a party.

Changing legal ground and subject of lawsuit

Article 185

The plaintiff has the right to change the legal ground of the lawsuit during the court investigation. Even without changing its legal ground, he may enlarge, reduce or change the subject of the lawsuit.

When the above changes are made in the absence of the defendant or of third persons summoned to the trial, they must be notified to them in writing.

It is not considered an enlargement of the subject of the lawsuit the claim of the penalty or of other income from the subject.

Extension of evidence

Article 186

When the trial of the case must be adjourned for legitimate causes, the witnesses who have appeared on the designated day are questioned, except when the court estimates it necessary that they be questioned in another court session together with the witnesses who have not appeared.

Article 187

The party who has been declared absent, may appear at any moment of the court process, as long as the court investigation has not ended. It may request for procedural actions to be performed on its behalf in relation with the court investigation carried out before, when it proves the invalidity of summons or non-appearance in court for causes independent from it. The court may accept the requests of that party for other evidence when it estimates that their acquisition is beneficial to the full and comprehensive investigation of the case.

Article 188

The decision of the court which accepts the request on the intermediate questioning or other requests in conformity with the above article is notified to the absent party in the time-periods decided by the court. The other acts and actions are not subject to notification.

CHAPTER III

PARTICIPATION OF THIRD PARTIES IN CIVIL PROCESS

Main intervention

Article 189

Anyone may intervene in a court process which takes place between other persons, when he claims for himself the entire or part of the thing or the right which is the subject of the lawsuit in consideration, or which is related to the conclusion of the trial, by bringing lawsuit against both parties or against one of them.

Article 190

In order to intervene in a civil process in conformity with article 189 of this Code, the third person must appear in a preparatory or court session, by submitting to the court his written request or by depositing it with the secretariat and if it is the case also the power of attorney and the certifying documents in as many copies as are parties. The court orders for them to be notified to the parties, possibly without adjourning the court session.

Secondary intervention

Article 191

Anyone may intervene in a court process which takes place between other persons when it is interested to support one or the other party with which it joins in trial in order to assist it.

Summons of third person

Article 192

Each party may call into the trial of the case a person with which it thinks it has the case in common or from which may be requested a guarantee or compensation which is related to the conclusion of the case.

The third person is summoned by a writ which is presented in the preparatory session or to the court secretariat when the consideration of the lawsuit has started. The request is notified immediately to the judge who orders the notification of the third person, possibly without adjourning the designated court session.

The summons of the third person is allowed when he has a known place of abode, within the borders of the Republic of Albania and as long as the trial of the case in the first level has not ended.

Article 193

When the court estimates that the court process must take place in the presence of a third person, who results to have an interest in the case, it summons him and adjourns the court session for this purpose.
The secretary notifies him by writ.

Article 194

The court accepts the participation of the third person into the civil trial by an intermediate decision.

A separate appeal may be made against the decision that rejects the participation of the third person.

Procedural rights of third person

Article 195

The third person has the right to perform all procedural actions which are allowed to the parties, except those which constitute the possession of the subject of the dispute.
With the consent of the two parties, the third person who has intervened himself or has been summoned to court may take the place of one of the parties for which he has intervened and that party may withdraw from the trial.

Article 196

The decision which is given after the secondary intervention or the summoning of the third person has effects against him with regard both to his relationship to the person who called him or for assisting whom he has intervened and to his relationship with the opposing party.

Article 197

If the person who has offered guarantee appears in court and assumes to replace in the case the guaranteed person, the latter may request his withdrawal from the trial, by being represented in trail by the guarantor, if the parties do not object.

The court decides on this request but its decision on the grounds of the case extends its effects also on the guaranteed person.

Withdrawal from trial of sued person

Article 198

The person who is sued for the payment of an obligation or for the delivery of a thing or for the acknowledgement of a real right, on which has claims also a third person, has the right to

call him in trial, in order for the case to be tried between the plaintiff and that person and to request from the court to withdraw from trial by accepting to pay the obligation or to deposit the thing or to recognise the real right in the place and in the manner determined by the court.

The withdrawal of the defendant from the trial is made by permission of the court.
When the third person does not accept to participate in trial, the cessation of the case is decided and the amount paid or the thing deposited is delivered to the plaintiff.

Procedural assignment

Article 199

When one of the parties dies, the case continues by or against its heirs.

When the party which is a legal person terminates, the case continues by or against the legal or natural person to whom are transferred the rights and obligations of the legal person who has terminated.

Article 200

When during the proceedings of the trial the right in conflict is assigned to another person by means of an act between living people or by means of a special title, the court process continues between the same parties who were at the beginning.

The person to whom is assigned the right in conflict may intervene or may be summoned in trial as a third person or may replace the party from which the right to the conflict was assigned, but only within the conditions provided in this Code.

The decision issued has effects also against the person to whom is assigned the right in conflict, except in the case when the right to ownership on the movable thing has been won in good faith (article 162 of the Civil Code) and in application of the rules for the registration of things.

Renunciation from trial and from right to sue

Article 201

At any stage of the trial the plaintiff may renounce from the trial of the lawsuit. In this case the court decides the cessation of the trial.

At any stage of the trial the plaintiff may renounce entirely or partially from the right to sue. In this case the lawsuit is dismissed and the plaintiff does not have the right to bring the same lawsuit again. Renunciation from the right to sue before the Court of Appeal brings as a consequence the revocation of the decision of the first level court and the dismissal of the lawsuit.

CHAPTER V

SECURITY OF LAWSUIT

When is lawsuit allowed to be secured

Article 202

On the request of the plaintiff, the court allows the taking of measures to secure the lawsuit, when there are reasons to doubt that the execution of the decision for the rights of the plaintiff shall become impossible or difficult.

The securing of the lawsuit is allowed when :

a. the lawsuit is based on evidence in writing;

b. the plaintiff gives guarantees to the degree and kind determined by the court for the damage that may be caused to the defendant by securing the lawsuit.

The guarantee may be requested also for the case provided in letter □a□ of this article.

Article 203

The securing of the lawsuit is allowed for all kinds of suits and at any stage of the trial, until the decision becomes irrevocable. The securing of the lawsuit is allowed also by the Court of appeal, when the lawsuit is being considered by it.

Article 204

The securing of the lawsuit may be requested also before the lodging of the lawsuit in the court of the place where the plaintiff has his place of abode, or where the property is located with which the lawsuit shall be secured.

In this case the court determines a time-period of not more than 15 days within which the lawsuit must be presented to the court.

Article 205

The securing of lawsuit may be permitted for the entire lawsuit or only for parts of it, if the court finds them grounded, in conformity with the rules provided in article 202 of this Code.

The request, as a rule, is considered in the presence of the parties, but in special or hasty cases, it may be considered even without calling the other party.

Types of measures for securing lawsuit

Article 206

The securing of the lawsuit is made :

a. by sequestering the movable and immovable things as well as the credits of the debtor;
b. by other appropriate measures taken by the court including the suspension of execution.

The court may permit the securing of the lawsuit by some of the different types of the security measures, but always for a general amount not greater than that of the lawsuit. Sequester cannot be placed on things which cannot be sequestered in conformity with article 529 of this Code.

Change and replacement of measures for insurance of lawsuit

Article 207

On request from one of the parties the court may substitute one security measure with another, after having heard first also the opposing party.

In this way is proceeded also when the court decides on the removal of the security measure, when it estimates that the cause for which it was taken has disappeared.

Execution of measures for insurance of lawsuit

Article 208

The decisions for securing the lawsuit are executed in conformity with the rule provided in this Code on the execution of the decisions on movable and immovable things.

Appeal

Article 209

Against the decision of the court which has decided the acceptance of the request for securing the lawsuit may be made a separate appeal for the change or removal of the security measure of the lawsuit.

The appeal against the above decision does not hinder the continuation of the consideration of the lawsuit.

Article 210

The appeal against the decision which allows the security measure does not suspend its execution.

The appeal against the decision by which the security measure is replaced or removed suspends its execution.

Revocation of measures for insurance of lawsuit

Article 211

When the lawsuit, on which the security measure has been permitted, is not lodged within the time-period determined by the court or the judge, the security measure is considered abolished.

When the refusal of the lawsuit or the cessation of the trial is decided, the court decides the removal of the security of the lawsuit, which is applied when the decision has become irrevocable.

The guarantee given in conformity with article 202 of this Code is returned to the plaintiff, in case the other party does not bring a lawsuit for the compensation of the damage suffered due to such a cause within fifteen days from the date the decision has become irrevocable.

Legalisation of measures for securing lawsuit

Article 212

When in the final decision the lawsuit is accepted, the court decides also the legitimisation of the security of the lawsuit.

When sequester has been decided as a security measure, it becomes executive sequester after the decision becomes irrevocable.

CHAPTER V

GENERAL RULES FOR ACQUIRING EVIDENCE

Permission for evidence

Article 213

In application of article 12 of this Code, the court, by decision, permits the parties to prove the facts on which they base their requests and claims, by presenting to the court only that evidence which is indispensable and is related to the case in trial.

Court admission

Article 214

Admissions made in court by the parties or by their representatives are estimated by the court without underestimating other evidence and the circumstances of the case.

Delegation of authority

Article 215

When the evidence must be taken outside the territory of the activity of the court, it delegates its authority to the court of the place where the evidence is, except when the parties jointly request to delegate one of the members of the adjudicating body for this purpose.

Article 216

Evidence is taken by the judge designated by the chairman of the court to which the request is addressed by reflecting the actions performed in minutes, which are sent to the court in the determined time-period.

The parties are free to participate in the acquisition of evidence.

The statements of parties and of the witnesses are taken in first person and after being read to the person making the statement, are signed by him.

Article 217

The judge proceeding with the acquisition of evidence, even when he is delegated in conformity with article 215 of this Code, decides by decision all issues which emerge during the acquisition of evidence.

Witness who cannot hear or speak

Article 218

When questioning a person who cannot hear or speak, the court calls a person who understands the signs of the person who is questioned if the questioning cannot be made in writing.

Legal assistance by courts of foreign countries

Article 219

When it is necessary to perform a court procedural action outside the borders of the Republic of Albania, for the clarification of circumstances, assessment of facts, sending of a document or for other reasons which the court considers necessary for the clarification of the issue in trial, the court through the Ministry of Justice of the Republic of Albania requests relevant legal assistance to the competent organ of the other country.

When the juridical procedural action may be performed by the diplomatic or consular representation of the Republic of Albania, the request is sent to the latter.
The above request must designate the issues on which legal assistance is requested and must contain the necessary data for the fulfillment of legal assistance.

When between the to states there is an agreement on providing reciprocal legal assistance the provisions of that agreement are applied.

Application of foreign law

Article 220

In the event the application of the laws of a foreign country is necessary for the trial of a case, the court must make all efforts to find and apply them in conformity with their content.

When any effort of the court in conformity with the first paragraph of this article is not successful and none of the parties has been able to provide the court with the requested provisions, certified by the competent organs of the other state, the court decides in conformity with Albanian legislation.

Legal assistance for courts of foreign countries

Article 221

Albanian courts provide legal assistance to courts of other states on their request. Legal assistance cannot be provided when :

a. its provision does not comply with the basic principles of Albanian legislation in effect;

b. the object of the request is not under the authority of Albanian courts.

Article 222

The request for providing legal assistance made by the court of a foreign state must contain the conditions provided by the above article, be drafted in the Albanian language or be translated in this language and have the necessary expenses for translation attached. In the

opposite case the court or the receiver may refuse the performance of the requested actions.

When between the two states there is an agreement on the reciprocal provision of legal assistance, the provisions of that agreement apply.

Acquisition of evidence at third persons

Article 223

On the request of the interested party the court may order the other party or a third person who does not participate in the case, to present in trial a document or an other thing, when this is estimated as necessary by the court.

In this case the court gives the necessary instructions on the time, place and the manner of their presentation. The party which has requested the acquisition of the document is obligated to indicate in detail all the circumstances which make credible as to where the document is, its characteristics as well as the facts which shall be proved by this document.

The necessary expenses are paid in advance by the party which has made the request.

Article 224

The court may officially request from the organs of the state administration data in writing on acts and documents which are in that organ and which are necessary to be considered in the court process. When the data requested constitute a state secret, the court requests the permission of the central organ under whose authority the state administration, where the requested data are, is. When the request is rejected the request of the party is considered statute barred.

CHAPTER VI

EXPERTS

Manner of appointing

Article 225

The appointment of the expert is made by the court taking also the opinion of the parties participating in trial. The decision on the appointment of the expert is made known to him by the court secretary notifying also the date to appear in the determined session.

The expert who does not accept to perform this task must notify the court on the relevant arguments at least five days before the court session.

On circumstances emerged recently the parties request immediately the dismissal of the expert by bringing forward the relevant arguments.

Taking the oath

Article 226

Before the expert starts to perform his task the court reminds him of the importance of the function for which he has been called and invites him to take the oath that he shall perform well and honestly the task assigned, with the only purpose of making the truth known to the court.

Assignment of tasks

Article 227

After receiving the opinion of the parties the court assigns to the expert the issues on which his opinion must be taken.

The expert has the right to get acquainted with the materials of the case, to assist in a court session, to ask questions, to give explanations and to ask from the parties to acquire data from third parties within the necessary limits of performing his task.
The expert may be assisted by his assistants, but the responsibility on the accuracy of the expert remains with him.

When according to the decision of the court on the performance of expertise, it is necessary for the expert to get acquainted with things, records, accounts and other documents, the parties may be present and may present to the expert opinions in writing, remarks by their specialists, who may be questioned also in the quality of a witness or requests which are related to the fulfilment of duty, but always within the authority determined in the court decision.

Performance and assessment of expertise

Article 228

When expertise is performed in the presence of the court or of the delegated judge, minutes are held, but the court may request from the expert to give the conclusions of the expertise in a written report.

When the expertise is performed without the direct participation of the court, the expert must draft a written report on the expertise performed, in which must be reflected also the remarks and the requests of the parties. The possible statements of the parties mentioned in the report are estimated by the court taking into consideration the rules provided in article 29 of this Code.

The report must be deposited with the secretariat in the time-period determined by the court.

Repetition of expertise

Article 229

When it is observed that the expertise is with shortcomings or unclear as well as when there are differences of opinion between experts, the court, on its own or on the request of any of the parties, may request additional clarifications or may order the performance of a new expertise, by calling other experts.

Presentation of conclusions of expertise

Article 230

The opinion of the expert must be justified.

When experts are of the same opinion, the conclusions of the expertise may be presented by one who is appointed by them; when there are differences of opinion between the experts, each of them must present himself his opinion. Questions may be asked to the experts after they have presented their opinion.

CHAPTER VII

WITNESSES

Limits of permission of evidence by witness

Article 231

Evidence by witness is permitted in all cases, except when the law demands a written matter for the validity or the proving of a juridical action.

Article 232

Evidence by witness is not permitted against or beyond the content of an official or private act which constitutes a full evidence. It is not permitted also to prove by witness the agreement of parties on the change of contract or termination by payment or relief from obligations in money which result from a contract which is made or must have been made in writing, even if the paid amount or value were less than 50 000 lek.

Cases of permitting evidence by witness

Article 233

The rules provided in the above two articles are not applied and evidence by witness is permitted :

a. when the document demanded by the law on the validity or the proving of the juridical action is lost or is destroyed without the party being guilty for it;

b. when there is a start of an evidence by written matter. Start of an evidence by a written matter is called any written matter which results from the one towards which the search is addressed and from the content of which emerges that the alleged fact is almost true;

c. when the juridical action made by a written matter has been performed:
- contrary to the law, by fraud;
- under the influence of deceit, threat or because of an agreement in bad faith entered into between the representative of one party and of the other party;
- under the influence of great necessity by the party;

ç. when due to circumstances in which a juridical action is performed or due to the special relationship between the parties it has not been possible to acquire evidence by written matter.

Article 234

Against or beyond the content of a juridical action made by written matter, the third person is free in the presentation of evidence. When one of the contracting parties claims that the juridical action has been performed only in appearance without the parties having the purpose of creating legal consequences, or to cover another court process which the parties wanted, the evidence by witness is permitted in the events when there is evidence by written matter issued by the other party or statements made by it in front of state institutions, by which it is made credible that the court process is performed only for appearance.

Prohibition for questioning as witness

Article 235

There can not be questioned as witness :

- the representatives of the parties in case, on circumstances on which they have received knowledge from the persons they represent because of their duty as representatives;

- persons who due to physical or mental disabilities are not capable of a just understanding of the facts which are important for the case and to testify regularly;

- spouses yet non-divorced, children, parents, grandparents, or cousins, in direct or indirect line up to the second degree, except when the case is related to personal and family problems, as well as minors under the age of fourteen, except when their sayings are indispensable for

the solution of the case.

These persons decide themselves whether they shall testify and they cannot be punished for refusing to testify.

Rules for hearing witnesses

Article 236

Witnesses are heard by the court in the court debate. In special events or because of illness or because of the special work carried out by the witness, circumstances these that make impossible his appearance in trial, the court may decide that his questioning be made outside the seat of the court by a member of the adjudicating body. In these cases the questioning of the witness is made before the next session of the court and the evidence taken is read in the court session. The questioning of the witness is always made in the presence of the parties or of their representatives who are duly notified.
The evidence of the President of the Republic is taken in the seat where he exercises the function of the chairman of the state.

When the evidence of the Chairman of the Parliament, of the Chairman of the Council of Ministers, of the Chairman of the Constitutional Court or of the Chairman of the Court of Cassation, they may request to be questioned in the seat where they exercise their duty.

The court estimates the sayings of the witnesses in harmony between them and with other evidence acquired during the consideration of the case.

Taking the oath

Article 237

The chairman of the court session, after he has been assured of the identity of the witnesses, makes them conscientious of the importance of the mission and of the oath taken before the court and makes known to them that they are obligated to tell the truth on what they know in relation to the case, warns them on responsibility they bear for false testimony. In the meantime the court secretary reads the oath formula as follows : Conscientious, I swear that I shall say the truth and only the truth. While standing, the witness answers “I swear” and waits outside the court room under instruction not to communicate with each other.

Order of questioning

Article 238

The order of questioning witnesses is determined by the chairman of the court session by taking into consideration the witnesses of each party. They are questioned one by one in the presence of the parties without the presence of the witnesses that are questioned later.

Article 239

The witness is questioned first by the party who has requested his summons and then by the other party. Each of the parties has the right to ask additional questions to the witness to clarify or to complete the answers given by him. In each case the parties ask questions to the witness by permission and through the court.

The court may ask questions and ask for clarifications any time it considers it necessary for the just solution of the case.

Confrontation of witnesses

Article 240

When between the sayings of the witnesses there are such inconsistencies which create difficulties for the discovery of the truth, the court itself or on request by the parties makes the confrontation of the witnesses previously questioned.

Re-questioning of witness

Article 241

After ending his evidence the witness may leave with the permission of the court. In case his re-questioning may be necessary, then the court orders that he stays in the room without contacting the other witnesses.

Renunciation from questioning the witness

Article 242

The party which has requested the summons of a witness may request that he is not questioned. The request is taken into consideration if the other party agrees and when the court estimates that his questioning shall not be necessary for the clarification of the case.

Article 243

When during the trial, the facts and the claims of the parties result clarified, the court on its own or on their request may renounce from questioning the other witnesses summoned for this purpose.

Use of notes by witnesses

Article 244

The court may permit the witness to use notes or other written data, when they talk on issues having to do with accounts and data which are difficult to remember.

Indictment for false evidence

Article 245

In the event a witness gives false evidence before the court, it decides the indictment to the attorney's office for penal prosecution.

CHAPTER VIII

WRITTEN MATTER

Proving power of written matter

Article 246

Written matter have proving power when they have been drafted in the defined form, have the necessary elements for their value, are not cut into pieces, torn or extinguished, do not have scratches or additions between the lines or other disorders by erasure and may be read.

Article 247

When written matter is damaged in the manner described in the above article, it is presumed to have been done to devaluate its proving value, except when the contrary is proved.

Article 248

The person who presents and uses as a proving means a written matter which bears changes must prove that the changes have been made by the one who has issued the written matter, or by the one to whom it may serve as evidence or by the one to whom the right is assigned or they have been made by some one else on their instruction.

Article 249

When the written matter presented refers to another written matter, it is joined to it except when the written matter that is taken substitutes the referring written matter or contains its full content.

When the written matter taken has a different content from the referring written matter, then the content of the latter is preferred.

Article 250

In cases when evidence by written matter is under protection for legal reasons or

impossibility of use and cannot be taken, the court has the right, besides other means, to allow a legalized copy of it to be taken, which has proving power just as the original written matter. When later on this has been lost, the court decides to administer the written matter which proves the identity with the original.

Copy of written matter and the original

Article 251

Copies of written matter have the same proving power with the original when their accuracy is proved by the competent person.

Verification of content of written matter at its issuing place

Article 252

If for unjustified reason it is difficult to acquire the evidence in trial or because of its importance or its nature the danger exists that it may lose or be damaged, the court may order the verification of the written matter by a member of the adjudicating body or its checking by the court of the place where the written matter is, through a delegation of authority or to allow the taking of photocopy or certified photograph.

Official acts

Article 253

Official acts which are drafted by a state employee or a person exercising public activity, within the limits of their authority and in the determined form, constitute a full evidence of the statements that are made in front of them on the facts and events which have happened in their presence or on action performed by them. The opposite is permitted to be proved only when it is claimed that the written matter is forged.

Article 254

Official acts which are issued by state organs and which contain an order, a decision or any other measure taken by them or which indicate the performance of an action by those organs, constitute full evidence on their content. The opposite is permitted to be proved only when it is claimed that the written matter is forged.

Article 255

Copies and shortenings of the acts mentioned in article 253 and 254 certified in conformity with the law have the same proving effect as the originals.

Article 256

Written matter drafted by an employee of a foreign state or by a foreign person who exercises

public activity and which in that country is considered as a public entity have the proving effect provided in article 253.

Article 257

Written matter drafted on basis of article 253 on the performance of the juridical action or its certification, as far as the statements of the parties are concerned, constitute a full proof for all.

The provisions mentioned in the above paragraph have effect for anything mentioned in the written matter so far as they have direct relationship to the main subject of the written matter. The ones which do not have direct relationship are considered as a start of evidence by written matter.

Simple written matter

Article 258

The written matter which has been drafted by an official person who has not had the authority or which is not according to the determined form, has proving effect as a simple written matter, if it is signed by the parties.

Article 259

The simple written matter, signed by the person who has issued it, constitutes full evidence that the statement it contains are of the one who has signed it, in case the person, against whom the written matter is presented, admits that it is signed by him.

Article 260

Private written matter are considered also :

- books of traders and professionals who keep them in conformity with the Commercial Code or other provisions;

- the books of advocates, notaries, sheriffs, doctors, pharmacists and other professions in conformity with the provisions in power.

When part from the book or the entire book are presented as evidence and contain also data which are not related to the subject of the trial, those parts of the written matter which are related to the trial may be taken.

Article 261

The private written matter acquires an accurate date against third persons only from the day when it has been certified by the notary or the competent public employee in conformity with the law or when one of those who have signed it dies or has not been in the physical capacity

to write or when its substantial content is repeated or assessed in an official act as well as from the day in which another fact has occurred which proves in the same manner that the written matter is drafted at an earlier date.

Article 262

The private written matter constitutes evidence in favour of the author only if it is presented by the opposing party or if the books mentioned in article 260 are meant.

Article 263

The books mentioned in article 260, paragraph 1 and 2, when they are drafted in the determined form, constitute full evidence for what is written in them, for traders or other persons who are obligated to keep the same books, but the opposite is permitted to be proved when forgery is claimed. Nevertheless against persons who are not obligated to keep those books, they constitute full evidence for the extension of claims, when their presence is certified in another manner and only within one year from the date of signature, except when the person obligated proves their content with his signature.

Obligation for presenting scientific evidence

Article 264

Any party to the trial is obligated mainly to present the written matter which he has used in order to assist in the trial of the case.

Any party to the trial or a third person is obligated to present the written matter he possesses and which may be worth to him as evidence, except when there are serious causes and justifies their non-presentation. Serious causes are considered especially the events when it is not permitted to give evidence.

Article 265

Execution of the decision ordering the presentation of the written matter is made in conformity with provisions related to the execution on delivering the thing or the performance of the action.

This provision is applied also when the written matter are in a state organ or in the state legal persons, except when the written matter constitutes a state secret.

Written matter in foreign language

Article 266

When the written matter is in a foreign language it is presented together with the translation legalized by the relevant embassy or consulate or by another competent organ. When the court cannot verify itself the accuracy of the written matter, it designates a translator.

Obligation to prove that private written matter is original

Article 267

When the originality of the private written matter is put in doubt, the one presenting it must prove it, except when the written matter is so changed that it is difficult for the court to assess that it is original.

The person against whom the written matter is presented is obligated to declare immediately if he accepts or not the originality of the signature, otherwise the written matter is considered accepted.

If the originality of the signature is recognized or proved, it is considered that the originality of the content is certified, with the reservation of it being hit for falsity.

Article 268

The private written matter may be proved as original by any proving means.

Procedure for comparison of written matters

Article 269

When the comparison of written matters is made, the person presenting the evidence is obligated to notify to parties the list of written matters with which comparison shall be made or to deposit the originals with the secretariat of the court not later than ten days before the day designated for comparison. The truthfulness of these written matters must not be objected.

When written matters which may be compared are in the possession of the opposing party or the third person, their presentation may be requested. In case of objection, the rules provided in article 265 of this Code may be applied.

The party or the third person to whom the originality of the writing or signature may be denied, may be obligated to write before the court or the before the judge with delegated authority a specific text with which the comparison shall be made. The text is attached to the file. The court estimates freely the denial of the party or of the third person to write or to make efforts to change his writing.

Hit for falsity

Article 270

Any written matter may be hit for falsity. The private written matter may be hit for falsity even when by comparison to others it is certified that they are original.

Indictment for penal prosecution

Article 271

When forging is attribute to a specified person indictment for penal prosecution may be made.

Article 272

When there are serious doubts for forgery against a concrete person and that the written matter presented as forged is estimated as fundamental for the clarification of the case, the court has the right to suspend the trial of the case until the conclusion of the trial of the penal case or to order the presentation of evidence for forgery.

Proving falsity of written matter

Article 273

The one who claims the falsity of a written matter is at the same time obligated to present that written matter which prove the falsity and to indicate the names of witnesses or other proving means, otherwise his claim is unacceptable.

Article 274

When the written matter is presented as forged without indicating the person to whom is attributed the forging, the court orders the acquisition of evidence only when the one who presents the written matter insists that it be presented as evidence and estimates that it has essential importance for the clarification of the case.

Article 275

The secretariat of the court sends immediately the copy of any decision which proclaims the written matter as forged to the attorney
□s office and to the state organ that has issued the written matter.

The written matter which is proclaimed forged is not given to the party but remains in the archive of the court together with the decision which proclaimed it forged. In these cases the secretary notes on the written matter that it is forged.
When its copy is given, it contains also the note mentioned in the above paragraph.

Article 276

Persons, who do not participate in the case, when requested a written matter which is with them and do not have the possibility to present it within the time-period determined by the

court, are obligated to notify the court for not presenting the written matter in time also indicating the causes. The court, when it does not consider as appropriate the causes indicated as well as when it is not notified that the written matter cannot be sent, has the right to punish the responsible persons in conformity with article 167 of this Code.

Article 277

The party against which a written matter has been presented as evidence may object to its truthfulness in one of these ways :

a. by denying the writing or the signature in the simple written matter;

b. by declaring that it does not know that the writing or signature in the simple written matter belongs to its inheritance-leaver or to the person from which it removes rights;

c. by claiming that the written matter is forged.

Photographic, cinema film and other recordings

Article 278

Photographic films or cinema films, cassettes of any kind and any other recording may constitute evidence for the events and things recorded when the court is convinced on their accuracy and truthfulness. For this purpose it may call also competent experts.

Article 279

Photographs or photocopies of the written matter have the same effect with the original, in so far as their accuracy is certified by the person who has the authority to issue copies in conformity with the law.

Article 280

After checking the truthfulness of the document, the court pronounces itself whether the document is or is not true by decision which it gives during the trial or by the final decision.

When it results that the document is not true, the court dismisses it from the evidence and if it results that the document is forged, it sends it to the attorney for penal prosecution.

By the decision which admits that the document is true, the court punishes the party who claimed its falsity or which denied its writing or signature by a fine of up to 50 000 lek.

CHAPTER IX

ADMISSIONS BY PARTIES

Article 281

Court admission may be casual or urged by questions made in an official manner for such a purpose.

Article 282

The casual court admission may be given orally or in any procedural act personally signed by the party.

Procedure for requesting admissions by parties

Article 283

Questions are made on facts, circumstances and in a manner that the claims of the parties be admitted or rejected.

On the admission of the questions, the court proceeds in the manner and time-periods defined in its intermediate decision.

It is not permitted to ask questions on facts different from those formulated in the court decision except for questions on which the parties agree and which the court estimates to be beneficial to the court process. The court may ask the necessary clarifications at any occasion for the answers given.

Article 284

The questioned party must reply personally. It cannot use written and in advance prepared notes. Nevertheless the court may permit the use of notes or other written data when they speak of issues which have to do with accounts and data that are difficult to remember.

Non-appearance and refusal to answer of the party

Article 285

When the questioned party does not appear or refuses to answer without justified cause, the court by estimating also other evidence may consider as admitted the facts presented in the questions. When non-appearance of the party to answer is with reason, the court decides the postponement of the session or the acquisition of the answers outside the court session.

CHAPTER X

EXAMINATION OF PERSONS, THINGS AND EXAMINATION IN PLACE, EXPERIMENTATION

Article 286

When it is estimated necessary by the court for a person or a thing to be examined directly by it, on its own or on the request of the parties, it decides for their examination to be made in the place with or without experts.

Procedure of implementation

Article 287

The examination of persons, places, movable or immovable things is made by decision of the court, in which are defined the time, place and manner of the examination.

The examination is made by the court itself or by a judge delegated by it or by the judge of the place where the examination shall take place. When it is necessary a technical expert may be present, who acts in conformity with the rules provided in Chapter VI of part two of this Code.

The parties are duly notified for the performance of the examination.

Safeguarding of personal dignity

Article 288

In the examination of a person the court must take care in order not to touch his personal dignity. It may not be present itself and may assign this task to an appropriate expert.

Making photographic productions and films

Article 289

The court may decide for photographic reproductions of the objects, documents or things to be made and when necessary and possible also film them or make use of other mechanical means and actions.

In order to become sure on the existence of a fact, the court may order that this be verified by proceeding in a defined manner for its reproduction, by acquiring evidence by means of photographs or filming. The court manages itself the experiment or when it considers it appropriate entrusts it to an expert by applying the rules on the appointment and responsibility of the expert provided in this Code.

Right of the court to secure things and data necessary for examination

Article 290

During the examination or the experiment, when it considers it necessary, the court may hear witnesses in order to acquire data and to secure the presentation of the things as well as to take measures to enter into places which must be exposed or examined by the court.

It may order the entry into places which are property or in possession of persons unrelated to the court process, may hear the latter, by taking the necessary measures to avoid damage to their interests.

Content of minutes of examination

Article 291

Minutes are held on the examination in place and on any other examination, which is made outside the court, in who are indicated the parties which have participated, their claims and remarks about the examination and the conclusion of the examination. As the case may be, the minutes are signed by all the judges or by the single judge as well as by the parties and other persons present during the examination.

CHAPTER XI

SECURING OF EVIDENCE (PRELIMINARY EVIDENCE)

When can securing of proof be requested

Article 292

When an evidence on which depends the solution of the dispute or which influences its clarification, is in danger of disappearing or its acquisition to become difficult, on the request of the interested party, it may be ordered its acquisition in advance.

Submission and content of request

Article 293

The request for the securing of the evidence is presented to the court which considers the case and in case the lawsuit has not been lodged, in the court of the place where the person to be questioned has his place of abode, or where the thing that must be examined is located.

Article 294

In the request for securing the evidence must be shown : the evidence to be taken, the circumstances for whose proving it serves and the reasons which justify its acquisition in advance.

The copy of the request is communicated to the other party, except when it is not known or

when the acquisition of the evidence does not allow delay.

Content of the court decision

Article 295

The decision by which the request for securing the evidence is accepted must indicate the evidence to be acquired and the manner of acquiring the evidence.

A separate appeal may be made against the decision of the court, by which the request to secure the evidence is rejected.

Article 296

The non-appearance of the party which has requested the acquisition of the evidence brings about the dismissal of the request, except when the other party requests it or when the court estimates that it is to the benefit of the trial.

On the manner of the acquisition of the proof as well as for its proving effect the general rules are applied.

Expenditure for the acquisition of the evidence is paid in advance by the person requesting it and at the end of the trial are charged to a party, in conformity with the general rules.

CHAPTER XII

SUSPENSION AND CESSATION OF TRIAL

a. Suspension of trial

Article 297

The court decides the suspension of trial when :

a. the case cannot be settledbefore another penal, civil or administrative case is resolved;
b. is requested by both parties;
c. one of the parties dies or is terminated as a legal person;
ç. one of the parties does not have or has lost later on the legal capacity to act as party and it is considered necessary to appoint to it a legal representative;
d. is expressly provided by law.

During the suspension of the trial cannot be performed procedural actions.

Article 298

In the cases provided by letters □c□ and □ç□ of the above article, the suspension of trial

continues until the person, who assumes the rights or the legal representative of the party which has lost legal capacity to act as party, appears to participate in the case.

In the cases provided in letters □a□ and □b□ and □d□ of the above article the trial of the case restarts after the obstacles which caused its suspension have been eliminated. In these cases even when the next court session has not been designated, the interested party addresses to the court a request for the continuation of the trial. The court designates the date of the session for the continuation of the trial and orders that this is notified to the parties.

The court may also take measures on its own for the elimination of these obstacles.
The trial starts from the procedural action remaining at the time of its suspension.

b. Cessation of trial

Article 299

The court decides the cessation of trial when :

a. none of the parties requests within six months the restart of the trial suspended on their request, when the court has not designated a next session in the decision of the suspension.

b. the plaintiff renounces from the trial of the lawsuit;

c. the cessation of the trial is expressly provided by law.

Juridical effects of cessation of trial

Article 300

The cessation of trial brings as a consequence the annulment of all procedural actions, including the decisions given during the trial, but in case the plaintiff lodges again the same lawsuit, the evidence gathered in the suspended trial may be taken into consideration in the trial of this lawsuit, if for the renewed acquisition of them there are insurmountable difficulties or obstacles.

The cessation of the trial does not dissolve the lawsuit.

Appeal

Article 301

A separate appeal may be made to the court of appeal against the decision by which is decided the suspension, cessation or the rejection of the restart of trial, except in the cases when it is otherwise provided by law.

CHAPTER XIII
CONCLUSION OF COURT INVESTIGATION AND ISSUANCE OF

DECISION

Conclusion of court investigation

Article 302

After all evidence which the court has accepted to acquire are considered, the parties are asked if they have other requests to the benefit of the trial of the case, and if they are not accepted the court concludes the court investigation and invites the parties to present their final claims regarding the case in trial. As a rule they are presented to the court in writing. On the request of the parties, when it is considered appropriate, the court gives them a time-period of up to 5 days in order to prepare their presentations.

Final talks

Article 303

In the final talks, the first to speak is the plaintiff and the secondary intervenor who has joined him and after him the defendant and the secondary intervenor who has joined him and when in the case participates also the main intervenor, he speaks after the plaintiff and the defendant have spoken. The latter have the right to speak again after the main intervenor.

The attorney speaks first in the cases in which he himself has brought the lawsuit, while in the cases he has participated he speaks after the parties.

Request for reopening court investigation

Article 304

No other evidence may be taken after the court investigation is concluded. When the parties consider necessary their presentation, they request the opening of the court investigation. The court decides on this request, in conformity with the estimation of the circumstances of the case.

Withdrawal of the court in the consultation room

Article 305

After the parties have presented their claims and conclusions, the court announces its withdrawal in the consultation room in order to give the final decision.

Issuance of decision

Article 306

Only the judges who constitute the adjudicating body stay in the consultation room when the

case is discussed and the decision is drafted. It is not permitted that the secretary of the session, experts or other persons enter or stay there during the discussion of the case.

Article 307

The adjudicating body under the direction of the chairman of the session puts forward for discussion and decides in turn for all the issues which have been considered during the trial.

The first to vote is the youngest judge and the last is the chairman of the session. None of the judges may abstain from decision. The opinion of the judge in minority, presented in writing, is attached to the decision.

If in relation to an issue several solutions are proposed and no majority is formed with the first voting, the chairman puts forward for voting two solutions in order to exclude one and so on until the solutions remain only two and the final voting is made on them.

Article 308

The decision must be signed by all the members of the adjudicating body who have participated in its issuance.

In complicated cases, the court may announce only the provisions of the decision, while delivering it justified to the secretariat not later than ten days or may postpone the announcement of the justified decision for up to five days. The justification of the decision is made by the chairman of the session, except when he entrusts it to one of the members of the adjudicating body.

Article 309

The decision is based only on data which are in the acts and which have been considered in court session.

The court estimates the evidence acquired during the trial of the case, in conformity with its inner conviction, formed by the consideration of all the circumstances of the case in their entirety.

Content of the court decision

Article 310

The decision must contain the introduction, the descriptive-justifying part and the ordering part.

I. In the introduction of the decision must be mentioned :

1. the court which has tried the case;
2. the adjudicating body and the secretary;

3. the time and place of the issuance of the decision;
4. the parties, indicating their identity and their position as plaintiff, defendant, intervenors as well as their representatives;
5. the name of the attorney, if he has participated;
6. the subject of the lawsuit;
7. the final requests of the parties;
8. the opinion of the attorney if he has participated;

II. In the descriptive-justifying part must be mentioned :
1. the circumstances of the case, as they have been assessed during the trial, and the conclusions drawn by the court;
2. the evidence and reasons on which the decisions is based;
3. the legal provisions on which the decision is based.

III. In the ordering part, among others must be mentioned :

1. what has the court decided;
2. who is charged with the court expenses;
3. the right of appeal and the time-period for its presentation.

Article 311

When the decision contains the obligation for the delivering of a thing in kind or the obligation for the performance of a certain action, the court may indicate in the decision the time-period for the execution of the decision.

The court may designate a time-period for the execution of the obligation in money or may divide it in instalments, on the request of the interested party, by taking into consideration the state of possessions of the parties and other circumstances of the case.

Correction of mistakes

Article 312

After the announcement of the decision the court cannot annul or change it.
At the request of the parties or on its own it may correct at any time only errors made in writing or in calculation, or any obvious inaccuracy of the decision.

After summoning the parties, in session, the court considers the request in conformity with the rules of this Code, issues decision, which is attached to the corrected decision.
A separate appeal may be made to the Court of Appeal against the issued decision in the cases provided in the second paragraph of this article.

Completion of decision

Article 313

Each of the parties may request the completion of the decision, within thirty days from the announcement of the decision, in case the court is not pronounced on all the requests on which the party has presented evidence.

After summoning the parties, the court considers the request by the same adjudicating body and issues such complementary decision.

Appeal may be made against such decision in conformity with the general rules.

Clarification and interpretation of decision

Article 314

The court has the right to give clarifications or to make the interpretation of the decision it has issued when it is obscure and the parties request it.

The request for the clarification and the interpretation of the decision may be presented at any time until the decision has not been executed.

Separate appeal may be made against the above decisions in conformity with the general rules.

Intermediate decisions

Article 315

Decisions issued during the trial and which are not final, may be changed or revoked by the court which has issued them, except when in this Code it is provided that a separate appeal may be made against them.

Notification of decision

Article 316

The decisions issued by the court at the conclusion of the trial as well as the intermediate decisions, on which the right of appeal is provided, are notified to the parties or the other participants in the process, when the trial is made in their absence, except when it is otherwise provided in this Code.

The notification is made in conformity with the rules provided in articles 130 and 131 of this Code.

CHAPTER XIV

DECISIONS OF TEMPORARY EXECUTION

Cases of issuing decisions of temporary execution

Article 317

The decision of the court may be issued for temporary execution when it has been decided :
a. the obligation for sustenance;
b. on the retribution for work;
c. on the return of possession of conjugal place of abode.

The decision may be issued for temporary execution also when due to
the delay of execution the plaintiff may suffer important damage, which cannot be remedied or when the execution of the decision would become impossible or would be made exceedingly difficult. In this case the court may demand that the plaintiff give a guarantee.

Appeal

Article 318

A separate appeal may be made against the decision by which is accepted or rejected the request for temporary execution.

Consequences of revocation of decision

Article 319

When the decision is revoked by the court of appeal or the Court of Cassation, the temporary execution is suspended.

In the event that after the revocation of the first decision the lawsuit is dismissed and the decision becomes irrevocable, the winner of the first lawsuit is obligated to return to the other party anything it has taken by means of the temporary execution of the first decision.

TITLE III

SPECIAL TRIALS

CHAPTER I

GENERAL PROVISIONS

Article 320

Special sections are created in the composition of district courts for the trial of :
a. administrative disputes;
b. commercial disputes;
c. disputes related to minors and family.

Article 321

The President of the Republic, on proposal by the Minister of Justice, designates the courts in which these sections shall be created as well as the areas where they shall extend their authority on the basis of the consolidation of territorial authorities of one or several district courts.

The Minister of Justice determines the number of judges for each section and takes care for their training according to their relevant section.

Article 322

When it is to the interest of a just division of work, the chairman of the district court or his deputy, in determined periods of time, may charge the judges appointed to sections also with the trial of cases of another nature, which are not within the competencies of the sections created in that court.

Article 323

The provisions of the first and the second part of this Code are applicable for all special trials, except when it is otherwise provided in this title and in title IV of this part.

CHAPTER II

TRIAL OF ADMINISTRATIVE DISPUTES

Substantive authority

Article 324

There are within the competencies of the sections for administrative trials :

a. lawsuit by which the invalidation or the change of an administrative act is requested;

b. lawsuit by which the refusal to approve an administrative act is opposed or which opposes

leaving unconsidered within the designated time-period the objection of the citizen at the competent administrative organ.

Article 325

The lawsuit according to article 324 of this Code may be brought when the citizen argues that the administrative act is illegal and his interests and rights are affected.

Article 326

Lawsuit may not be brought to court for :

- administrative acts which are issued by the Government and other central and local organs of the state administration, which contain a general obligation, except when they affect the lawful rights and interests of the citizens;

- administrative acts which according to the constitution are within the competence of the Constitutional Court;

-administrative acts against which the right of appeal has not been exercised within the legal time-period.

Territorial authority

Article 327

The lawsuit against an administrative act is considered by the relevant section of the court in whose area the administrative organ, against which the lawsuit is addressed, has its seat. When the lawsuit is brought to the court in the territory of which the administrative organ has its seat, it sends it not later than within three days to the court where the section for the consideration of administrative disputes has been created.

The consideration of the dispute must be concluded within 30 days from the date of registration in the court.

Time-period

Article 328

The time-period for lodging lawsuit against an administrative act is thirty days from the date of the announcement of the decision of the higher administrative organ which has considered the complaint in an administrative manner, except when the law provides the direct appeal to the court. In this event the time-period starts from the date of the announcement or of the notification of the administrative act against which lawsuit is brought.

When the higher administrative organ has not considered the complaint within the time-

period determined by law or when the competent administrative organ has not considered the request of the citizen within the time-period determined by law and the direct appeal to the court is foreseen against such a case, the citizen has the right to go to the court within the time-period determined in the first paragraph of this article, even if he was not given an answer on the request or the complaint presented.

Suspension of execution of administrative act

Article 329

The plaintiff may request the court also the suspension of the administrative act.

The court may permit the suspension when the danger exists of causing a heavy and irreplaceable damage to the plaintiff. In all the cases the court must justify its decision.

Joinder of suits

Article 330

Several suits may be joined into a single lawsuit, when they are addressed to the same administrative organ, have the same subject and are within the competence of one court.

Decision of the court

Article 331

In its final decision the court decides :

- the dismissal of the lawsuit when the administrative act is found just and grounded;

- the assessment of the invalidity of the administrative act;
- the annulment partially or entirely of the administrative act.

Article 332

The court must argue its decision, especially when it deals with the illegality or the unfoundedness of the administrative act complained against.

Appeal

Article 333

Appeal may be made against the decision of the district court in conformity with the rules provided in this Code. In the composition of the trial councils of the court of appeal which consider administrative disputes participate judges specialised in this field.

CHAPTER III

TRIAL OF COMMERCIAL DISPUTES

Authorities

Article 334

There are within the competencies of the sections for the trial of commercial disputes by the district courts ;

a. disputes between commercial companies and between them and the traders, between the traders themselves, resulting form contracts, when there is commercial activity for both parties;

b. disagreements between partners of the companies provided in the Commercial Code and in any case when the procedure provided by law has not been applied;

c. disputes related to the contract of alienation of rights of members of a commercial company;

ç. disputes on the right of the name of the commercial company;

d. violation of rules on unfair competition;

dh. bankruptcy procedures;

e. disputes resulting from dissolution of companies;

ë. claims on a bill of exchange, cheque and other papers of this kind provided by law.

Article 335

Lawsuit in conformity with article 334 of this Code is considered by the relevant section of the district court in whose area has its seat the defendant, commercial legal or natural person, except when the two parties to the contract have designated another court which is also competent.

When the lawsuit is brought to the court of the district in whose territory has its seat the commercial natural or legal person, it sends it to the court where the section for the trial of commercial disputes has been created within not later than three days.

Appeal

Article 336

Appeals against the decisions issued by the relevant section of the district court are considered by the court of appeal in conformity with the general rules by court councils consisting of judges specialised in this field.

TRIALS ON INVALIDATION OF A CHEQUE, BILL OF EXCHANGE AND PAPERS OF THIS KIND

Article 337

The person, who enjoys the right to a value paper such as cheque, bill of exchange, promissory note and other value papers of this kind, may request their invalidation when they are lost, stolen or damaged in the cases provided by law.

Territorial authority

Article 338

The request is considered by the section on commercial disputes of the court in whose area the value paper must be paid or the person has its place of abode.

The plaintiff has the right of choice.

When the request is presented to the court of the district in whose territory the value paper must be paid, that court sends it to the court in which there is the section for the trial of commercial disputes not later than within three days.

Article 339

When there are many defendants and the plaintiff does not prefer to bring the lawsuit in the place of payment of the value paper, the lawsuit is brought in the place of abode of any of the defendants.

Content of request

Article 340

In the request for the invalidation of the cheques, bill of exchange and other papers of this kind, the interested person must indicate among others :

a. the kind of paper and the necessary elements for its identification, attaching a copy of it certified by the notary;

b. the circumstances in which its loss, theft or damaging has occurred as well as the arguments which certify his right on this value paper.

Article 341

In the trial of this lawsuit cannot be brought a counterclaim and it cannot be joined to other lawsuits which may be related to it.

Procedure of trial

Article 342

When the court sees that the requirements of article 340 of this Code are fulfilled, it gives an opinion in council, which among others must contain :

a. the identity of the seeker;

b. the kind of value paper mentioned in article 337 of this Code and the necessary elements for its identification;

c. the order addressed to the payer not pay the value paper to the holder;

d. a notice addressed to the possible holder of the value paper, in order to present his rights within 30 days from the issuing of the decision, indicating that in the opposite case it shall be invalidated.

The decision is announced in the court, in the place designated for this purpose and is published in the Official Gazette and at least in one national newspaper. The copy of this decision is send also to the payer.

Article 343

The actual holder of the value paper mentioned above must notify, within the time-period designated in the above article, to the court his objection to its invalidation, to determine the necessary evidence to certify that he has won it by right and to deliver the value paper to the court or to a bank in conformity with the relevant provisions of the Civil Code on bank deposits and security boxes until the dispute is resolved.

In the case provided in the first paragraph of this article, the court suspends the trial and notifies the person who has requested the invalidation of the value paper in order to bring a lawsuit on the recognition of his right to the above paper within the time-period of one month.

In case such a lawsuit is not brought within this time-period, the court decides the cessation of the trial and repeals its decision issued in conformity with letter □c□ of article 342 of this Code.

Article 344

When the holder of the paper has not performed the actions provided in the first paragraph ofd article 343 of this Code, the court decides the dissolution of all rights on the lost, stolen or damaged value paper and recognises to the person who has requested its invalidation the right on its payment or the equipment with a new value paper.

Article 345

In the trial of the case in conformity with paragraph II and II of article 343 and article 344 of this Code, the court notifies the natural or legal person who has requested the invalidation of the value paper as well as the one who has issued the value paper, but their presentation does not stop the consideration of the case.

Article 346

When the court dismisses the request on the invalidation of the value paper, it revokes its decision issued in conformity with letter □c□ of article 342 of this Code, by notifying the payer.

Against the above decision as well as against decisions in conformity with articles 343 and 344 of this Code may be appealed in conformity with the general rules.

Exercise of lawsuit for enrichment without cause

Article 347

The holder of the invalidated value paper, who has not been able to declare, for any cause whatsoever, his rights on the value paper in conformity with letter □d□ of article 342 of this Code may sue the person to whom has been recognised the right of payment of the value paper or may request the equipment with another identical paper in conformity with article 655 of the Civil Code.

Trials related to patents and other rights resulting from industrial property

Article 348

Disputes which result form patents, trade and service marks, commercial designs, models and any other right resulting from industrial propriety, are tried by the section of trade disputes in the court of the district of Tirana, in conformity with the rules provided in this Code.

CHAPTER IV

CONSIDERATION OF DISPUTES RELATED TO THE FAMILY

Substantial authority

Article 349

The sections for the consideration of family disputes by the district courts are competent on :

a. consideration of disputes on dissolution of marriage by divorce, on the invalidity and annulment of marriage;

b. placing and removing guardianship on minors, keeping of children for bringing up and education until the dissolution of marriage and the changing of the court decision due to new circumstances;

c. approval of adoption;

ç. disputes related to giving of assistance for livelihood;

d. division of conjugal property and of the conjugal place of abode;

e. requests for the removal and return of parental power.

A. PROCEDURE FOR ESTABLISHING GUARDIANSHIP

Substantial authority

Article 350

The relevant section of the court of the district where the minor has his place of abode is competent on the placement or removal of the guardianship as well as on the removal or the return of parental power.

Right for presentation of request to the court

Article 351

The request to place under guardianship is presented to the court by the next of kin of the child and by anyone who receives notice on the children remaining without parents, on the birth of a child with unknown parents and on any other circumstance for which the law demands the placement of guardianship.

When on the opening of a will, the notary, who makes its publication, takes knowledge on the appointment of guardian, he must notify the court not later than 10 days from receiving knowledge and the court proceeds and decides within not later than 15 days.

Article 352

The minor who has accomplished 16 years of age may exercise himself the right to address the court on the placement of guardianship.

Designation of guardianship

Article 353

The court appoints a single guardian even when there are several minor brothers and sisters. When there is conflict between the interests of the minors, it may appoint also another guardian or several guardians.

Article 354

The court appoints as guardian the person designated in the will and in his absence one of the next of kin in direct line and after that in indirect line.

If the court estimates that the solution has not been made in the interest of the child it acts on its own on the appointment of the guardian.

Special guardian

Article 355

The court appoints a special guardian when this is required by the interests of the minor.

The special guardianship is removed when the causes for which it was placed cease.

Questioning of minor by the court

Article 356

Before the court proceeds for appointing a guardian it must ask also the minor when he has accomplished 10 years of age.

Guardianship terminates when the minor accomplishes 18 years of age or when the minor gets married before this age.

Replacement of guardian

Article 357

On the request of the persons mentioned in article 351 the court removes the guardian at any time and replaces him with another, when it observes that he has abused the rights belonging as guardian, when he has been careless in performing his duty or in other manners has put in danger the interests of the minor as well as when the guardian himself requests his release for reasonable causes.

The court may remove the guardian only after it has duly heard or notified him.

B. TRIALS RELATED TO MARRIAGE

Lawsuit for divorce

Article 358

The lawsuit for dissolution of marriage by divorce, besides what is provided in article 154 of this Code, must contain also :

- the identity of the minor children and with whom of the spouses or other person they live with;

- the sources and amount of income each spouse receives, if they have minor children or if any of them is incapable to work;

- the common wealth the spouses have, if they request its division.

To the request to sue are attached :

- certificate of marriage and the birth certificates of the children.

Joint lawsuit of spouses

Article 359

Divorce may be requested also by both spouses when they argue and the court creates the conviction that the divorce is requested on their free will as well as on the need of the dissolution of marriage. Nevertheless each of the spouses may withdraw the request to sue as long as the decision has not been announced.

Article 360

The joint request to sue by the spouses must be accompanied by an agreement in writing between them in relation to the leaving of their minor children for upbringing and education, the necessary income for their upbringing and education, the contribution of each of them and, if they shall consider it necessary, the regulation of their reciprocal relationship on wealth.

When the court estimates it reasonable, and according to the circumstances presented by the parties, the court may accept also a partial agreement on some of the issues of interest to the spouses.

Efforts of the court for conciliation

Article 361

In the consideration of the lawsuit for divorce the court designates a preparatory session in which the spouses must appear personally. The judge may hear each separately and then jointly, without the presence of their representatives.

When conciliation is reached, minutes are held and the trial is ceased for this cause.

When in this session the plaintiff does not appear although he had due knowledge, the single judge decides the cessation of the trial of the action. When the defendant does not appear, although he had due knowledge, the judge postpones the preparatory session by repeating the notice to the defendant. If also in this session he does not appear without any reasonable cause, the judge after hearing the plaintiff and forming the conviction that the conciliation cannot be reached, designates the court session by ordering the summons of necessary evidence.

Delay in announcement of final decision

Article 362

The court may postpone the announcement of the decision for up to one year, when it has not created the conviction that any possibility of conciliation of the spouses is excluded.

Suspension of trial on request by pregnant woman

Article 363

When the woman is pregnant, on her request, the court suspends the trial of the divorce lawsuit until the child reaches the age of one year.

Joinder of other requests

Article 364

In the divorce lawsuit is requested the obligation of the other spouse to meet the expenses for sustenance and education of children, living expenses for the needy spouse, in the cases provided by the law, as well as the request of gifts and the division of the conjugal wealth, except when it shall make difficult the consideration of the case. In such an event the court separates the divorce lawsuit from the other suits related to it.

Taking temporary measures

Article 365

On the request of the interested party the court may take such temporary measures on the sustenance and education of minor children, for the sustenance of the spouse, when the law sets forth such right, for the securing of the place of abode as well as of the wealth gathered during the marriage.

The decision on the taking of a temporary measure has effect until the final decision is given, but it may be changed or repealed by the court when it estimates that the circumstances have changed or when the decision is taken on inaccurate and incomplete data.

Court expenses

Article 366

Court expenses of the divorce lawsuit are charged to the party who has become the cause for the dissolution of marriage, except when it is otherwise stipulated in the agreement between the parties.

The court, by taking into consideration the economic situation of the parties, may exempt fully or partially one of the parties and charge the other party.

Sending of decision to office of civil register

Article 367

The ordering part of the decision for divorce, after it has become irrevocable, is sent by the court to the office of the civil register for registration.

Lawsuit on invalidity and nullification of marriage

Article 368

The rules provided in this Chapter are applied also for other suits resulting from marriage.

CHAPTER V

COURT DIVISION

Article 369

In the trial of a lawsuit for division of inheritance or of things in joint ownership, the rules provided in articles 207 and 227 of the Civil Code are respected.

Stages of trial

Article 370

The trial for the division of things in joint ownership and in inheritance in its first stage aims to investigate and determine the right of joint ownership of the parties, their belonging parts as well the things to be divided. After the court has acquired the necessary evidence, by an intermediate decision, it permits the division and determines the circle of joint owners, the things to be divided and the belonging parts of each of them.

Separate appeal is permitted against such decision, the presentation of which suspends the further continuation of trial.

Article 371

When the parties declare that they do not have any complaint against the intermediate decision mentioned in article 370 of this Code, a note is made in the court minutes, which is signed also by the parties or their representatives. In such an event as well as in the event when the intermediate decision which has permitted the division has become irrevocable, the court continues the trial in the second stage by considering the requests that the joint owners may have on the accounts which they must give between them and which result from the relationship of joint ownership.

Assessment of wealth and formation of parts

Article 372

The court makes the appreciation of the things to be divided, after it has previously received the opinion of the experts, and when the things may be divided in kind as many parts are formed as there are co-sharers. In each of these parts must be included, to the degree possible, a quantity of the things or the credits of the same nature equal in value to the belonging part. Inequality in kind of the things between the shares is compensated in money. The court decides also on the financial relationship of the parties because of the joint ownership.

Decision of the court

Article 373

When the thing is divided in kind and the created parts are equal or are equalised with money, the court drafts a division plan which is deposited in the secretariat not less than ten days before the next court session. The parties have the right to present their remarks on the deposited plan not later than five days before the next court session.

In the final decision the court determines the part of each joint owner. When the parts are divided in kind in an equal manner, and one of the parties requests it, they are given to the

co-sharers by drawing lots. The court may accept the request of the co-sharer to take the part indicated by him, when it considers that appropriate because of profession or of the nature of the things included in the belonging part.

Sale of thing at auction

Article 374

When in the final decision it has been ordered that a thing must be sold by auction because it cannot be divided in kind, the decision, after it has become final, is executed by the sheriff in conformity with the rules of enforced execution.

CHAPTER VI

DECLARATION OF DISAPPEARANCE OR DEATH OF A PERSON

Who makes the request

Article 375

The request for the declaration of a person disappeared or dead may be presented by any person interested and by the attorney to the court where the person for whom the declaration as such as had his last place of abode.

Content of request

Article 376

In the request for the declaration of a person disappeared or dead, besides the circumstances through which his disappearance or death becomes credible, is indicated also the guardian or his legal representative if there are such.

In the request for the declaration of a person dead must be indicated also the other persons who are or may be his heirs as well as all other persons to whom it is known that they gain or lose rights from this fact.

Publication of request of lawsuit

Article 377

Within ten days from the presentation of the request, the court sends a copy of it to the municipality or the commune where the person requested to be declared disappeared or dead has had his last place of abode in order to announce it in a visible place. The above request is published also in the Official Gazette as well as at least in one local newspaper.

The consideration of the case by the court cannot be made before six months have passed

from the announcement of the request or its publication in the Official Gazette.

Procedure of trial

Article 378

In the consideration of the request to declare a person disappeared or dead, the court asks his relatives, takes data on this person from the municipality or the commune where he has had his last place of abode as well as from any other source which may give news on that person.

Article 379

In the consideration of the request for the change or revocation of the decision which has declared a person dead must be called the persons who had requested the statement of death and the persons who have gained rights from the declaration of death.

Publication of decision

Article 380

The court decides on the declaration of a person disappeared or dead after having heard also the persons mentioned in article 375 and 376 of this Code as well as the attorney.

The court orders the publication of the summary of the decision in the Official Gazette or in at least one local newspaper designated by the court or in another manner which it shall consider beneficial.

The court may also take measures for securing the wealth in conformity with the circumstances which make necessary such measures.

Registration of decision in office of civil register

Article 381

The decision of the court, which declares a person disappeared or dead, is sent for registration to the office of the civil register in which he has been registered, after being assured that its publication has been made in conformity with the above provision.

CHAPTER VII

REMOVAL OR LIMITATION OF CAPACITY TO ACT

Who makes the request

Article 382

The removal or limitation of the capacity to act is made on the request of the spouse, next of kin, attorney as well as other persons who have legitimate interest on this fact.
The request is presented to the court of the place where the person to whom is requested to be removed or limited the capacity to act has his place of abode.

Procedure of trial

Article 383

The request on the removal or limitation of the capacity to act is notified to the attorney. The request must contain the fact on which it is based as well as the necessary evidence.

The court decides in relation to the request after having questioned the person for whom is requested the removal or limitation of the capacity to act, persons from his next of kin, the doctor who has cured him or after having received the opinion of other expert doctors as well as other evidence it shall estimate as necessary.

The questioning of the person for whom is requested the removal or limitation of the capacity to act is made at the institution where he is accommodated for medical treatment or in his place of abode by a delegated judge, when it is not possible for the person to appear himself in court.

Temporary guardian

Article 384

At any stage of the trial the court may appoint a temporary guardian to the person for whom is requested the removal or the limitation of the capacity to act.

After the decision of the court becomes irrevocable, it is sent to the competent organ to appoint a guardian.

Appeal

Article 385

Appeal may be made against the decision for the removal or limitation of the capacity to act by the person himself, his temporary guardian, the person who has made the request as well as all other persons who in conformity with article 382 of this Code have the right to request the removal or the limitation of the capacity to act, independently from their participation or not in the trial of this case. In this case the court allows them to get acquainted with the content of the court file.

Reference provision

Article 386

The provisions provided in this chapter are applied also for the restitution of the capacity to act.

Access of interested persons to the decision of the court

Article 387

After the decision, by which the capacity to act is removed or limited, becomes irrevocable, a summary of it is sent to all courts in order to be registered in a special form, with which may get acquainted anyone who is interested.

The court sends a summary of this decision also to the National Chamber of Notaries, which notifies it to the chambers of notaries in districts.

CHAPTER VIII

COURT CERTIFICATION OF THE FACTS

When can a request be made

Article 388

When the emergence, change or cessation of personal or property rights of a person depend on one fact and the act which certifies it has disappeared, is lost and cannot be made again or cannot be obtained in any other way, the interested person has the right to request that the fact be certified by a decision of the first level court.

The request for the certification of facts is presented to the first level court in the territory of which the claimant has his place of abode. When the certification of the fact for an immovable thing is requested, the request is presented to the court in which territory the thing is located.

In the above mentioned manner may be requested also the correction of mistakes in the written matters indicated in the first paragraph of this article.

Content of request

Article 389

In the request for the certification of facts must be shown :

a. the purpose for which the seeker presents the request for the certification of the specified fact;

b. the causes due to which the written matter cannot be obtained or for which it cannot be made again;

c. the evidence by which shall be proved both the cause due to which it is not possible to obtain or make again the written matter as well as the fact which is requested to be certified.

Procedure of trial

Article 390

The request for the certification of court facts is considered in court session in the presence of the seeker and of the natural or legal persons who have an interest in the case. When the case presents public interest and the court considers it reasonable, also the attorney may be called.

Decision of the court

Article 391

In the decision of the court must be shown the fact certified by it and the evidence on basis of which the fact has been certified.

In conformity with the general rules, appeal may be made against the decision by which the request is accepted or rejected by the seeker as well as by the natural or legal persons who have been called to participate in the trial of the case.

The decision does not have proving effect against natural or legal persons who have not been called if they object to the fact certified in the decision.

Effects of the court decision

Article 392

When during the consideration of the request a conflict arises between the seeker and another interested person on the civil right which is related to the certification of the fact, the court decides the cessation of the consideration of the case. In this case the parties may address the court through a lawsuit in conformity with the general rules.

CHAPTER IX

RECOGNITION OF DECISION OF FOREIGN COUNTRIES

Conditions for execution of decisions issued by foreign courts

Article 393

The decisions of courts of foreign countries are recognised and applied in the Republic of Albania in the conditions provided in this Code and the separate laws.

When for this purpose there is a special agreement between the Republic of Albania and the foreign state, the provisions of the agreement apply.

Legal obstacles for the execution of decisions issued by foreign courts

Article 394

The decision of a court of a foreign state does not become effective in Albania when :

a. in conformity with the provisions in effect in the Republic of Albania, the dispute cannot be within the authority of the court which has issued the decision.;

b. the request to sue and the writ of summons has not been notified duly and in time to the absent defendant in order to give him the possibility to defend;

c. between the same parties, on the same subject and on the same cause has been issued another, different decision by the Albanian court;

ç. a lawsuit, which has been filed before the decision of the court of the foreign state has become irrevocable, is being considered by an Albanian court;

d. the decision of the court of the foreign state has become final in violation of its legislation;

dh. it does not comply with the basic principles of the Albanian legislation.

Consideration of request

Article 395

The request to make effective a decision of a foreign court is presented to the court of appeal.

The request may be presented also through diplomatic ways when it is allowed by international agreements based on reciprocity.

In such events, if the interested party has not appointed a representative, the Chairman of the court of appeal appoints a advocate to present the request.

Article 396

To the request to make effective a decision of a foreign court must be attached :

a. copy of the decision which must be applied and its translation in the Albanian language legalised by a notary;

b. certificate by the court issuing the decision that it has become irrevocable as well as its translation and legalisation by a notary. Both the copy of the decision and the certificate that it has become irrevocable must be certified by the Ministry of Foreign Affairs of the Republic of Albania;

c. the power of attorney in case the request is presented by the representative of the interested person, translated and legalised by a notary.

Article 397

The court of appeal does not consider the case in foundation, but only checks whether the decision presented does not contain provisions which conflict with article 394.

The court of appeal issues a decision on the request presented.

Application of decision of foreign court

Article 398

The decision of the court of a foreign state is applied in the Republic of Albania only on the basis of the decision of the court of appeal which gives effects to that decision and is executed in conformity with the relevant provisions of this Code.

Award of arbitration court

Article 399

The provisions of this chapter are applied also on the recognition of the final award of an arbitration of a foreign state.

TITLE IV

ARBITRATION

CHAPTER I

GENERAL PROVISIONS

Scope of application

Article 400

The provisions of this chapter are valid for the procedure of arbitration trials when the participants in the case have their place of abode or place of residence in the Republic of Albania as well as for the international procedure, when one of the parties exercises the activity outside the territory of Republic of Albania.

These provisions are applied only when the place of the arbitration procedure is in the territory of the Republic of Albania.

Definitions

Article 401

-By □arbitration procedure□ is understood any procedure of the court arbitration system, independently whether it is carried out or not by a permanent arbitration institution.

- By □arbitration court□ is understood a single arbitration arbiter or an arbitration adjudicating body.

- By □court□ is understood an organ of the judiciary system of a state, in conformity with the definition made by the respective law.

Substantive authority

Article 402

Any wealth claim or request resulting from a wealth relationship may be subject of an arbitration trial.

When one party is the state, or an enterprise or organisation controlled by it, it cannot claim the right not to be party in an arbitration procedure.

Agreement on arbitration

Article 403

Trial by arbitration procedure may be made only if there exists an agreement between the parties, by means of which they accept to submit to arbitration the disputes which have arisen or may arise by a contract between them.

Invalidity of agreement on arbitration

Article 404

The condition for the trial of the dispute by arbitration is invalid if it is not made in writing in the main agreement itself between the parties or in another written document referring to it, such a telegram, telex or any other accurate means which constitutes written evidence.

The agreement between the parties according to the first paragraph is invalid if the arbiter or arbiters are not appointed in it, the manner of appointing them is not set forth, as well as if the subject of the dispute is not determined when it has effectively arisen.

The agreement for trial by arbitration procedure is abolished when one arbiter, appointed by such a procedure, does not accept the entrusted mission.

Determination of number of arbiters

Article 405

The parties may agree in an independent way on the number of arbiters in an arbitration court and on the manner of appointing them. In the absence of such an agreement the arbitration court is formed by one arbiter or more arbiters in an odd number, which are appointed by the district court.

Commencement of arbitration procedure

Article 406

The consideration of the dispute by arbitration procedure starts with the request of both parties or of the interested party.
The agreement for the trial of the case by arbitration procedure may be arrived at also after the trial by the competent court has started. In such a case the minutes of the court session is signed by the court and by the parties or their representatives.

CHAPTER II

FORMATION OF ARBITRATION COURT

Who may be an arbiter

Article 407

The mission of an arbiter is entrusted only to a natural person who has full legal capacity to act.

If for this purpose a legal person is designated, the latter has authority only to organise the

arbitration.

Procedure of formation of arbitration court

Article 408

The arbitration court is considered to have been duly established when the arbiter or the arbiters have been appointed in conformity with the provisions of this chapter and they have accepted in writing the mission entrusted to them.

The person to whom the task of the arbiter is proposed, immediately after his appointment, must present to the parties all the circumstances which may arise doubts with regard to his impartiality and independence for the solution of the dispute. He may be not accepted as an arbiter when the above mentioned doubts are just and grounded as well as when he does not fulfil the conditions on which the parties have agreed.

The party who has appointed an arbiter may dismiss him only for those causes which become known after his appointment.

Article 409

The parties may agree in an independent manner on the procedure of non-acceptance of an arbiter.

When such an agreement is lacking, the party objecting the appointment of an arbiter must notify him within 10 days from receiving notice of the appointment on the objection and the causes of non-acceptance.

In case the arbiter whose dismissal is requested does not withdraw from his mission, or the procedure determined by the parties does not settle this objection, the arbitration court decides without the participation of the arbiter whose dismissal has been requested. When the latter does not settle the request for dismissal the first level court decides not later than 15 days from the date of lodging the dispute for trial.

Article 410

When an arbiter is not in a position to fulfil his tasks on the mission entrusted, or for different reasons does not fulfil his tasks within the due time-period, his mandate as an arbiter expires when he withdraws from the mission or the parties agree on the termination of such mission. His replacement is done in conformity with the rules on the appointment of arbiters.

Article 411

When the parties appoint the arbiters in even numbers, the arbitration court is completed with an arbiter determined according to the agreement of the parties and in its absence, by the arbiters appointed by the parties. When they have not been able to appoint the arbiter, he is appointed by the chairman of the district court.

The appointment of the arbiter in conformity with this provision in any case must be made within 15 days from receiving notice of such an obligation.

Article 412

When a legal or natural person is entrusted by the parties to organise arbitration, one or more arbiters accepted by the parties are appointed for the purpose. In case when the acceptance by the parties is not achieved, the person entrusted with the organisation of the arbitration invites each party to appoint its own arbiter and acts according to the procedure on the appointment of the necessary arbiter to complete adjudicating body of the arbitration.

Duration of mission of arbiter

Article 413

If the arbitration agreement does not designate a time-period the mission of the arbiters continues only 6 months starting from the date when the last of them has accepted such mission.

The time-period designated according to the first paragraph, on the request of even one of the parties or of the arbitration court may be extended by the chairman of the first level court.

Jurisdiction of arbitration court

Article 414

When a dispute which is being considered by an arbitration court, on the basis of an arbitration agreement, is sent for trial to another jurisdiction, the latter must declare his lack of authority.

When the arbitration procedure on the consideration of the dispute has not started yet, the other jurisdiction must also declare lack of authority, except when the arbitration agreement is openly invalid.

CHAPTER III

ARBITRATION PROCEDURE

Commencement of activity of arbitration court

Article 415

The arbitration court starts its procedural activity from the moment it is established, except when in the agreement have been designated all the arbiters. In this case it is considered that it starts its activity when one of the parties asks the arbiter or arbiters to perform their mission.

Determination of work procedure

Article 416

The parties may determine themselves the work procedure of the arbitration court, by accepting the rules decided for the courts or by referring to the procedural rules of an arbitration institution selected by them.

In case such an arrangement is not made by the parties, the arbitration court determines them itself even by referring to a regulation of an arbitration institution.

Independently from what was provided in the previous two paragraphs, the arbitration court is obligated to respect the leading principles of the court process, to guarantee the equality between the parties and their right to be heard in a contradictory procedure.

Article 417

The arbitration court, on its own or on the request of the parties, decides on its own authority including also the validity of the arbitration agreement. When it accepts by decision that the arbitration agreement is invalid it is considered that it has terminated its mission.

Taking of measures for securing the lawsuit

Article 418

The arbitration court, on the request of one of the parties may decide on the taking of measures to secure the lawsuit, except when there is agreement against it between the parties. If the parties have not decided rules for this purpose, the arbitration court applies the rules provided in this Code for securing the lawsuit.

If the other party does not apply such measures voluntarily, the arbitration court addresses the competent court which decides in conformity with rules determined in this Code.

Place of holding arbitration

Article 419

In the arbitration agreement the parties may determine the place where the arbitration procedure shall take place. In absence of agreement the place is determined by the arbitration court. If even this cannot take such a decision, then the place where the arbitration procedure

shall be held, shall be the place of abode or the seat of the defendant party.

Permission and acquisition of evidence

Article 420

The parties may present as evidence documents in written matter which seem important to them for the solution of the dispute or may refer to documents and other proving means.

They may add or diminish the subject matter of the lawsuit or may change its legal cause until the completion of the court investigation

This provision is not applied when the parties to the arbitration agreement or, in its absence, the court of arbitration, in its accepted regulation, have stipulated otherwise. Nevertheless the agreement must preserve intact the principles of free acquisition of evidence.

Article 421

The arbitration court acts on its own for the acquisition of the necessary evidence. In case difficulties are encountered for their acquisition as may be the refusal to appear before the arbitration court, to present a written matter evidence or to acquire data from a state or private institution, these are sent to the district court which acts according to the rules determined in this Code for the courts.

Trial in absence

Article 422

When the plaintiff or the defendant have not appeared in the determined date and time of the court session without any legitimate cause, the court of arbitration holds the trial in absence. The non-appearance of one party must not be considered as an admission of the claims of the other party.

Replacement of arbiter

Article 423

The appointed arbiter must pursue the entrusted mission until its completion. He may not abstain or resign from the trial of the case, except for motives provided in article 408 of this Code. In such a case his replacement is made according to the rules provided in this Code.

Drafting of procedural acts

Article 424

The acts and minutes held during the arbitration procedure are drafted jointly by all the arbiters, except when in the arbitration agreement the parties have agreed that such actions to be carried out by one of the arbiters.

Termination of arbitration trial

Article 425

In case the parties have not stipulated otherwise in the agreement, an arbitration trial terminates when :

a. the arbiter is revoked, dies, encounters obstacles for the completion of the entrusted mission or has lost completely his civil rights;

b. the arbiter abstains or resigns from the mission of the arbiter, when it is the case provided in article 423 of this Code;

c. the arbitration duration ends finally.

Closure of court investigation

Article 426

After the necessary evidence is taken and court investigation closed, the arbiter determines the date on which the dispute shall be discussed and the relevant decision taken. After such date no more evidence and claims may be made, except when the arbitration court estimates otherwise.

Applicable law

Article 427

When both parties have the place of abode or their residence in Albania, the arbitration court applies the Albanian legislation. When one of the parties is foreign, the arbitration court decides according to the rules of the law selected by the parties and, in the absence of such, according to the law with which it is more related.

But the parties may authorise the arbitration court to decide impartially and in an equal manner for the parties.

CHAPTER IV

AWARD OF ARBITRATION COURT

Issuance of final award

Article 428

The discussions on the issuance of the final award are held by the arbitration court without the presence of the parties or of other persons.

Article 429

The decision of the arbitration court is taken by majority of votes. He is signed by all the arbiters. The arbiters who have an opinion contrary to that of the majority have the right to present their opinions in writing. The decision signed by the majority of the arbiters has the same effect as if it were signed by all the arbiters.

Content of final award

Article 430

The decision of the arbitration court must contain the composition of the adjudicating body of the arbiters, the date and the place of its issuance, the identity of the parties, the place of abode, the place of residence or their seat, the first name and family name of the advocate or those of the representatives of the parties and the subject of the dispute.

The arbitration award must justify the solutions accepted and must be clearly pronounced on the claims of the parties.

Correction of mistakes in final award and its interpretation

Article 431

The arbitration court has authority to interpret its decision, to correct the material mistakes and to complete the decision on the requests of the plaintiff on which it has not pronounced itself, but which are not principal.

When arbitration court cannot convene again with the same composition, the issues mentioned in this article are settledby the court which would have the authority in the absence of an arbitration agreement,

Order of execution by arbitration court

Article 432

The decision of the arbitration court is irrevocable in relation to the dispute considered, from the moment of its announcement, except in the cases provided by article 434 of this Code.

It becomes executable by enforcement on basis of an execution order issued by the court of

the first level of the district where the decision is issued. For such a purpose, the original of the award and a copy of the arbitration agreement is deposited in the secretariat of the court by one of the arbiters or the interested party.

Appeal is not permitted against the decision of the court which issues the execution order.

Article 433

The original of the arbitration award is attached to the execution order.

The decision of the district court which refuses the issuance of the execution order must be justified.

Appeal to the court of appeal against this decision is permitted within 10 days from its announcement.

CHAPTER V

APPEAL AGAINST AWARD OF ARBITRATION COURT

Cases when appeal is permitted

Article 434

Although the parties in the agreement have stipulated renunciation from appeal, the award of the arbitration may be appealed against in the court of appeal only when:

a. the arbitration court is formed in an irregular way;
b. the arbitration court has unjustly declared its authority or lack of authority on the trial of the dispute;

c. the arbitration court has surpassed in its decision the requests for which it has been instituted, or does not pronounce itself on one of the major requests of the lawsuit;

ç. the equality of the parties and their right to be heard in a procedure based on the adversary principle has not been respected;

d. the decision of the arbitration court is in conflict with the public order of the Republic of Albania.

Time-period for appeal

Article 435

Appeal to the court of appeal may be made within 30 days from the day the award is announced. The absence of the parties at the announcement of the award does not burden the court with the obligation for the notification of the award.

Consideration by court of appeal

Article 436

The court of appeal considers the appeal in conformity with the rules determined in this Code. When the court of appeal revokes or changes the award of the arbitration court, it decides on the foundations of the dispute to the limits of the mission designated to the arbitration court.

Disallowance of recourse to Court of Cassation

Article 437

Against the decision of the court of appeal is not permitted recourse to the Court of Cassation.

Initiation of execution of award

Article 438

The execution of the decision of the arbitration court may be initiated when :

a. the parties to the arbitration agreement have renounced from appeal against the award given by the arbitration court in the conditions provided in article 434 of this Code;

b. the parties have not appealed within the time-period provided in article 435 of this Code, in the conditions provided in article 434 of this Code;

c. the court of appeal has dismissed the appeal request or has revoked or changed the decision of the arbitration court, considering the case in foundation.

CHAPTER VI

INTERNATIONAL ARBITRATION

Formation of international arbitration court

Article 439

In the trial of international agreements the arbitration agreement must designate the arbiter or arbiters or to stipulate the manner of designating them even by referring to an arbitration regulation.

The arbitration which is related to the interests of international trade is international.

For the arbitration trials which take place in the Republic of Albania, when the parties in agreement have stipulated the application of Albanian procedural law for the formation of the arbitration court and difficulties are encountered in its formation, the interested party may address itself to the court of the district of Tirana, except when they have agreed otherwise.

Determination of arbitration procedure

Article 440

In the arbitration agreement the parties may stipulate themselves or may refer to an arbitration agreement in order to determine the procedure which shall be followed in the arbitration sessions.

In the absence of the agreement, the arbitration court regulates the procedure for the implementation of the mission assigned for as much time it needs, by determining it on its own or by referring to an arbitration agreement.

Applicable law

Article 441

The arbitration court resolves the dispute in conformity with the law the parties have determined in the agreement and in the absence of such a solution, in conformity with other laws and rules which it considers appropriate. In any case it also takes into consideration the rules and customs of trade.

PART THREE

LEGAL MEANS OF DEFENCE

TITLE ONE

APPEAL TO COURT OF APPEAL

CHAPTER ONE

GENERAL PROVISIONS

Means of appeal

Article 442

Means of appeal against court decisions are : appeal to the court of appeal, recourse to the Court of Cassation, request for revision as well as objection of the third.

Time-period of appeal

Article 443

The time-period for appeal to the court of appeal against final decisions of the court of first level is 15 days.

The time-period for recourse to the Court of Cassation, against decisions of the court of appeal, is 30 days.

The time-period to request the revision of the decision of the first level court and objection of the third is 30 days.

Start of time-period for appeal

Article 444

The time-periods determined in the preceding article are irrevocable and start from the day the final decision is announced. When the case has been adjudicated by the court of first level in absence of one of the parties, this time-period starts from the day the decision is notified.

The time-period to present request for revision and the time-period of objection of the third start from the day when the circumstances are discovered which are referred to in the relevant provisions.

Preclusion of appeal

Article 445

Appeal to the court of appeal, recourse to the Court of Cassation, revision and objection of the third, regardless of notice, cannot be exercised after one year from the announcement of the decision. This provision is not applied when the absent party proves that it has had no knowledge of the court process due to invalidity of notices.

Court where appeal is presented

Article 446

Appeal is presented to the court which has issued the decision against which appeal is made.

Notice of appeal

Article 447

Appeal is notified to the parties in conformity with the rules provided in articles 130 and 131 of this Code on notice and summons to the court.

Joinder of appeals

Article 448

All appeals made separately against the same decision are joined in a single process.

Suspension of execution

Article 449

The execution of the decision against which there is an appeal is suspended until consideration by the court of appeal has ended, unless the law sets forth otherwise. In case of recourse to the Court of Cassation the decision may be suspended in the Court of Cassation.

Non-acceptance of appeal

Article 450

The court which has issued the decision does not accept the appeal when :

a. it is presented beyond the time-period provided by law;
b. it is made against a decision against which appeal is not permitted;
c. it is made by a person who is not legally entitled to make an appeal;
ç. appeal has been renounced.

Irrevocable decision

Article 451

The decision of the court becomes irrevocable when :

a. it cannot be appealed against;

b. no appeal has been made against it within the time-periods determined by law or when the appeal has been withdrawn;

c. the appeal presented has not been accepted;

ç. the decision of the court is left in effect, is changed or trial in the second level has been ceased.

CHAPTER II

TRIAL IN COURT OF APPEAL

Decisions which may be appealed against

Article 452

All decisions issued by a court of first level may be appealed against to the court of appeal, except for the cases when appeal is excluded by law.

Signing of appeal

Article 453

The appeal addressed to the court of appeal must be signed by the party itself, the advocate or the representative equipped with power of attorney.

Content of appeal

Article 454

The appeal must indicate :

a. the parties to the case;
b. the decision against which appeal is made;
c. the causes for which appeal is made;
ç. what is requested by the appeal.

Documents attached to appeal

Article 455

Jointly with the appeal shall be presented :

a. as many copies of the appeal and other documents as are persons who participate in the case as parties;

b. power of attorney when appeal is presented by the advocate or the representative of the party. In case the appeal does not fulfil the above mentioned conditions, as well as when it is not signed, the court notifies the party to correct the shortcomings within 5 days, otherwise the appeal is considered as non-presented.

Objection appeal

Article 456

The party who has not made an appeal, or the party against which appeal is made may object to it by a counter-appeal within 5 days from receiving notice on the appeal of the other party.

Objection appeal shall be notified to the other parties in trial in conformity with the rules for the notification of the appeal.

Intervention in appeal

Article 457

Only intervention of the third, who has the right of objection in conformity with article 503 of this Code is allowed in the court of appeal.

Rescheduling of appeal time-period

Article 458

When parties have lost the right of appeal for reasonable causes, they may present a request for rescheduling of the time-period to the court which has issued the decision.

Lapse of requests which have not been renewed

Article 459

When requests and claims disregarded in the decision of the first level court are not repeated in the appeal, it is considered that they have been renounced.

Composition of the court and consideration of the case

Article 460

The court of appeal considers the case in a collegiate manner. It tries by means of an adjudicating body consisting of three judges.

The chairman of the court of appeal designates the reporter of the case and the day of trial.

The Secretariat of the court of appeal duly notifies the parties (articles 128-133) at least 10 days in advance of the date the case shall be tried in appeal as well as announces the relevant list of cases.

Article 461

Initially the court examines the due presentation of the parties, joins the appeals against the same decision and makes efforts to settle the case by conciliation.

Participation of attorney

Article 462

The attorney may participate in the trial of a case by the court of appeal in cases provided by article 85 of this Code. He may give his opinion in writing or orally in a court session.

Renunciation from the appeal

Article 463

The appellant or its representative may renounce from the appeal at each stage of the trial of the case in appeal. In this event the cessation of the consideration of the case by the court of appeal is decided.

The court session

Article 464

The court session starts with the report by one of the members of the court council. After that the parties, if present, give explanations. The first to speak is the party who has appealed, then the other participants in the trial and, if it is the case, the attorney is heard. When the attorney has presented his opinion in writing, that is read by a member of the court council. If the attorney is appealing against the decision of the court on basis of the lawsuit presented, he is the first to speak.

Article 465

At the consideration of the case in appeal, the provisions on the procedure of trial in first level courts provided in this Code are taken into consideration to the degree they are applicable.

Decision of the court of appeal

Article 466

After considering the case the court of appeal decides :

a. to leave in effect the decision of the first level court;
b. to change the decision;
c. to revoke the decision and cease the case;
d. to revoke the decision and to send the case for retrial in the district court in cases provided by article 467 of this Code.

Sending for retrial

Article 467

The court of appeal revokes the decision of the district court and sends the case for retrial when :

a. the first level court has violated provisions on jurisdiction and authority;

b. the composition of the adjudicating body has not been regular or the decision has not been signed by its members;

c. the court has not decided on the cessation of the case, although the conditions provided by this Code existed;

d. the case was tried in the absence of the participants in the process, without having knowledge on the day of the trial.

Cessation of trial for lack of court jurisdiction

Article 468

The court of appeal revokes the decision and decides itself on cessation of the case when it assesses that the case does not fall under court jurisdiction as well as when the lawsuit could not be initiated.

Suspension of execution

Article 469

When the decision of the first level court is revoked and the case is sent for retrial, the execution of the decision is suspended.

On the request of the party, the court of appeal may decide the suspension of the execution of the decision also when it leaves in effect the decision of the first level court, when recourse to the Court of Cassation is made against its decision and when from the immediate execution

of the decision grave or irreparable consequences may result, as well as when the party who has made the recourse gives material guarantees which secure the decision.

Appeal against intermediate decisions

Article 470

Intermediate decisions issued by the first level court may be changed or withdrawn during the trial. These decisions may be subject to appeal together with the final decision.

Nevertheless, in the cases expressly provided in this Code, separate appeal may be made to the court of appeal against intermediate decisions within 5 days of their announcement or communication.

Suspension of execution of intermediate decisions

Article 471

The submission of the appeal against an intermediate decision suspends neither the trial nor the execution of the decision, except when it is otherwise provided in this Code or when the court of appeal decides on suspension until it issues the decision on the separate appeal.

TITLE II

RECOURSE TO THE COURT OF CASSATION
CHAPTER ONE

RECOURSE PROCEDURES

Decisions against which recourse can be exercised

Article 472

Decisions issued by the court of appeal as well as those of the first level court, in cases provided by this Code, may be appealed against by means of recourse to the Court of Cassation only when :
a. the law has not been respected or has been applied incorrectly;
b. there are grave violations of procedural norms (article 467 of this Code);
c. a decisive proof requested by the parties during trial has not been taken;
ç. the reasoning of the decision is clearly illogical;
d. the provisions on jurisdiction and authority have been violated.

The objection to the decision to the Court of Cassation is made within 30 days from the issuing of the decision by the court of appeal or the district court, in cases when such decisions are objected directly to the court of Cassation.

Recourse in the interest of law

Article 473

When parties have not exercised recourse in the time-periods provided by law or have renounced from recourse, the General-attorney may exercise recourse to request the revocation of the decision in the interest of the law.

Signature of recourse

Article 474

The recourse addressed to the Court of Cassation is signed by the party itself, the advocate or its representative equipped with power of attorney.

Content of recourse

Article 475

Recourse must contain :

a. the parties to the case;
b. the decision objected;
c. a succinct presentation of the facts of the case;
ç. the causes for which the revocation of the decision is requested referring to the legal norms on which it is based;
d. the power of attorney if recourse is made by the advocate or the representative of the appellant.

Filing of recourse

Article 476

Recourse is deposited with the Secretariat of the court which has issued the decision within the time-period of 30 days from the notice given to the parties.
Jointly with the recourse must be deposited :

a. certified copy of the objected decision and if it is the case also of the notice when it has been made;

b. the special power of attorney;

c. acts and documents on which recourse is based an as many copies as there are parties.

The Secretariat of the court which has issued the objected decision, sends officially to the Secretariat of the Court of Cassation the relevant file together with the above-mentioned

documents. When these conditions are not fulfilled, recourse is not accepted.

Counter-recourse

Article 477

The party against which recourse is made may object to it by means of a counter-recourse, which must be notified to the recourse maker at his place of abode within 20 days from the notification of the recourse. If this notice is lacking, the party cannot present counter-recourse but can only participate in oral discussion.

The rules provided in articles 456 and 457 of this Code are applied for the counter-recourse.

Presentation of other documents

Article 478

Deposition of acts and documents which have not been presented in previous levels of trial is not accepted, except for those which are related to the appealed decision and the acceptance of the recourse or counter-recourse.

Deposition of documents as above must be notified to the other parties.

Suspension of execution of decision

Article 479

The Court of Cassation suspends the execution of the decision when:

a. immediate execution of the decision would bring about grave and irreparable consequences;
b. the party making the recourse deposits material guaranties which ensure the execution of the decision.

Non-acceptance of recourse

Article 480

Recourse is not accepted if it made for causes other than those permitted by the law.

Non-acceptance of the recourse is decided by the college of the Court of Cassation in the consultation room without the participation of the parties.

CHAPTER II

TRIAL PROCEDURES

Consideration in joint sections

Article 481

The Court of Cassation expresses itself in joint colleges on the cases provided in article 472 letter □d□ of this Code.

The Chairman of the Court of Cassation may decide that the Court expresses itself in joint colleges on recourses presented by the parties on which there are different and previous practices in the simple colleges as well as for those recourses which due to their character are of special importance.

In such cases the Chairman of the Court of Cassation designates the reporter and the date for considering the recourse.

Commencement of trial

Article 482

The Chairman of the Court of Cassation designates the colleges and the reporter for considering the recourses.

The Court of Cassation adjudicates in council with three judges.
The Chairman of the civil college designates the date for considering the recourse.

The Secretariat of the Court of Cassation announces the lists of consideration of recourses at least 15 days prior to the date of consideration.

Court consideration

Article 483

The reporter presents in the court session the facts which are of importance in taking the decision, the content of the appealed decision and the causes of recourse and counter-recourse.

After the report the Chairman invites the advocates of the parties to present their defence.

Then the attorney presents orally his justified opinion.

Reply is not allowed but the advocates of the parties in the same session may present to the court their opinions briefly in writing.

Taking of decision

Article 484

After discussing the case the court withdraws in the consultation room and takes the relevant decision. In specific cases, due to the complicated nature of the case or its importance the taking of the decision may be postponed for as many days as it is necessary.

The decision is signed by all the members of the college.

Article 485

After considering the case, the civil college or the joint colleges of the Court of Cassation decide :

a. to leave the decision in effect;

b. to revoke the decision of the court of appeal and to leave in effect the decision of the first level court;

c. to revoke the decision of the court of appeal and the decision of the first level court and to send the case for retrial to the court of appeal with a different adjudicating body;

ç. to revoke the decision of the court of appeal and the decision of the first level court and to send the case for retrial with another adjudicating body to the first level court;

d. to change the decision of the first level and of the court of appeal;

e. to revoke the decisions and the cessation of the trial of the case.

Mandatory implementation of instructions

Article 486

The instructions and the conclusions of the Court of Cassation are mandatory for the court which reconsiders the case.

Mistakes in justification of decision

Article 487

The mistakes in the justification of the decision are not a cause for infringement on the decision. In such a case the court is limited only to the correction of the justification.

Trial costs

Article 488

The court, in case it dismisses the recourse, charges the cost of the trial to the one who made the recourse.

Non-repetition of recourse

Article 489

The recourse proclaimed unacceptable or unproceedable cannot be presented again, even in cases when the time-period determined by law has not expired.

Renunciation from recourse

Article 490

The party may renounce from recourse until reporting in the court session has not started. Renunciation is made in writing, signed by the party itself or its advocate equipped with power of attorney for that purpose.

The act of renunciation is notified to the parties that have appeared or is communicated to the advocates of the parties.

Costs in case of renunciation from recourse

Article 491

In case of renunciation from recourse, the court charges the cost to the renouncing party.

When renunciation from recourse occurs and all the parties or their advocates have participated in the trial there is no place for a specific announcement of the decision for the cessation of the case.

Correction of material errors

Article 492

If the decision proclaimed by the Court of Cassation contains material errors or errors in calculation, the interested party has the right to require, by means of a request, their correction or rectification within 60 days from the notification of the decision.

Retrial

Article 493

The first level court or the court of appeal where the case is sent for retrial apply the same procedural rules provided for that level of trial.

The court which retries the case abides by the decision of the Court of Cassation for any legal issue decided in it.

Invalidations proved in previous trials cannot be raised in the retrial. In retrial, the parties cannot make claims different from those accepted in the decision of the Court of Cassation, except for the need to arrive at conclusions emerging from the decision of the Cassation.

CHAPTER III

REVISION

Cases of revision

Article 494

The interested party may request the revision of a decision which has become irrevocable when :
a. new circumstances or new evidence in writing which are important for the case, which could not have been known by the party during the consideration of the case are discovered;

b. it is proved that the statements of the witnesses or the opinions of the experts on which the decision is based have been false;

c. the parties or their representatives or any member of the adjudicating body, who have participated in the trial of the case, have committed penally punishable acts, which have influenced in taking the decision;

ç. it is proved that the issued decision is based on forged documents;

d. the decision is based on a decision of the court or of another institution which is subsequently revoked;

e. the decision has been taken in open contradiction to another irrevocable decision issued for the same parties, for the same subject and for the same cause.

Article 495

Revision of decisions in circumstances provided in letters □b□, □c□, and □ç□ of article 494 of this Code is allowed when those circumstances have been proved by an irrevocable penal decision.

Time-period for submission of request

Article 496

The request for revision may be presented within 30 days from the day on which the party has been notified on the cause of revision but in any case not later than one year from the date when the cause of revision emerged. In cases provided in article 495, the time-period of 30 days starts from the date when the decision has become irrevocable.

Submission of request

Article 497

The request for revision is presented to the same court who has issued the decision for which the request is made. The request must contain : the cause for which revision is requested, the relevant evidence which are related to one of the requirements of article 494 of this Code, the date of the discovery or of the proving of the circumstance or of the acquisition of documents.

The request is signed by the party itself or the advocate equipped with power of attorney.

Non-acceptance of request

Article 498

When the request is made outside the cases provided in article 494 or is made by those who do not have the right to make it or when it results clearly unfounded, the court decides not to accept it. The decisions are taken in the consultation room without the presence of the parties.

The decision of non-acceptance is notified to the one who has made the request, who can appeal.

Trial of revision

Article 499

The consideration of the case by revision is made in conformity with the general rules provided in this Code.

Suspension of execution

Article 500

Submission of the request for revision does not suspend the execution of the decision. But the court, on request by the party, may suspend the execution of the decision when it estimates

that there is danger that a heavy and irreparable damage may be caused.

Taking of decision

Article 501

At the conclusion of the revision of the case, in its decision the court decides on the foundation of the case, revokes totally or partially the decision subject to revision as well as decides on the return of what has been taken by the annulled decision but in conformity with the civil legislation in effect.

Objection to decision

Article 502

The decision issued in the revision trial may be appealed against in conformity with the general rules.

CHAPTER IV

OBJECTION BY A THIRD

Cases of objection by a third

Article 503

A third may object an irrevocable or an executable decision of the court when his rights are violated.

The interested persons and the creditors of one of the parties may object to the decision when it is about effects of premeditation or action against them.

Article 504

The objection by the third is not accepted when it is made by heirs of one party as well as by persons, whose interests are represented by one of the parties in the court process.

Request for objection

Article 505

Objection is presented to the same court which has announced the decision. The trial is made in conformity with the rules provided in this Code.

Article 506

The objection by the third may be made also during the trial of a case, when he is not called by the parties.

Suspension of execution

Article 507

The court which considers the objection on request by a party may decide on the suspension of the execution when the cases provided by article 479 of this Code exist.

Effects of decision

Article 508

The effects of such a decision shall extend to the degree the interests of the third person are infringed, without touching the other parts of the decision.

Sanction against objection declared unacceptable

Article 509

In case the court declares the objection unacceptable or rejects it, it may punish the objector with a fine of up to 10 000 lek.

PART FOUR

ENFORCED EXECUTION

TITLE ONE

GENERAL PROVISIONS

Executive titles

Article 510

Enforced execution can be made only on basis of an executive title.

Executive titles are :

a. civil decisions of the court which have become irrevocable, decisions issued by them on securing the lawsuit as well as on temporary execution;

b. irrevocable penal decisions in the part dealing with property rights;

c. decisions of arbitration courts of foreign countries which have been given effect in conformity with the provisions of this Code;

ç. decisions of an arbitration court in the Republic of Albania;

d. notary acts which contain obligations for payment in money;

dh. bills of exchange, cheques, and order papers equalised with them;

e. other acts which according to special laws are called executive titles and authorise the office of the sheriff to execute them.

Execution order

Article 511

The executive title is executed on the request of the creditor. For this purpose, the order of execution is issued which is given :

a. by the court which has taken the decision in cases provided in letters □a□ and □b□ of the preceding article;

b. by the court of appeal with regard to decisions by courts of foreign countries and of foreign arbitration courts which have been given implementation power in conformity with the provisions of this Code;

c. by the court of the place where decision has been issued in cases provided in letter □ç□ of the preceding article;

ç. by the court of the place where it has been determined to make the execution in cases provided in letters □d□, □dh□ and □e□.

Appeal for non-issuance of execution order

Article 512

Against the decision by which is refused the issuance of the execution order may be appealed in conformity with the rules on separate appeals.

Execution order for separate things and persons

Article 513

The execution order is issued in only one copy.

When separate properties must be handed over or when the execution title has been issued to the benefit or against several persons separate execution orders may be issued making a note as which part of the title must be executed for each execution order.

Issuance of duplicate of execution order

Article 514

When the execution order is lost or disappears, on request by the creditor the court which has issued it may issue him a duplicate on the basis of the executive title.

The request is considered in court council after a copy of the request has been delivered to the debtor.

When the executive title itself is lost or disappears and it is not possible that its content be taken out of the acts of the organs which have issued it, the creditor may sue the debtor in conformity with the general rules.

Commencement of execution

Article 515

The execution title is executed by the sheriff on the request of the creditor as well as of the

attorney in cases when he has sued.

Territorial authority of sheriff

Article 516

The request for the implementation of the execution orders is addressed to the sheriff of the place where are located :

a. the immovable or movable things or the money to which the execution is addressed;

b. place of abode of the third person obligated when the execution is addressed to the credit that the debtor has taken from that person;

c. the place of execution of the obligation for the performance or non-performance of a certain action.
When the sheriff assesses that he does not have the authority to execute the request, he sends it to the competent sheriff, after seizing the thing or the credit of the debtor.

The conflict on authority is not permitted but the sheriff has the right to present his lack of authority to the court of the district where he operates, which considers it in court council. Separate appeal is permitted against the decision.

Notice for voluntary execution

Article 517

At the start of the execution, the sheriff sends to the debtor a notice to execute voluntarily the obligation contained in the execution order designating for this a time-period of 5 days when its subject is salary or obligation for sustenance and of 10 days in all other cases.

On request by the debtor, the first level court of the execution place, in special cases, taking into consideration the or other circumstances of the case may postpone the time-period of execution of the obligation in cash or may divide such an obligation in instalments. The decision is given in court session, after the parties have been notified, and a separate appeal may be made against such decision.

Content of notice

Article 518

Notice must contain a summary of the order of execution, the place and address of the creditor and the warning made to the debtor that the enforced execution shall start if the

execution is not made voluntarily by him within the time-period defined in the notice.

In case the debtor dies after the execution of the title but before the necessary actions for the execution are completed, the sheriff, before proceeding with his actions, must send to the heirs of the deceased, when they are known, a new notice for the obligation contained in the execution order to be executed voluntarily by them.

Commencement of enforced execution

Article 519

Enforced execution cannot start before the time-periods provided in article 517 of this Code have expired, unless the danger exists that with the expiry of the time-period the execution shall be made impossible. In such a case the sheriff may start immediately with the enforced execution.

Effects of execution order against heirs

Article 520

The order of execution against the debtor who leaves inheritance is executed on the property of his heirs, but within the amount of the property inherited by them from the debtor leaving the inheritance.

Execution against third party

Article 521

The order of execution against the debtor may be executed also against a third person, who for securing the obligation has left as a pawn or has mortgaged a thing of his, when the creditor requests execution on such a thing.

Execution against debtor of unknown abode

Article 522

When the place of abode of the debtor is not known, on request by the sheriff, the court of the district of the place of execution, after also being clarified itself on this circumstance, nominates a representative of the debtor.

Assistance by public order police

Article 523

When for the enforced execution it is necessary to open the place of abode or any other building of the debtor in order to look for his things that are in them, the court sheriff performs such action in the presence of a member of the local power.

In case it is necessary the sheriff asks for assistance by the public order police.

Minutes of sheriff

Article 524

For each action undertaken, the sheriff is obligated to keep minutes in which are mentioned the day and place of the performance of the action, requests and statements made by the parties, things seized, the proceeds and the cost incurred for the execution.

Cost of execution

Article 525

The cost incurred for the execution are initially paid by the creditor on the occasion of performing each action and then are withheld from the proceeds and returned to the creditor.

Execution against a foreign person

Article 526

The enforced execution against a foreign public person may be effected only on permit by the Minister of Justice.

TITLE II

EXECUTION IN SPECIAL DOMAINS

CHAPTER I

EXECUTION OF OBLIGATIONS IN MONEY AGAINST NATURAL AND JURIDICAL PERSONS

GENERAL PROVISIONS

Placement on Seizure

Article 527

When the execution of an obligation in money is requested, the sheriff starts the enforced execution on the expiry of the time-period in the execution notice (article 517) by placing on seizure the credits of the debtor and his movable and immovable things to the measure which shall be necessary for the fulfilment of the obligation.

Article 528

On request by the debtor seizure may be placed also on another property of his other than that indicated by the creditor when the sheriff estimates that it fulfils the request of the creditor.

Things on which seizure cannot be placed

Article 529

Exempt from the seizure of the property of the debtor are :

1. things of personal use of the debtor and his family such as : clothing, sheets and covers, furniture to the degree they are necessary for their living;

2. food and fuel which are necessary to the debtor and his family for up to three months;

3. decorations and souvenirs, letters, documents of the family ad professional books;

4. books, musical instruments, means of art which are necessary for the scientific and artistic activity of the debtor and his family;

5. for persons earning their livelihood through agricultural and livestock raising activity, up to 3 thousand square meters of land, two animals for tilling land, one cow, 6 sheep or 6 goats, seeds for the future planting as well as the food for those animals for three months;

6. on assistance given to mothers with many children or lone mothers, on the retirement, invalidity or family pensions or on the study fellowship unless the obligation is for sustenance. In this case cannot be seized more than 1/2 of the amount of pension or fellowship;

7. on natural fruits one month before they are ripe.

Extension of seizure to income from insurance

Article 530

If the seized things are insured, seizure extends also on income pertaining to them from

insurance.

Obligations of debtor after placement of seizure

Article 531

From the moment the seizure is placed the debtor has no right to possess the movable or immovable thing or the credit or to change, damage or disappear the thing otherwise he is responsible according to the provisions of the Penal Code. This obligation extends also to persons who are in possession of the thing of the debtor.

Bank account of sheriff

Article 532

The amounts ensuing on the occasion of the execution against the debtor, against the third person who owes to the debtor, against the buyer of the sold thing in the shops of free sale or at auction are sent to the bank at the account of the sheriff.

Seizure on salary of debtor

Article 533

When seizure is placed on the salary of the debtor, no more than half of it can be withheld, unless otherwise provided in special provisions.

Participation of other creditors

Article 534

Other creditors of the same debtor may participate at any stage of execution until the sheriff has not prepared the plan for the division of the proceeds.

Participation of other creditors in execution is made on basis of their written request to which is attached the execution order or a decision of the sheriff that the execution order is attached to another case which is under execution.

Article 535

The creditor who participates in execution together with other creditors has the same rights with the creditor, who was the first to place seizure on the things or credits of the debtor, except when legal causes of preference exist.

Execution actions, performed before the creditor participates together with the other creditors, create rights also for them.

Article 536

The state is always called a creditor who participates together with other creditors for the obligation that the same debtor has towards the state and which result from taxes and other credits, whose amount has been notified to the sheriff before the division of the other amounts is made. For this purpose the sheriff notifies the relevant finance section on any execution initiated by him and on any division made by him.

Plan for dividing proceeds

Article 537

When the proceeds from the execution are not enough to pay all creditors the sheriff prepares the division plan, setting aside first the amounts needed for the credits paid in preference and from the remaining amount pays the other credits in proportion to their amount.

Article 538

The sheriff notifies the debtor and the creditors on the preparation of the plan for the division of the proceeds and calls them on a date determined by him.

If within 5 days from the day the sheriff presents the plan for the division no appeal is made, the decision is considered final and the sheriff gives to each creditor the amount due.

Appeal against plan for dividing proceeds

Article 539

In case an appeal is made against the plan for the division of the proceeds, the case together with the appeal is sent to the district court which decides in court session by summoning the debtor and the creditors. A separate appeal may be made to the Court of appeal against the decision of the court on the division of the proceeds.

CHAPTER II

EXECUTION ON MOVABLE THINGS

Making inventory

Article 540

Seizure of debtor□s movable things is made by making an inventory of them by the sheriff.

Article 541

The inventory includes only the things which are in the house of the debtor as well as those which are in another building which is jointly of the debtor and of third persons, except when it arises that they belong to another person.

Minutes are held for the inventory.

Content of inventory minutes

Article 542

The minutes of inventory must contain :

a. the note of the order of execution on basis of which seizure is placed;
b. first name, father□s name and family name of sheriff, debtor, creditor and other persons present during the inventory;
c. place where inventory is made;
ç. claims of third persons in relation to inventoried things;
d. detailed description of the things and their appraisal;
e. to whom are the things left in custody;
dh. signatures of the persons participating in the inventory.

Article 543

The inventory is made in the presence of the debtor. In absence of the debtor, the inventory is made in the presence of another major person of his family and, when no such person is present, in the presence of a representative of local power. In any case the inventory is made with also two witnesses being present.

Appraisal of inventoried things

Article 544

The inventoried things are appraised by the sheriff on basis of appraisals by experts, on basis of market prices, deducting the appropriate percentage for wear and tear or oldness.

Obligations of debtor for things left in custody

Article 545

The inventoried things may be left in custody to the debtor, who has the right also to use them on condition not to diminish their value. When the debtor refuses to accept them in custody the sheriff appoints another person for this, determining a fee for him.

The debtor or the third person, to whom are left in custody the inventoried things, must render account on the income and expenditure made for the thing. They are responsible in conformity with the provisions of the Penal Code for their possession, damage or destruction.

Execution on things in joint property

Article 546

When execution is made on things which are joint property of the debtor and other persons, the sheriff, after making the inventory of the entire joint property, presents the minutes to the competent court of the execution place, which determines and divides the part that belongs to the debtor, in conformity with the rules provided in articles 369-374 of this Code. On this part is then made the execution by the sheriff.

Invalidity of possession after placement on seizure

Article 547

Any possession of the movable thing by the debtor after the seizure is invalid against the creditors who have requested the execution, except when by possession the thing has passed in ownership to another who has been in good faith article 166 of the Civil Code).

Seizure of valuables

Article 548

Precious things such as gold, silver, platinum and the metals of platinum group in bars, pieces, coins and articles made of them, precious stones, pearls, and articles made of them as well as foreign currency, documents of payment in foreign currency such as bills of exchange, cheques, bills and other papers of such nature as well as foreign titles with value as shares, bonds and the relevant coupons are given in custody to a bank.

Procedure of sale

Article 549

After placing the seizure the sheriff notifies the debtor that the seized things shall be sold if he does not execute the obligation within five days.

Article 550

The sale of things is made by auction or in shops of free sale, while the precious things (article 548) deposited in the bank are sold to it and their countervalue is received by the sheriff on basis of the official rate at the time of payment.

Article 551

When the thing, due to its nature or state cannot be sent to free sale shops for sale, the sheriff places in a visible place of such shop and in his office an announcement on the sale of the thing indicating in it also the location of the thing.

Determination of price

Article 552

The price of the seised things is determined by the sheriff and the debtor. When there are contradictions between them an expert is called.

New appraisal of thing

Article 553

If within two months from the sending of the thing to the shop of free sale or from the placing of the announcement the thing is not sold the sheriff makes a new appraisal of the thing at the presence of the debtor and the representative of the shop.

Non-appearance of the debtor does not refrain the sheriff from making the new appraisal of the thing.

If within two months after the new appraisal the thing is not sold the sheriff suggests to the creditor to take the thing against his credit and, when he does not accept, the thing is returned to the debtor.

Auction

Article 554

When the thing due to its nature or state is not accepted by free sale shops as well as when in conformity with the third paragraph of article 553 the sale in the free sale shop was not possible or when the sheriff estimates it as beneficial he organises the sale of the thing by auction.

Article 555

When the thing is sold by auction the sheriff places in his office, in the place where the thing

is and in the place designated for the auction, an announcement which must indicate the price at which sale at auction shall start, the place, day and time of the auction.

The auction cannot be made before the passing of five days from the announcement.

Article 556

The sale by auction of the thing is made on the day designated in the announcement and ends at the end of the official working hours of that day.

Buyer is called the bidder who has given the highest price. The buyer must pay the price immediately.

Persons indicated in article 709 of the Civil Code cannot participate in the auction.
Minutes are held for all actions of sale at auction.

Second auction

Article 557

In case no bidder was present at the first auction, then, after five days from its end, the sheriff, calling the debtor, makes a second appraisal and designates a second auction for the sale of the thing.

Non-appearance of the debtor does not refrain the sheriff from making the new appraisal of the thing.

If also in the second auction no bidders are present the sheriff suggests to the creditor to take the thing against credit at the price set in the new auction and, when he does not accept, the thing is returned to the debtor.

Order of sale of things at auction

Article 558

The debtor has the right to determine the order in which things shall be sold at auction. If from the sale of one or more things result proceeds, which suffice to pay the credit of the creditor and other expenses related to the credit, the auction ends and the other things are not sold.

Passage of ownership of sold thing

Article 559

The buyer of the things sold at the free sale shop or at auction becomes the owner of the thing even if the thing were not owned by the debtor.

No appeal can be made against the sale and its validity cannot be objected, except in the case provided in the third paragraph of article 556 of this Code.

CHAPTER III

EXECUTION ON IMMOVABLE THINGS, ON MEANS OF NAVIGATION AND FLYING

Placement of seizure

Article 560

The execution of the decision of the court or of other executive titles on immovable things of the debtor is made by placing seizure on them.

Seizure is placed by its registration in the office of the register of immovable property of the act of the sheriff in which are noted the kind, nature and at least three borders of the immovable thing, its location as well as the mortgages and real rights which may have been held on it.

A copy of the act of the sheriff is communicated to the debtor mandatorily.

Seizure on means of navigation

Article 561

When a ship is seized, the name and nationality of the owner of the ship, the description and its capacity as well as other data related to its registration are mentioned in the respective minutes. The copy of the minutes of seizure, for Albanian as well as for foreign ships, is given to the person who keeps the maritime register of the ship as well as to the director of the port where seizure is placed, who notifies immediately the owner of the ship.

Seizure prohibits the sailing of the ship.

Seizure on means of flying

Article 562

When a means of flying is seized, the name and nationality of the owner, identification signs of the means, place of registration, capacity and other data of such nature are mentioned in the respective minutes.

The copy of the minutes of seizure is given to the commander of the airport where seizure is made.

Seizure prohibits the flying of the means. When the flying means is a foreign one, the command of the airport notifies immediately the office where the flying means is registered.

Assessment of right of ownership of debtor

Article 563

Before placing the seizure, the sheriff is assured if the immovable thing is in ownership of the debtor. For this, ownership documents must be presented to the sheriff or he himself requests information from the office of registration of immovable property and, in their absence, from the financial organs of local power.

Appraisal of means seized

Article 564

The immovable thing on which is seize placed is appraised by the sheriff on basis of the value registered in the registers of immovable property or of the financial organ and, in absence of such registration, by experts.

When the debtor or any other person having interest in it claim a higher value of the thing in comparison with the one existing in the registers of immovable property or of the financial organ, the sheriff makes a new appraisal by experts.

Obligations of the debtor on thing left in custody

Article 565

The thing seized is left in custody to the debtor until it is sold, the debtor being obligated to take care of it as if it was his own thing.

If the debtor does not take due care for the thing left in custody, the sheriff appoints another person for the custody, determining a fee for him. The appointing and the determination of the fee are made in agreement between the sheriff and the other person. The fee shall be drawn out of the value of the thing after its sale.

The debtor or the other person to whom the seized thing is left in custody must account for the income realised and the expenses made for the thing. They are responsible in conformity with article 320 of the Penal Code for action which constitute an obstacle for the execution of the court decision.

Invalidity of legal actions of debtor on seized things

Article 566

Any action of the debtor which constitutes possession of the immovable thing after the registration of seizure in the office of the register of immovable property is invalid against the creditors who have requested the execution.

Procedure of selling by auction

Article 567

After the placing of seizure the sheriff sends to the debtor a notice that the thing shall be sold if he does not fulfil his obligation within 10 days from the notification.

On the expiry of the above time-period the sheriff announces the sale of the thing by auction.

Article 568

The announcement for sale by auction is placed at the office of the sheriff and at the place where the immovable thing is. The announcement must contain the first name, father□s name and family name of the owner of the thing, if there is a mortgage on the thing and for what amount of money, the price of the thing at which the auction shall start, the place, day when the sale by auction shall end. The sale cannot take place before the passing of 15 days from the announcement of the auction.

The creditors who have mortgage must be notified on the announcement for sale by auction.

Article 569

The sale of the thing is made in the office of the sheriff. It continues for 15 days and ends at the end of the official working hours of the last day which is indicated in the announcement for the sale by auction.

Article 570

Before the start of auction, each bidder who participates in it must deposit as guarantee with the office of the sheriff an amount of money equal to 10% of the price of the thing designated in the announcement. The creditor does not leave any guarantee in case his credit surpasses the amount of guarantee.

Minutes of auction procedure

Article 571

Minutes are held for the auction in which the bidders alongside their signature note the price they give for the thing irrespective of the price given before. When the bidder acts through a representative, the power of attorney must be presented.

Invalidity of sale by auction

Article 572

The debtor, his legal representative, the sheriff as well as the other persons indicated in article 709 of the Civil Code do not have the right to participate at auction.

When the thing is bought by a person who does not have the right to participate at auction, the sale is invalid. In this case, the amount left as guarantee by the buyer goes to the benefit of the state and the thing, on request by any creditor, may be sold again by auction, acting in conformity with the rules determined in this chapter.

Announcement of winner of auction

Article 573

At the end of the auction, the sheriff announces the winner. Buyer is the bidder who has given the highest price.

Ownership to the thing passes on to the buyer only after he has paid the whole price, deducting from it the amount left as guarantee.

The guarantees left by other persons who participated at the auction are returned to them immediately after the end of the auction.

Detailed rules on the holding of auction are determined by a separate law.

Time-period of payment of price of purchase

Article 574

The buyer must pay the price of the thing within 5 days from the end of the auction.

On payment of the price of the thing and the tax on the acts of sale of the thing the sheriff issues the decision for the transfer of the thing in ownership of the buyer. From that day the buyer gains all the rights that the debtor had on the thing.

Giving possession of purchased thing

Article 575

The buyer is given possession of the thing by the sheriff against the debtor or the person to whom it is left in custody as well as against any other person who has the thing in possession. The third person may be defended against the removal of the thing from possession only by means of the lawsuit on recognising the right of ownership on the thing.

Non-refund of amount left as guarantee

Article 576

The buyer who does not pay the price within the time-period provided in article 574 loses the right of being returned the amount left as guarantee, which goes to the benefit of the state, and a new auction is held for the sale of the thing in conformity with the rules provided in this chapter.

Repetition of auction

Article 577

When in the first auction no additional amount above the price at which sale started is offered, or there is no bidder, a new auction for the sale of the thing is held, applying the rules for the first auction. The new auction is held after three months have passed from the end of the first auction and on basis of a new price not lower than 20% of the first price designated by the sheriff in agreement with the debtor. When the thing is not sold even by the second auction the sheriff suggests to the creditor to take the thing against credit at the price designated for the new auction and when he refuses the seizure on the thing is lifted.

When the creditors that request to take the thing against credit are several the sheriff declares buyer the creditor who within 3 days from the suggestion gives a higher price than the one designated for the new auction.

Execution on an immovable thing in joint ownership

Article 578

When execution is made on an immovable thing which is joint ownership for the obligation that any of the owners has, only the part of the debtor co-owner is seized and sold, but also the entire thing may be sold when the other co-owners give their consent. Consent must be given by a notarised act.

When the thing is in joint ownership and all the co-owners are debtors, with regard to the seizure and sale of the thing is acted in the same way as if the thing was in ownership of a single debtor.

Difference between obligation and price of thing

Article 579

When the proceeds realised from the sale by auction are greater than the amount of credit of the creditor or creditors, the difference is returned to the debtor after deducting expenses made for the custody of the thing or for holding the auction.

Objection to ownership of thing sold at auction and to actions of sheriff

Article 580

The sale of the immovable thing by auction does not prohibit the third person who claims to be the its owner to claim the thing by lawsuit.

Against the sale by auction may be made an appeal to the court in the form of objection to the sheriff□s action. The validity of the sale by auction may be objected by lawsuit in conformity with the general rules only in the case provided in article 556 of this Code.

CHAPTER IV

EXECUTION ON CREDITS OF DEBTOR AND ON THINGS THAT THIRD PERSONS OWE TO THE DEBTOR

Placement of seizure

Article 581

Execution on credits of the debtor and on things that third persons owe to the debtor is made by placing seizure on them.

For this the sheriff notifies in writing the third person and the debtor.

On receiving the seizure notice, the third person is prohibited from delivering to the debtor the credit and his things. The credits and things must be accurately indicated in the seizure notice.

From the day the third person is notified on the seizure he is responsible as custodian for the credits and other things under obligation.

Article 582

Before placing seizure on these things, the sheriff is assured on the existence of credits of the debtor and of the things which third persons owe him, on basis of documents and other data secured mainly by the sheriff.

Objection by third person

Article 583

The third person is obligated to answer to the sheriff within five days from the notice of seizure :

a. if he admits that the credit or things on which seizure is placed belong to the debtor and if he is ready to pay the credit or to deliver the things;

b. if also other persons have claims on the credit or things;

c. if seizure is placed on the credit or the things on basis of another execution order.

The third person and, when this is a state institution or enterprise, the relevant person, who does not give an answer within the above mentioned time-period, is punished by the court with a fine from 100 to 50 000 lek, on request by the sheriff. This consequence must be mentioned in the notice of seizure.
The punished person has the right to request his relief from punishment in conformity with the rules provided in article 160 of this Code.

Article 584

When the third person in his answer does not object that the credit or the things belong to the debtor he is obligated to deliver them to the sheriff who acts in conformity with the above mentioned rules.

Article 585

When the third person in his answer objects that the credit or the things belong to the debtor, execution on them cannot continue and the creditor must file a lawsuit to prove that the credit or the things, that the third person has, belong to his debtor.

Credit secured by pawn or mortgage

Article 586

When the seized credit is secured by pawn, the person who holds the thing on pawn is obligated not to deliver that thing to anyone without order from the sheriff.

When the seized credit is secured by mortgage, a note on the placing of seizure must be made into the registers of the office of registration of immovable property.

Seizure on other remuneration

Article 587

Seizure on the salary extends not only on the salary indicated in the seizure notice but also on any other remuneration that the debtor receives from the same work or from another work, at the same natural or juridical person, state or private.

When the debtor changes place of work, the notice of seizure is send to the new place of work by the place of work he worked before and is considered as sent by the sheriff. In this case, as well as in the case the debtor is dismissed from work, the sheriff must be notified within five days.

Responsibility for non-execution of sheriff□s order

Article 588

When the competent person, at the work place in which the debtor works, does not withhold from the debtor□s salary the amounts according to the notice of the sheriff or does not notify the sheriff on the passage of the debtor to another place of work or on his dismissal, he is punished by the court with a fine of up to 30 000 lek on request by the sheriff.

The punished person has the right to claim relief from the punishment in conformity with the rules provided in article 169 of this Code.

CHAPTER V

EXECUTION OF OBLIGATIONS IN MONEY TOWARDS BUDGETARY INSTITUTIONS

General provisions

Article 589

Execution of obligations in money against budgetary institutions is made only into their relevant bank account or into the credit they have with thirds. Enforced execution on the movable or immovable property of a budgetary institution is not permitted.

When the budgetary institution does not have money in its bank account and does not have credit with thirds, the relevant superior financial organ is requested to designate the necessary fund and the budget chapter of the juridical person from which the obligation shall be met or the special financing from the state budget.

Article 590

Enforced execution towards determined credits of a foreign creditor is made only when there is no prohibition or limitation by separate law or by international state agreement.

Execution of obligations to the state

Article 591

The execution of obligations of the state is made only through the bank in its credits and at thirds and when these do not exist in the treasury accounts.

Execution in case juridical person is dissolved or goes bankrupt

Article 592

When the obligation rests on a juridical person which is dissolved or goes bankrupt, execution is made through the organ which accomplishes such actions, in conformity with the separate provisions. When the obligation of the state is in precious metals, the execution is made with the preliminary consent of the minister of Finance.

CHAPTER VI

EXECUTION ON AMOUNTS IN BANK ACCOUNTS

Obligations of banks to inform office of sheriff

Article 593

For obligations in money, the bank where the debtor has accounts or deposits is also determined in the execution order.

When the debtor is not found or when the bank does not have money for the debtor, the court, when it estimates it as appropriate, on the request of the sheriff, notifies all state and private banks which are obligated to inform the relevant sheriff office when they have accounts, deposits or credits on the name of the debtor, otherwise they are responsible in conformity with the provisions of the Penal Code.

Placement of seizure on account of debtor

Article 594

On receiving the execution order the bank seizes the account, deposits and credits of the debtor to the measure necessary for the execution of the obligation, without suspending the payment of credits which in conformity with article 605 of the Civil Code are paid by preference towards the credit on which seizure is placed.

Article 595

The amounts taken from the account, deposits and credits of the debtor pass on into the account of the creditor in the same bank or in another bank or, when there are no such, into the account of the sheriff.

Cases of return of order of execution to debtor

Article 596

When the obligation cannot be executed in the bank due to lack of money in the name of the debtor or due to preference for other obligations, the execution order is returned to the creditor via the office of the sheriff. From this moment a new time-period of statute barring starts.

Respecting order of preference

Article 597

When the amount of accounts, deposits or credits is not sufficient to settle the obligations presented for execution, the bank respects the order of preference provided in article 605 of the Civil Code.

Sanctions and appeal against them

Article 598

When the sheriff has ground to doubt that the bank inappropriately does not execute the obligation entirely or partially, violates the time-periods of executions or does not respect the order of preference, he has the right to verify in place the bank documentation in the presence of the person assigned by the management organ of the bank and keeps the relevant minutes.

When breaches or incorrectness are assessed the sheriff determines in the minutes mandatory actions and time-periods for the bank.

For breaches and incorrectness the sheriff has the right to apply the measures provided in article 588 of this Code, appropriately against the bank employee or against its management organ, that has ordered incorrect actions.

Article 599

Against the decision of punishment by fine may be lodged a separate appeal with the district court within five days from receiving notice of the punishment.

Bank issues necessary instructions

Article 600

The Bank of Albania issues the necessary instructions on the manner of applying the above mentioned provisions, mandatory for the entire banking system.

CHAPTER VII

EXECUTION OF OBLIGATION TO RELINQUISH A DEFINITE THING

Placement in possession of movable thing

Article 601

When the movable thing, on which decision is issued, has not been delivered voluntarily by the debtor within the time-period designated in the notice of the sheriff, it is taken from him by enforcement and is delivered to the creditor.

When the thing is not by the debtor or is destroyed, or only a part of it is by the debtor, the value of the thing or of the missing part is taken from the debtor. When the order of execution does not indicate the value of the thing, it is designated by the court of the place of execution, after hearing the parties and if necessary after questioning witnesses or experts. Separate appeal may be made against the decision of the court.

Placement in possession of immovable thing

Article 602

When the immovable thing, on which a decision is issued, is not freed voluntarily by the debtor within the time-period designated in the notice by the sheriff, the creditor is placed in possession of the thing. For this the sheriff, at least three days in advance, notifies to the debtor the day and time on which he shall place the creditor in possession of the thing.

On the designated day and time the sheriff equipped with the order of execution, goes to the place where the thing is located and places the creditor in possession of it by instructing other persons who hold the thing to recognise the creditor as owner.

Placement in possession of thing being with a third person

Article 603

When the sheriff assesses that the immovable thing is in the possession of a third person, who has gained for himself the possession of the thing, after the commencement of the case on which is issued the decision under execution, he places the creditor in possession of the thing, indicating in the decision how he has assessed the time in which the third person has gained possession.

Criminal responsibility of debtor and of third person

Article 604

When the debtor or the third person, who is divested of the possession of the thing, is again placed in possession of the thing in any illegal manner, the sheriff, on the request of the creditor, divests that person from the possession of the thing.

In these cases the debtor or the third person have responsibility in conformity with the provisions of the Penal Code.

CHAPTER VIII

EXECUTION OF OBLIGATION FOR PERFORMANCE OF DETERMINED ACTION

Cases when creditor is allowed to perform execution himself

Article 605

When the debtor does not execute his obligation, which is related to an action which can be performed also by other persons, the creditor may request from the sheriff to be allowed to perform himself this action on the account of the debtor.

Sanctions for non-performing of action by debtor

Article 606

When the action can be performed only be the debtor and not by other persons, the court of the place of execution, on request by the creditor compels the debtor to perform the action by notifying him that on the contrary he shall be fined up to 30 000 lek. If even after the first fine the debtor does not perform the action, the court fines him until he performs the action.

The above provisions are not applied for obligations resulting from the contract of work.

Article 607

When the debtor performs the contrary of what he is obligated to perform or suffer by decision, the court of the place of execution, on the request of the creditor, fines the debtor up to 30 000 lek as many times as he breaches his obligation.

Appeal

Article 608

Separate appeal may be made against the decision of the court in relation to the punishments by fine.

CHAPTER IX

MEANS OF DEFENCE AGAINST EXECUTION OF DECISIONS

Invalidity of executive title

Article 609

The debtor may request to the competent court of the place of execution to be declared that the executive title is invalid or that the obligation does not exist or that it exists to a smaller amount or has increased subsequently.

When the executive title is a court decision or an arbitral award, the debtor may contest the execution of the title only for facts occurred after the issuing of those decisions.

In these cases, the court considers the case quickly and may decide the suspension of the decision with or without guarantee.

Objection to action of sheriff

Article 610

Against the actions of the sheriff and against his refusal to perform an action, the parties may appeal to the court which executes the decision within 5 days from the performance or refusal of the action when the parties have been present at the performance of the action or have been called and in other cases from the day when they are notified or they receive knowledge of the action or of the refusal.

The appeal is considered by the court of the place of execution, which when it considers it necessary may call also the parties.

Appeal against decision of the court

Article 611

Appeal against the actions or refusals of the sheriff does not suspend execution, unless the court decides otherwise.

Separate appeal may be made against the decision of the court.

Lawsuit to request thing from third person

Article 612

Each third person who claims to be owner of the thing on which execution is made, may bring a lawsuit to exercise his right and if it is the case to exempt the thing from seizure and sale.

Lawsuit is brought against the creditor and the debtor in the court of the place of the execution of the decision. In these cases the court may decide as a temporary measure the suspension of the execution with or without guarantee.

Juridical effects against third person

Article 613

When the court accepts that the third person is owner of the movable thing, but at the time the decision has become irrevocable the thing has been sold in the free sale shop or by auction, the third person has the right to request from the sheriff the price of sale if that has not been given to the creditor, in the opposite case he has the right to request from the debtor what he has benefited from the sale of the thing.

When it is certified that the creditor knew at the time of the sale of the movable thing that the debtor was not its owner, he is obligated to return to the previous owner the price he has received from the sale of the thing and if the thing has been given to him in lieu of the credit, he is obligated to return the thing. In these cases the creditor preserves his right of credit from the debtor.

Article 614

When the court accepts that the third person is owner of the immovable thing sold by auction and on basis of the decision that has become irrevocable, the thing is taken from the buyer, the latter has the right to request from the sheriff the price he has paid if that has not been given to the creditor. If the price has been given to the creditor, he has the right to request from him as well as from the debtor that part of the price which was received from the sale of the thing.

The buyer also has the right to request from the competent state organ the return of the amounts he had paid as tax for the passage of the thing in his ownership.

When the immovable thing has been given to the creditor against his credit, on the basis of the court decision, the thing is taken from him, he preserves his right of the credit from the debtor.

CHAPTER X

SUSPENSION AND CESSATION OF EXECUTION

Suspension of execution

Article 615

Execution is suspended :

a. by decision of the court;

b. on the request of the creditor;
c. in the cases provided in letters © and (ç) of article 297 of this Code, with the exception of the sale by auction of an immovable thing, on which the announcement is made;

ç. in other cases provided by law.

Cessation of execution

Article 616

Execution is ceased :

a. when the debtor presents to the sheriff the statement signed by the creditor, duly certified, that he has paid the amount indicated in the execution order, or a payment note from the post office or a bank letter in which it is certified that the amount indicated in the execution order has been paid to the benefit of the creditor;

b. when the creditor renounces in writing from the execution;

c. when the execution order is invalidated;

ç. when by a decision of the court which has become irrevocable the lawsuit of the debtor in conformity with article 610 of this Code, or of the third person in conformity with article 613 of this Code is accepted;

d. when the sheriff himself or with the care of the creditor within 6 months from the start of the execution does not find any assets of the debtor, or when the seized thing has not been sold and the creditor has accepted to take the thing against his credit.

Appeal against suspension and cessation of execution

Article 617

The suspension of the execution, except in the cases when it is decided by the court, and the cessation of the execution are decided by the sheriff.

Appeal may be made against these decisions in the district court (article 611 of this Code).

When the decision of the cessation of the execution becomes irrevocable, the sheriff lifts the seizure placed on the movable or immovable things and in the cases provided in letters (b) and (d) of article 616 of this Code returns the order of the execution to the creditor, who has the right to present a new request for execution, within the time-period of statute barring. In this case the new statute barring starts from the day the decision for the cessation of the execution has become final.

CHAPTER XI

TRANSITIONAL AND FINAL PROVISIONS

Article 618

The cases which are in adjudication on the day this Code becomes effective shall be adjudicated on the basis of the previous Code until the decision becomes irrevocable in conformity with article 451 of this Code.

Article 619

Recourses against decisions of the court of appeal and the requests for protection of legality before the Civil College of the Court of Cassation registered before this Code becomes effective shall be considered in conformity with provisions of the previous Code.

Article 620

With this Code becoming effective are invalidated: law No. 6341 dated 27.06.1981 “On the Code of Civil Procedure of the Republic of Albania," law No. 7537 dated 17.12.1991 “On some changes in the Code of Civil Procedure of the Republic of Albania," law No. 7922 dated 19.04.1995 “On a change in the Code of Civil Procedure of the Republic of Albania," chapter X/I “Depreciation” articles 59 a, 59 b, 59 c of law no. 7782 dated 26.01.1994 “On some changes in decree no. 3702 dated 08.07.1963 on cheques as well as any other provision which is contrary to this Code

Article 621

This Code becomes effective on 1st June 1996.

Proclaimed by decree No. 1474, dated 18.4.1996 of the President of the Republic, Sali Berisha.