

99/1963 Coll.

(Code of Civil Procedure)
of 4 December 1963

last amendment: 501/2001 Coll.

The National Assembly of the Czechoslovak Socialist Republic has enacted the following law:

PART ONE GENERAL PROVISIONS

Chapter One BASIC PROVISIONS

Section 1

The Code of Civil Procedure lays down the procedures applied by the courts and the parties in civil proceedings with a view to ensuring fair and just protection of the rights and legitimate interests of the parties, and promoting compliance with the laws, fulfilment of duties and respect for the rights of fellow citizens.

Section 2

In civil proceedings the courts hear and decide disputes and other legal matters, enforce execution of the decisions that had not been complied with voluntarily, and generally prevent violations of the rights and legally protected interests of natural and legal persons and the abuse of rights to the detriment of such persons.

Section 3

Civil proceedings give a guarantee of lawfulness and contribute to its strengthening and promotion. Every person has the right to seek judicial protection of his right that has been threatened or violated.

Section 4

Repealed with effect from 1 January 1992.

Section 5

(1) The courts shall inform the parties to civil proceedings of their procedural rights and duties.

(2) The courts shall not have the duty referred to in paragraph 1 when the parties to civil proceedings are represented by an attorney or a commercial lawyer.

Section 6

The court shall conduct proceedings in co-operation with all the parties with a view to ensuring expedient and effective protection of the rights and to reliably establishing contentious facts.

Chapter Two THE COURTS

Jurisdiction

Section 7

(1) The courts shall conduct civil proceedings to hear and decide disputes arising from civil, labour, family, cooperative and commercial relationships (including business and economic

relationships), unless the law vests this competence in other bodies.

(2) The courts shall conduct civil proceedings to hear and decide other matters only when provided for by law.

Section 8

When judicial proceedings must be preceded by the proceedings before another body, the courts shall institute proceedings only in respect of the matters that have not been finally closed before that other body.

Section 8a

Jurisdiction disputes

Jurisdiction disputes between the courts and State administration authorities shall be decided by the Supreme Court of the Slovak Republic.

Competence

Section 9

(1) District courts shall have, in general, the competence to act as first-instance courts.

(2) Regional courts shall act as first-instance courts

a) in the disputes involving mutual settlement of benefits between employers and recipients when the recipient is not entitled to the benefit or has been paid the benefit in excess of the amount allowed under social security legislation,

b) in the disputes between the competent sickness insurance body and the employer concerning liability for damage incurred as a result of improper sickness insurance procedures,

c) in the disputes involving a foreign country or persons enjoying diplomatic immunities and privileges, /1aa/ provided that such disputes fall under the jurisdiction of courts of the Slovak Republic,

d) in the disputes concerning the determination of irregularities in applications for the registration of political parties or movements that could prevent their registration, /1/

e) in the disputes challenging the validity of higher collective agreements on the grounds of non-compliance with the requirements set out under separate legal provisions. /1a/

(3) Moreover, regional courts shall act as first-instance courts in commercial disputes, regardless of whether the parties being under obligation of a contract are business persons, when the disputes

a) arise from legal relationships entered into through the foundation and establishment of companies or cooperatives,

b) arise from the relationships between the companies or cooperatives and their founders, between the companies or cooperatives and their associates, statutory bodies of a company, shareholders or members, including former members, and the disputes between associates, statutory bodies of a company, members, including former members, or disputes between the founders arising from the relationships governed under separate legal provisions, /1b/

c) arise from stock exchange transactions and their brokerage,

- d) arise from agreements on the sale of a company or part thereof and from legal relationships entered into by the sale of a company or part thereof,²⁾
 - e) arise from silent partnership agreements,⁶⁾
 - f) concern travellers cheques, /12/
 - g) arise from patent law, protected utility designs, industrial designs and topographies of semi-conductor products,
 - h) arise from legal relationships entered into in connection with securing commitments under a) to g),
 - i) concern validity of the decisions of the bodies of companies or cooperatives,
 - j) arise from legal relationships between a proxy and the business person who granted the procurator or, where procurator is granted to several persons, from legal relationships among all these persons, and from legal relationships between commercial representatives and business persons who granted authorisation to commercial representatives, except for the disputes related to employment relationships,
 - k) concern legal relationships related to the bills of exchange, other securities or cheques, including disputes concerning judicial orders to pay a bill (cheque), and disputes concerning protests against the payment of bills,
 - l) arise from legal relationships related to the protection of competition /14/ or to unfair competition, /15/
 - m) related to the rights to the trade name, /16/ trade marks /17/ and appellation of origin of products, /18/
 - n) concern the validity of arbitration agreements and disputes seeking annulment of arbitration awards issued by arbitrators on the basis of arbitration agreements, /23/
 - o) arise from the relationships entered into in international commercial transactions between legal and natural persons, including disputes whose parties accept the jurisdiction of the courts of the Slovak Republic by a written agreement. /24/
- (2) Moreover, regional courts shall proceed as first-instance courts also
- a) in bankruptcy and composition proceedings, including disputes arising from these proceedings, except for the settlement of community property of spouses,
 - b) when hearing petitions seeking annulment of the resolutions adopted by membership meetings of cooperatives in respect of the distribution of liquidation balance, /32/
 - c) in matters placed under the decision-making competence of courts by separate legal provisions /1b/.

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- 1) Section 7 paragraph 4 of Act No. 424/1991 Coll. on Association in Political Parties and Political Movements.
 - 1aa) Minister of Foreign Affairs' Decree No. 32/1969 Coll. on the Vienna Convention on Consular Relations.
 - 1a) Section 4 paragraph 1 of Collective Bargaining Act No. 2/1991 Coll. as amended by Act No. 54/1996 Coll.
 - 1b) Commercial Code as amended.
 - 2) Section 476 ff. of the Commercial Code.
 - 3) Section 591 ff. of the Commercial Code.
 - 4) Section 601 ff. of the Commercial Code.
 - 5) Section 115 ff. of the Commercial Code as amended.
 - 6) Section 673 ff. of the Commercial Code.
 - 7) Section 682 ff. of the Commercial Code.
 - 8) Section 692 ff. of the Commercial Code.
 - 9) Section 700 ff. of the Commercial Code as amended by Act No. 600/1992 Coll. on Securities.
 - 10) Section 708 ff. of the Commercial Code.
 - 11) Section 716 ff. of the Commercial Code.
 - 12) Section 720 ff. of the Commercial Code.
 - 13) Section 725 ff. of the Commercial Code.

- 14) Competition Protection Act No. 63/1991 Coll.
- 15) Section 44 ff. of the Commercial Code.
- 16) Section 8 ff. of the Commercial Code.
- 17) Trademark Act No. 174/1988 Coll.
- 18) Act No. 159/1973 Coll. on the Protection of Appellation of Origin of Products.
- 19) Section 90 of the Commercial Code.
- 20) Section 148 paragraph 1 of the Commercial Code.
- 21) Section 152 of the Commercial Code.
- 22) Section 231 paragraph 4 of the Commercial Code.
- 23) Sections 20 - 23 of Act No. 98/1963 Coll. on Arbitration Proceedings in International Commercial Transactions and on the Execution of Arbitration Awards.
- 24) Section 37 paragraph 1 and 2 of Act No. 97/1963 Coll. on International Private Law and the Law of Procedure.
- 25) Section 68 paragraph 3 of the Commercial Code.
- 26) Section 71 paragraph 2 of the Commercial Code.
- 27) Section 71 paragraph 3 of the Commercial Code.
- 28) Section 75 paragraph 5 of the Commercial Code.
- 29) Section 71 paragraph 1 of the Commercial Code.
- 30) Section 71 paragraph 4 of the Commercial Code.
- 31) Section 257 paragraph 1 of the Commercial Code.
- 32) Section 259 paragraph 4 of the Commercial Code.

Section 10

- (1) Regional courts decide appeals against the decisions of district courts.
- (2) Appeals against the decisions of regional courts acting as first-instance courts are decided by the Supreme Court of the Slovak Republic.

Section 10a

- (1) Appeals on points of law against decisions of regional courts acting as appellate courts are decided by the Supreme Court of the Slovak Republic.
- (2) Appeals on points of law against decisions of the Supreme Court of the Slovak Republic are decided by a different panel of judges ("panel" hereinafter) of the Supreme Court.
- (3) Extraordinary appeals on points of law against judicial decisions are decided by the Supreme Court of the Slovak Republic.
- (4) Appeals on points of law against decisions of the Supreme Court of the Slovak Republic are decided by a different panel of the Supreme Court.

Section 11

- (1) Judicial proceedings are conducted by the court that has substantive and local competence for the proceedings. Competence shall be determined on the basis of the circumstances that exist at the time of commencement of the proceedings and shall continue to be exercised until the conclusion of the proceedings.
- (2) Where more than one court have local competence, proceedings may be conducted before any of those courts.
- (3) Where the matter falls under the jurisdiction of the courts of the Slovak Republic, but the conditions for establishing local competence are absent or cannot be determined, the Supreme Court of the Slovak Republic shall designate the court that will hear and decide the matter.

Section 12

- (1) Where the competent court cannot institute proceedings due to the exclusion of its judges (Section 14), the matter must be transferred to another court of the same instance.

(2) The matter can be transferred to another court of the same instance also in furtherance of convenience.

(3) The order to transfer a case shall be issued by the court that is immediately superior to the competent court and to the court that is to be transferred the case.

Section 13

Repealed with effect from 1 January 1970.

Exclusion of judges

Section 14

(1) Judges shall be excluded from hearing and deciding a case where there is a doubt as to their impartiality on account of their personal relationship to the case, parties to the proceedings, or their representatives.

(2) Higher court judges who have decided a case at a lower court, and vice-versa, shall also be excluded. The above applies also to the decisions on appeals on points of law.

Section 15

(1) As soon as a judge becomes aware of the facts that disqualify him from a case, he shall inform the president of the court thereof without delay. Pending the decision, he may perform only exigent acts. Subject to the consent of the judge to be excluded, the president of the court shall assign the matter to another judge. In this case, the superior court shall not be asked to rule on the exclusion and the case in question shall be heard and decided by the judge. The same procedure shall be applied in the proceedings pursuant to Section 36a paragraph 1 and 3, Section 36b and 36c.

(2) Parties to the proceedings have the right to give their opinion on the reasons for exclusion of a judge. They must immediately inform the court of such reasons. The court shall disregard repeated information about the reasons on which it has already decided.

Section 16

(1) The decision to exclude a judge shall be made without unnecessary delays by a panel of the superior court. The decision to exclude a judge of the Supreme Court of the Slovak Republic shall be made without unnecessary delays by another panel of the Court.

(2) Where a decision has been taken to exclude a judge, the president of the court shall assign the matter to another judge or refer it to another panel.

Section 17

(1) The aforesaid provisions shall apply, as appropriate, to the exclusion of recording clerks and other court officials, experts and interpreters; the relevant decision shall be made by the presiding judge of the panel ("the presiding judge" hereinafter).

(2) Exclusion of a notary from acting as a court commissioner or exclusion of a court executor shall be governed, as appropriate, by Sections 14 to 16. Exclusion shall be decided by the court which has authorised the notary to act as a court commissioner.

Chapter Three

PARTICIPATION IN THE PROCEEDINGS

Parties to the proceedings

Section 18

The parties shall participate in civil proceedings on an equal footing. They have the right to use their mother tongue in the proceedings. The court shall have to guarantee the parties equal opportunities to exercise their rights.

Section 19

Any person capable of exercising rights and assuming responsibilities shall have the competence to stand trial; the competence of other entities to stand trial shall be provided by law.

Section 20

Every person may act on his own in the proceedings (has procedural standing) to the extent proportionate to his ability to exercise rights and assume responsibilities through his own acts.

Section 21

(1) Legal persons shall be represented by their statutory bodies or officials (members) duly authorised to act on their behalf.

(2) The State shall be represented before the court by an official of the State body concerned or by an authorised official of another State body.

Representatives of the parties

a) acting ex officio

Section 22

Individuals who cannot act on their own before the court shall have to be represented by their representatives-at-law.

Section 23

Under certain circumstances, the court may rule that the individual lacking full legal capacity must be represented by his representative-at-law even where otherwise he could act on his own in the matter.

b) based on a power of attorney

Section 24

The parties may be represented in the proceedings by the representatives of their choice. Except for representation under Section 26, the parties may entrust their representation only to natural persons. The party can choose only one representative for one and the same case.

Section 25

(1) The party can always choose an attorney to act as his representative. Power of attorney granted to an attorney cannot be limited.

(2) Attorneys must effectively use all lawful means and methods to provide legal aid to the parties they represent.

(3) Attorneys shall have the power to designate another attorney or trainee-lawyer in their employment as their substitutes.

(4) Paragraphs 1 to 3 apply accordingly to commercial lawyers representing the parties within the scope of their authorisation defined under separate legal provisions. 33)

33) Slovak National Council's Act No. 129/1991 Coll. on Commercial Lawyers.

Section 26

(1) The Centre for International Legal Protection of Children and Young Persons /33aa/ may represent a minor party in cases with foreign element involving the custody of minors.

(2) Where the Centre for International Legal Protection of Children and Young Persons agrees to represent a party, it shall authorise one of its officials to represent the party in the proceedings.

/33aa/ Section 65 paragraph 2 of Act No. 195/1998 Coll. on Social Assistance as amended.

Section 27

(1) The parties may entrust their representation also to any other citizen having legal capacity. These representatives may act only in their personal capacity.

(2) The court shall dismiss representation referred to in paragraph 1 where the representative is manifestly incapable of proper representation or where he acts as a representative concurrently in different matters.

Section 27a

Repealed with effect from 1 January 1992

Section 28

(1) The party shall grant the power of attorney in writing or orally on record to the representative of his choice either for the whole of the proceedings or only for certain acts ("full or limited power of attorney" hereinafter).

(2) Full power of attorney cannot be restricted. The representative granted full power of attorney shall have the power to perform all the acts allowed to the party.

(3) In relation to the court, the power of attorney shall be deemed effectively revoked by the party or renounced to by the representative from the moment this fact is announced to the court; in relation to other parties, from the moment they are informed of this fact by the court.

c) based on a decision

Section 29

(1) Where there is a danger in delay, the party who is incapable of acting on his own before the court and who has no representation shall be appointed a guardian by the court. The same procedure shall be applied when provided for under separate legal provisions.

(2) Except where he takes different measures, the presiding judge may appoint a guardian also to a party whose whereabouts are unknown, or who has been unsuccessfully served at his known address abroad, or whose service abroad is connected with serious difficulties, as well as to mentally incapacitated parties or parties incapable of intelligible communication.

(3) The presiding judge may appoint a guardian also to a party – legal person – that has been unsuccessfully served at its registered office address given in the company or other register if no other address is known to the court, or a party that has been unsuccessfully served at his known address abroad.

Section 30

(1) On a request, the party who meets the criteria for the waiver of court fees may be appointed a representative where this is necessary to protect his interest.

(2) Where it is necessary to protect the interests of the party, the presiding judge shall appoint an attorney to represent the party referred to in paragraph 1.

Section 31

(1) The appointed representative shall have the same status as the representative with full power of attorney, unless he is appointed only to perform certain acts.

(2) The attorney appointed to represent a party shall have the same status as the attorney whom the party granted the power of attorney.

Title repealed with effect from 1 January 1992

Section 32

Repealed with effect from 1 January 1992

Section 33

Repealed with effect from 1 January 1992

Section 34

Repealed with effect from 1 January 1992

Title repealed with effect from 1 January 1992

Section 35

Participation of a prosecutor

(1) Prosecutors shall have the power to initiate proceedings

a) where it is provided for under a separate law, 33a)

b) to request the review of the lawfulness of decisions of administrative authorities in cases where the protest lodged by the prosecutor was denied and under conditions set out in this Act,

c) concerning claims lodged by the State under a separate law / 33ab/ seeking the recovery of unjustly obtained gains including proceeds gained from illicit sources.

(2) Prosecutors may intervene in pending proceedings

a) dealing with legal capacity issues,

b) on declaring that a person is dead,

c) concerning entries in commercial register,

d) concerning custody of minors,

e) concerning guardianship,

f) concerning bankruptcy and composition.

(3) In the proceedings referred to in paragraphs 1 and 2, the prosecutor shall have the power to perform the same acts as a party except for acts reserved for the parties of legal relationships.

33a) Section 62 of Act No. 94

/1963 Coll. on Family as amended.

Article IV of Act No. 17/1993 Coll. of the National Council of the Slovak Republic, modifying and supplementing Slovak National Council's Act No. 253/1991 Coll. on the Competencies of the Bodies of the Slovak Republic in Transferring State Property to Other Persons and on the National Property Fund of the Slovak Republic as amended, and Act No. 92/1991 Coll. on the Conditions of the Transfer of State Property to Other Persons as amended.

/33ab/ For instance, Section 456 of the Civil Code.

Chapter Four

ACTS OF THE COURTS AND THE PARTIES

Acts of the courts

Section 36

Judicial proceedings shall be conducted by a panel of judges or by the presiding judge acting as a single judge. All members of a panel shall decide on an equal footing.

Section 36a

(1) District courts shall conduct proceedings in panels that hear and decide the matters set out in this Act.

(2) Other matters pending before district courts shall be heard and decided by single judges.

(3) Except for the matters set out in Section 36b, matters pending before regional courts acting as first-instance courts shall be heard and decided by single judges; appeals shall be heard and decided by panels.

Section 36b

Commercial matters shall be heard and decided by panels of regional courts acting as first-instance courts if the disputes

a) arise from the relationships between the companies or cooperatives and their founders, between the companies or cooperatives and their associates, statutory bodies of a company, shareholders or members, including former members, and the disputes between associates, statutory bodies of a company, members, including former members, or disputes between the founders arising from the relationships governed by separate legal provisions, /1b/

b) arise from agreements on the sale of a company or a part thereof and from legal relationships entered into by the sale of a company or a part thereof, /2/

c) arise from legal relationships in connection with the protection of competition /14/ or unfair competition, /15/

d) arise from the rights to the things constituting industrial property,

e) concern the validity of arbitration agreements and annulment of arbitration awards issued by arbitrators on the basis of arbitration agreements, /23/

f) concern sea-going vessels, maritime navigation and related legal relationships.

Section 36c

The Supreme Court of the Slovak Republic shall hear and decide cases before panels.

Section 36d

(1) In the matters that pertain under decision-making competence of a panel, the presiding judge may perform only the acts that do not involve decisions on the merits.

(2) In the matters that the law places under decision-making competence of a single judge, the single judge shall have the powers that are otherwise reserved for a panel.

Section 37

(1) Panels shall decide after deliberations in the presence of a recording clerk; no other person may be present at deliberations.

(2) Decisions shall be taken by a majority of votes; all panel members shall be under an obligation to vote. The vote shall be chaired by the presiding judge. Lay judges will vote the first, followed by junior judges and senior judges; the presiding judge will be the last to cast the vote.

Section 38

(1) The court shall authorise a notary to conduct probate proceedings as a court commissioner and, subject to the fulfilment of the conditions set out in Section 175zca, to issue an inheritance certificate. The court may additionally amend the authorisation. Authorisation or replacement of the court commissioner shall become effective as from the moment of their announcement to the court commissioner.

(2) The acts referred to in paragraph 1 shall not include those concerning legal aid abroad and judicial decisions.

(3) Notary's acts referred to in paragraph 1 shall be deemed as acts performed by the court.

(4) Authorisation shall not be deemed to represent a judicial decision.

Section 39

(1) Where the competent court can perform certain acts only at the price of considerable difficulties or at unreasonably high costs, or where it does not have jurisdiction for certain acts, it shall ask another court to perform these acts.

(2) Where the requested court is unable to perform the act within its jurisdiction and knows the court in whose jurisdiction the act could be performed, it shall transfer the request to that court; otherwise it shall send the request back.

(3) Requested acts shall be performed by a single judge who shall, for this purpose, have the rights and duties of a presiding judge.

Section 40

(1) Any act performed by the court in respect of the parties or evidence shall be entered on record. The records shall give, in particular, the designation of the case, the names of present persons, description of the examination of evidence, and the summary of statements and terms of the decision; when the record is used in lieu of a claim, it must comply with the requirements therefor.

(2) The record shall be signed by the presiding judge and the recording clerk; where the presiding judge is unable to sign the record, it shall be signed by another member of the panel. Signatures of the parties shall be attached to the record on judicial settlement. The vote record shall be signed by all members of the panel and the recording clerk.

(3) The presiding judge shall correct spelling errors and other obvious inaccuracies in the record. The presiding judge shall also decide the motions to supplement the record and objections to its wording.

(4) In probate proceedings, the record referred to in paragraph 1 can be replaced by an inheritance certificate (Section 175zca).

Acts of the parties

Section 41

(1) The parties may perform their acts in any form, unless the law prescribes specific forms for certain acts.

(2) The court shall judge every act on the basis of its content rather than its designation.

(3) Substantive acts performed by the parties vis-à-vis the court shall be effective also vis-à-vis other parties, but not before these parties learn about such acts in the proceedings.

Section 42

(1) Motions may be lodged in writing, orally on record, by telegraph or by fax. Motions on the merits filed by telegraph must be submitted also in writing or orally on record in no more than three days; original copies of motions filed by fax must be submitted in no more than three days. Motions whose original copies are not submitted within the above time limit shall be disregarded.

(2) Every district court must draw up a record on the motion and refer it to the competent court without delay. Such motions have the same effect as if lodged directly with the competent court.

(3) Unless the law prescribes specific requirements for certain types of motions, every motion must designate the court to which it is addressed, give the name of the claimant, the case it refers to and the requested ruling; it must be signed and dated. Every motion must be filed with the necessary number of

counterparts and annexes, one counterpart to be kept by the court and, where applicable, one copy to be served on each party.

Section 43

(1) The presiding judge shall invite the parties to amend or complete defective, incomplete or unintelligible motions within the time specified by the court. He shall also instruct the parties on how to amend or complete the motion.

(2) Where the proceedings cannot continue because the motion was not amended or completed in spite of the request of the presiding judge, the court shall stay the proceedings. The parties must be instructed of such consequences.

Section 44

(1) The parties and their representatives shall have the right to inspect their case files, except for the vote record, and to make extracts and copies.

(2) Other person than a party may be granted permission to inspect the court file and make extracts or copies thereof by the presiding judge only for serious reasons and without prejudice to legitimate interests of the parties.

Service of process

Section 45

The courts shall perform their own service or use the postal service. In case of need, the courts may serve the documents also by means of municipal authorities or competent police departments or, in cases governed by separate legal provisions, by means of the Ministry of Justice of the Slovak Republic ("the Ministry of Justice" hereinafter).

Section 46

(1) Documents may be served on the person named at the place of his residence, registered office (place of business), workplace, or at any other place where he is reached.

(2) If the person named is not reached at his habitual place of residence or stay, the document shall be served on another adult residing in the same flat or house, or employed at the same workplace, who is willing to deliver the document. If the document cannot be served in the above manner, it shall be deposited with the post office or municipal authority and the person named will be requested in an appropriate manner to claim it. The document shall be deemed served on the day it was deposited even if the person named did not learn about it.

(3) If the document referred to in paragraph 2 is served on a party who has a conflicting interest in the case, the service shall be deemed ineffective.

Section 47

(1) The law sets out the documents that require personal service; other documents shall be served personally on the order of the presiding judge.

(2) If the person to be personally served the document is not reached at his habitual residence, the carrier will notify him in an appropriate manner of the day and hour of repeated service. If the attempt at repeated service is ineffective, the carrier will deposit the document with the post office or municipal authority and notify the person named of this fact in an appropriate manner. If the person named does not claim the document within three days of its deposition, the third day will be deemed to be the date of service even if the person named did not learn about it.

Section 47a

Where the law provides that the decision be posted on the notice board of the court, the decision will be deemed served on the parties who or whose whereabouts are unknown to the court as from the fifteenth day of its posting.

Section 48

(1) Documents addressed to public authorities or legal persons shall be served on their officials who are authorised to accept documents on their behalf. Where there are no such officials, documents requiring personal service shall be served on the official authorised to act on behalf of the authority or legal entity; other documents shall be served on any of their staff who are willing to accept them.

(2) Where the document cannot be served on the legal person at its registered office address given in the commercial or other register and no other address is known to the court, the document shall be deemed served three days after the return of the non-served document to the court, even if the person authorised to act on behalf of the legal person did not learn about it.

(3) Where the document cannot be served on the natural person authorised to do business at the address of his place of business entered in the commercial or other register and no other address is known to the court, the document shall be deemed served three days from the return of the non-served document to the court, even if the natural person authorised to do business did not learn about it.

(4) Documents addressed to attorneys can be served also on trainee-lawyers and other members of their staff authorised to accept postal deliveries; this applies, as appropriate, also to the service of documents addressed to commercial lawyers.

(5) Documents addressed to notaries may be served also on notary's trainees and other members of their staff authorised to accept postal deliveries.

(6) Documents addressed to court executors can be served also on executor's trainees or other members of their staff who give proof of their authorisation to accept postal deliveries.

Section 49

(1) Where the party has a representative with full power of attorney, documents will be served only on the representative. However, if the document instructs the party to perform an act in the proceedings, it will be served both on the party and his representative.

(2) Where the service of documents to a party is connected with problems or delays, the presiding judge may order the party to designate a substitute on whom the documents can be served without difficulties or delays. Where the party fails to designate such substitute, the documents to be served on him shall be deposited at the court and deemed served; the party must be informed of this fact.

(3) The resolution on appointing a guardian to the party whose whereabouts are unknown shall be served only on the appointed guardian.

Section 50

Where the person named refuses to accept a document without just reason, the document shall be deemed served as of the same date; the carrier must inform the person named of this consequence.

Section 50a

Publication of notices

Obligation of the court to publish particular data by a notice under this Act or the Bankruptcy and Composition Act shall be deemed fulfilled when such data are published in the Commercial Gazette (Section 769 of the Commercial Code), unless the law limits this obligation to posting the data on the official notice board of the court, without prejudice to the obligation to publish the data in daily press.

Summons and presentation

Section 51

Summons requiring a person to appear in court shall be usually served in writing or, in urgent cases, by telegraph, fax or telephone. Oral summons may be made at the hearing if the person being summoned is in attendance.

Section 52

(1) If the summoned person fails to appear at an oral or expert examination without just cause, the presiding judge may order that such person be brought before the court provided that he informed that person of this possibility in advance.

(2) The presentation shall be performed on court request by the competent police department; police presentation of minors will be used only as the last resort. Presentation of soldiers in active duty or members of the armed forces shall be requested by court from their commanding officer.

(3) Costs of presentation shall be borne by the person being presented.

Procedural measure

Section 53

(1) Any person who grossly interferes with the course of the proceedings, in particular by failing to appear in court or respect court orders, or who disturbs the peace or files grossly offensive submissions, may be imposed a procedural fine by the presiding judge of up to SKK 5,000.- or up to SKK 10,000.- in case of non-compliance with obligations set out in Sections 294 and 295.

(2) The presiding judge may additionally waive procedural fines, including after the conclusion of the proceedings, on account of subsequent conduct of the person on whom it was imposed.

(3) Proceeds from procedural fines shall devolve on the State.

Section 54

The presiding judge may banish any person, grossly disturbing the peace, from the venue of the hearing. If the banished person is one of the parties, the hearing may continue in his absence.

Time limits

Section 55

Except where this Act lays down the time limits for specific acts, time limits shall be fixed by the presiding judge as needed. The presiding judge may grant extension of the time limit he fixed.

Section 56

(1) Time limits will stop running for persons who have become incapacitated as parties to the proceedings or have lost competence to stand trial.

(2) If, in such case, another party, representative-at-law or guardian intervenes in the proceedings, new time limits will start running from the moment of their intervention in the proceedings.

Section 57

(1) Time limits do not include the day on which the transaction or occurrence which marks the beginning of the time limit took place.

(2) Time limits fixed in weeks, months or years shall expire with the lapse of the day whose designation corresponds to that on which the transaction or occurrence which marks the beginning of the time limit took place or, if there is no such day in the month, of the last day of that month. If the time limit expires on a Saturday, Sunday or a public holiday, the last day of the time limit will be the next working day.

(3) The time limit shall be deemed complied with if the relevant act is performed in court or a submission made to the body responsible for its service on the last day of the time limit.

Section 58

(1) The court shall excuse the party or his representative who were unable to meet the time limit on serious grounds and were thus prevented from performing an act to which they were entitled. The motion to this effect must be filed and the omitted act performed within fifteen days from the day on which the impediment ceased to exist.

(2) On a request from the party, the court may recognise suspensive effect of the motion to waive non-compliance with the time limit.

PART TWO

PRE-TRIAL ACTIONS OF THE COURT

Title repealed with effect from 1 January 1992

Section 59

Repealed with effect from 1 January 1992

Section 60

Repealed with effect from 1 January 1992

Section 61

Repealed with effect from 1 January 1992

Title repealed with effect from 1 January 1992

Section 62

Repealed with effect from 1 January 1992

Section 63

Repealed with effect from 1 January 1992

Section 64

Repealed with effect from 1 January 1992

Title repealed with effect from 1 January 1992

Section 65

Repealed with effect from 1 January 1992

Section 66

Repealed with effect from 1 January 1992

Conciliation proceedings

Section 67

Where the nature of the case permits, any court that has substantive competence can be requested to make an attempt at conciliation (institute conciliation proceedings) and, in case a settlement is reached, to approve such settlement. Where the case falls under substantive competence of a regional court, conciliation proceedings before regional court shall be conducted by a single judge; however, conciliation proceedings and approval of the settlement in such case can be conducted by any district court.

Section 68

(1) Conciliation proceedings shall be conducted by the presiding judge if he believes that attempting conciliation before a panel would not be appropriate in view of the nature of the case.

(2) The court shall use appropriate methods to exert its educational influence in conciliation proceedings.

(3) Cooperation or attendance of the parties may not be compelled in any manner.

Section 69

The purpose of conciliation proceedings is to reach a settlement. The settlement shall be governed by the provisions of Section 99.

Title repealed with effect from 1 July 1973

Section 70

Repealed with effect from 1 July 1973

Section 71

Repealed with effect from 1 July 1973

Section 72

Repealed with effect from 1 July 1973

Paternity action by joint consensual declaration of parents

Section 73

(1) Where the paternity of a child is not determined on the basis of statutory presumption of paternity of husband of mother, or on the basis of joint consensual declaration of parents before the body that runs the birth registry, the presiding judge shall hear the person whom the mother alleges to be the father to establish whether he admits his paternity. Competent court is defined in Section 88 letter c).

(2) Joint consensual declaration on paternity made by the parents shall be entered on record and notified to the relevant birth register.

(3) Where paternity is not determined as above, and the mother does not move to establish paternity within the specified time, the presiding judge shall appoint a guardian to make such submission and represent the child.

Preliminary measures

Section 74

(1) Prior to the trial, the court may issue a preliminary measure if the situation of the parties must be temporarily adjusted or if it fears that the execution of the judicial decision could be endangered.

(2) The court that is competent to hear the case is also competent to issue a preliminary measure. The parties are identical with the parties to the proceedings on the merits.

Section 75

(1) Preliminary measure shall be issued by the court on application. No application for preliminary measure shall be required in the proceedings that can be initiated on the court's own motion.

(2) The court shall decide to issue a preliminary measure without undue delay, not later than 30 days from the filing of application for preliminary measure.

(3) No hearing of the parties shall be required.

Section 76

(1) The court may issue a preliminary measure mainly with a view to

- a) ordering the party to pay the support money;
- b) ordering the party to hand over a child to the custody of the other parent or parent granted custody by court;
- c) ordering the defendant to provide the claimant at least part of his income from work where the defendant has a job and the claimant is not employed because of serious reasons;
- d) ordering the party to deposit an amount of money or object in court custody;
- e) preventing the party from disposing with certain assets or rights;
- f) ordering the party to do something, to abstain from doing something, or to suffer something to be done.

(2) A preliminary measure may be issued to impose an obligation on other than a party to the proceedings only where this represents a fair and just request.

(3) When the court issues a preliminary measure, it requests the claimant to file a petition to commence proceedings within the time limit specified by the court; where the proceedings may be initiated on the court's own motion, the court shall issue a resolution on the commencement of the proceedings. The court may restrict the duration of the preliminary measure.

Section 77

(1) The preliminary measure shall cease to be in effect

- a) if the claimant does not file a petition to commence proceedings within the specified time;
- b) if the petition is dismissed;
- c) fifteen days from the date of enforceability of the decision on merits if the petition is granted;
- d) upon expiry of the period of time for which it was issued.

(2) The presiding judge shall discontinue the preliminary measure when the reasons for it cease to exist.

(3) Where the preliminary measure has lapsed or has been discontinued for other reason than granting the petition on merits or satisfying the claimant's right, the claimant shall be liable for the payment of damages incurred as a result of preliminary measure. The decision shall be taken, on a request, by the court that issued the preliminary measure.

Securing the evidence

Section 78

(1) Prior to hearing the case on the merits, the court acting on a motion may secure evidence if it fears that it would be impossible or very difficult to take evidence at a later date.

(2) Competence to secure evidence shall be exercised by the court that has competence to proceed on merits, or the court that has jurisdiction over the place where the endangered evidence is physically located.

(3) Evidence shall be secured by the presiding judge in a manner prescribed for the specific type of evidence in question.

PART THREE

FIRST-INSTANCE PROCEEDINGS

Chapter One

CONDUCT OF THE PROCEEDINGS

Commencement of the proceedings

Section 79

(1) Proceedings shall commence on a petition. In addition to general requirements (Section 42 paragraph 3) the petition must give the names, employment and residence of the parties and, where applicable, their representatives, true description of relevant facts, designation of evidence adduced by the claimant, and must clearly indicate the outcome sought by the claimant. Where one of the parties is a legal person, the petition must give the data necessary for its identification, in particular the name of the firm or business name and registered office; in the disputes between business persons, also the data on their entry in commercial or other register. A petition involving bilateral legal relationships between the plaintiff and the respondent (Section 90) is called an action.

(2) The claimant must attach invoked documentary evidence to the petition.

(3) The court shall personally serve other parties with the petition to commence proceedings.

Section 80

Petition to commence proceedings may be filed with a view to obtaining a decision on, in particular,

a) personal status (divorce, annulment of marriage, determination of whether or not the marriage exists, determination of paternity, legal capacity, declaring a person dead);

b) fulfilment of obligations arising from law, from legal relationships or the breach of law;

c) determination of whether or not a legal relationship or right exists in case of urgent legal interest.

Section 81

(1) The court may commence proceedings on its own motion in cases involving custody of minors, permission to place or hold a person in a medical institution, legal capacity, guardianship, declaring a person dead, probate and other proceedings specified by law.

(2) The presiding judge shall issue a resolution on instituting proceedings on the court's own motion, which is personally served on the parties, unless the law provides otherwise.

Section 82

(1) The proceedings shall start on the day of receipt by the court of the petition to commence proceedings, or the day of issuance of the resolution on instituting proceedings on the court's own motion.

(2) Where judicial proceedings are preceded by arbitration proceedings before the board of arbitrators, judicial proceedings shall commence on the day when the transferred case reaches the court.

Section 83

At no time during pending judicial proceedings may any other court proceedings be conducted in respect of the same matter.

Local competence

Section 84

Unless provided otherwise, competent court shall be the court of general jurisdiction of the party against whom the petition has been filed (the defendant).

Section 85

(1) Court of general jurisdiction of a citizen is the court that has jurisdiction over his place of residence or, if he has no residence, over the place of his stay.

(2) Court of general jurisdiction of a legal person is the court that has jurisdiction over its registered office.

(3) Court of general jurisdiction of the State is the court that has jurisdiction over the place where the transaction or occurrences took place out of which the cause of action arose.

(4) General jurisdiction courts in commercial matters are the courts that have jurisdiction over the defendant's registered office or, if he has no registered office, over his place of business. If the defendant has no place of business, general jurisdiction court is the court that has jurisdiction over the defendant's residence.

Section 85a

If the case falls under substantive competence of a regional court, while local competence is exercised by the general jurisdiction court of the party, local competence shall be assumed by the superior regional court of the general jurisdiction court.

Section 86

(1) Competent court of the defendant, who is a Slovak national and has no court of general jurisdiction in the Slovak Republic, shall be the court that had jurisdiction over his last residence in the country.

(2) Property claims against persons who have no competent courts in the Slovak Republic may be lodged with the courts that have jurisdiction over their property.

(3) Petitions against non-resident legal persons may be filed also with the courts that have jurisdiction over the venue of their diplomatic representations or bodies authorised to conduct their business transactions in the Slovak Republic.

Section 87

In addition to the defendant's court of general jurisdiction, competent courts shall be also the courts that have jurisdiction

a) over the defendant's permanent place of work;

- b) over the place where a transaction or occurrences took place that gave rise to the damage claim;
- c) over the organisational unit of the defendant – legal person – if the dispute concerns this unit;
- d) over the place of payment if the claim concerns a bill of exchange or cheque;
- e) over the venue of the stock exchange if the dispute concerns a stock exchange transaction.

Section 88

(1) Instead of the defendant's court of general jurisdiction, competent court shall be the court

a) that has jurisdiction over the last common residence of spouses in the Slovak Republic – in the proceedings concerning divorce, annulment of marriage or determination whether or not the marriage exists, if at least one of the spouses continues to have residence under its jurisdiction; if there is no such court, competent court shall be the court of general jurisdiction of the defendant or, if there is no such court, the court of general jurisdiction of the claimant;

b) which divorced the marriage – in the proceedings concerning the settlement of community or other property of spouses, or termination of joint flat tenancy;

c) that has jurisdiction over the minor's residence based on parental agreement, court decision or other decisive facts – in the proceedings concerning custody of a minor, adoption, or permission to enter into marriage for a minor;

d) that has general jurisdiction in the proceedings concerning legal capacity; competent court in the proceedings concerning legal capacity of a person held in a medical establishment without his consent shall be the court that has jurisdiction over the medical establishment in question. Competent court in the proceedings concerning the placement of or holding a person in a medical establishment shall be the court that has jurisdiction over the medical establishment;

e) that has jurisdiction over the ward's residence – in the proceedings concerning guardianship or permission to enter into marriage; however, competent court in guardianship of persons whose whereabouts are unknown or who are absent shall be the court in whose jurisdiction these persons have their property;

f) that was the last court of general jurisdiction in the Slovak Republic of the person who is to be declared dead;

g) that has jurisdiction over the venue of the board of arbitrators – in arbitration proceedings preceding judicial proceedings;

h) under whose jurisdiction is located the real property – in the proceedings concerning title to such property except for b) above;

ch) under whose jurisdiction are held probate proceedings concerning inheritance disputes;

i) that enforces the decision – in the proceedings concerning exclusion of a thing from the enforcement of the decision, or concerning authenticity, amount and priority of claims submitted for distribution;

j) that conducts bankruptcy and composition proceedings – in case of disputes related to these proceedings, except for the disputes concerning community property;

k) that has jurisdiction over the venue of organisational unit of a railway transport company if such unit is involved in the dispute on the defendant's side;

l) under whose jurisdiction was located the last known place of residence of a deceased person or, if there was no such residence or the residence cannot be identified, his last place of stay; if there is no such court, competent court shall be the court

that has jurisdiction over the deceased person's estate or, if there is more than one competent court, the court which performed the first act in probate proceedings;

m) that has jurisdiction over the place of performance in the proceedings concerning deposits; if there is more than one court, competent court in the proceedings on deposits shall be the court which is the first to open proceedings;

n) that has jurisdiction over the court of general jurisdiction of the claimant in the proceedings concerning instrument redemption; if the claimant has no court of general jurisdiction in the Slovak Republic, competent court shall be the one that has jurisdiction over the place of payment; competent court in the proceedings concerning redemption of a negotiable instrument issued by a domestic financial institution shall be the one in whose jurisdiction the financial institution has its registered office.

o) that has jurisdiction over the residence of the claimant in defamation proceedings.

(2) Competent court in the proceedings concerning annulment of arbitration awards issued on the basis of arbitration agreements shall be the court that has jurisdiction over the venue of arbitration proceedings, provided this venue is situated in the Slovak Republic. Otherwise, competent court shall be the court that would have jurisdiction over the matter should there be no arbitration agreement.

Section 89

The court that has competence to conduct proceedings in a case has also competence to deal with related matters and motions of the defendant, except for matters set out in Section 88.

Section 89a

Where the law does not prescribe exclusive competence, parties to the proceedings concerning commercial matters may agree in writing to recognise local competence of a different first-instance court. This applies also to the disputes under Section 9 paragraph 3 letter a), where the amount sought by the claimant does not exceed SKK 1,000,000. This agreement or its authenticated copy must be attached to the petition to commence proceedings.

The parties

Section 90

The parties to the proceedings are the claimant (plaintiff) and the defendant (respondent) or entities designated as parties by law.

Section 91

(1) Where there are several claimants or defendants in one case, each of them shall act on his own behalf.

(2) However, where the case involves common rights or duties, and the judgment applies to all parties on one side, the acts performed by one party shall be deemed to have been performed by all other parties. Amendment of the petition, withdrawal of the petition, or judicial settlement shall, however, require the consent of all parties on one side.

Section 92

(1) The court acting on a motion filed by a party may approve the intervention of a new party in the proceedings. Where the party intervenes on the side of the claimant, the consent of such new party shall be required.

(2) Where a legal occurrence that takes place after the commencement of the proceedings results in the transfer or assignment of rights or duties that constitute the cause of action, the claimant or the person to whom such rights or duties are transferred or assigned may propose that the existing party be replaced by the party to whom those rights or duties have been transferred or assigned.

(3) The court shall grant the motion where it does not contest the contention that the legal fact referred to in paragraph 2 took place after the commencement of the proceedings, subject to the consent of the party which is to replace the claimant; the consent of the defendant or the party replacing him shall not be required. Legal effects connected with the filing of the petition to commence proceedings shall be preserved.

(4) Subject to the consent of the parties, the court may grant the claimant or the defendant the permission to withdraw from the proceedings and be replaced. The replacement of the claimant is conditional on the consent of the party which is to replace him.

Section 93

(1) Enjoined parties can take part in the proceedings besides the claimant and the defendant if they have legal interest in the outcome of the proceedings, except for divorce proceedings or the determination whether or not the marriage exists.

(2) They shall intervene in the proceedings on their own motion or on request of one of the parties filed through the court. The court shall decide on admissibility of enjoined parties only on a motion.

(3) The enjoined party shall have the same rights and duties in the proceedings as the party. He shall, however, act only on his own behalf. If his acts are in conflict with the acts of the party he supports, the court shall examine them in the light of all circumstances.

Section 94

(1) Parties to the proceedings that may be commenced on court's own motion shall include all those whose rights and duties are concerned by the proceedings. However, only the spouses shall be parties to the proceedings concerning annulment of marriage.

(2) Where one of the individuals whose rights and duties are dealt with in the proceedings does not take part in the proceedings from their commencement, the court shall, as soon as it learns of his existence, issue a resolution including him among the parties.

Acts of the parties relating to the merits of the case

Section 95

(1) Subject to the consent of the court, the claimant may amend the petition to commence proceedings. The amended petition shall have to be personally served on all other parties who did not attend the hearing at which the amendment took place.

(2) The court shall not allow amendment of the petition if the results obtained in the proceedings up to that moment cannot be used in the proceedings on the petition thus amended. The court shall then resume proceedings on the original petition as soon as the resolution to this effect becomes effective.

Section 96

(1) At any time during the proceedings the claimant may withdraw his petition to commence proceedings in whole or in part. If the petition is withdrawn in whole, the court shall stay the proceedings. If the petition is withdrawn in part, the court

shall stay the proceedings concerning the relevant part of the petition.

(2) The court shall not stay the proceedings if the defendant has serious reasons not to give his consent with the withdrawal of the petition; in such case, the court shall resume the proceedings as soon as the resolution to this effect becomes effective.

(3) Disapproval of the defendant with the withdrawal of the petition shall not be effective if the petition is withdrawn before the commencement of the trial or in the petitions concerning divorce, annulment of marriage or determination whether or not the marriage exists.

Section 97

(1) At any time during the proceedings the defendant may exercise his rights vis-à-vis the claimant by filing a counterclaim.

(2) The court may split the counterclaim for a separate proceeding if the conditions are not fulfilled for the joinder of actions.

(3) Counterclaims shall be governed, as appropriate, by the provisions applicable to the petition to commence proceedings, its amendment or withdrawal.

Section 98

The filing of a set-off claim by the defendant shall also be deemed as a counterclaim, but only provided that his claim is in excess of the plaintiff's claim against him. Failing that, the court shall consider the set-off only as a defence against the petition.

Section 99

(1) Where applicable, the parties may conclude the proceedings by judicial settlement. The court should always attempt the conciliation.

(2) The court shall decide to approve the settlement or not; it shall not approve the settlement if it infringes on the law. In such case, the court shall resume the proceedings as soon as the resolution to this effect becomes effective.

(3) The approved settlement has the same effects as a final judgment. However, the court may issue a judgment to quash the resolution approving the settlement if the settlement is not valid under substantive law. The petition to this effect may be filed within three years from the effective date of the resolution approving the settlement.

Conduct of the proceedings

Section 100

(1) Once the court has commenced the proceedings, it shall continue to proceed even in absence of further motions, in order to expediently hear and decide the case. It shall, in particular, make the attempt at conciliation and at ensuring educational impact of the proceedings.

(2) In divorce proceedings the court shall guide the spouses towards eliminating the causes of marriage breakdown and encourage their reconciliation.

Section 101

(1) The parties shall have to contribute to the purpose of the proceedings, in particular by giving truthful and complete description of all relevant facts, adducing evidence, and abiding by the instructions of the court.

(2) The court shall continue to proceed even if the parties are inactive. If the duly summoned party fails to appear at the

hearing without having requested adjournment on serious grounds, the court may hold the hearing in his absence; it will take due account of the content of the file and the evidence already taken.

(3) Where the court invites a party to make a statement on a motion related to the course and conduct of the proceedings, it may add that unless the party makes the statement within the specified time, he shall be deemed as having no objections.

Section 102

(1) Where, after the commencement of the proceedings, the court needs to temporarily adjust the situation of the parties or secure evidence if it fears that it would be impossible or very difficult to take evidence at a later date, it will forthwith issue a preliminary measure or secure the evidence.

(2) In the proceedings that the court may commence on its own motion, the court may perform the acts referred to in paragraph 1 also on its own motion.

Evaluation of the conditions of the proceedings

Section 103

At any time during the proceedings the court shall verify whether the conditions are fulfilled for proceeding on the merits (conditions of the proceedings).

Section 104

(1) In case of any deficiency in the conditions of the proceedings that cannot be removed, the court shall stay the proceedings. Where the matter does not fall within the jurisdiction of the courts or must be preceded by the proceedings before another body, the court shall transfer the matter to the competent body as soon as its resolution on staying the proceedings takes effect; legal effects of the filing of the petition to commence proceedings shall be preserved.

(2) Where the deficiency in the conditions of the proceedings may be removed, the court shall take appropriate action. As a rule, it may continue to proceed but cannot make the decision that would conclude the proceedings. Where the court does not succeed in removing the deficiency in the conditions of the proceedings, it shall stay the proceedings.

Section 104a

(1) Before proceeding on the merits, the court shall verify whether it has substantive competence.

(2) Where the court that has received the petition is of the opinion that it does not have substantive competence, it shall transfer the matter forthwith to the competent court without making any decision to this effect and shall inform the parties thereof.

(3) Where the court to which the case has been transferred does not agree with the transfer, it shall refer the case without making any decision to this effect to the Supreme Court of the Slovak Republic. The decision of the Supreme Court of the Slovak Republic shall be binding on lower-instance courts.

(4) Legal effects of filing the petition to commence proceedings shall be preserved.

Section 105

(1) Prior to proceeding on the merits, the court shall verify whether it has local competence. Later on, it shall verify local competence only on the basis of an objection filed by a party during the first act of procedure to which the party is entitled.

(2) Where the court that has received the petition is of the opinion that it does not have local competence, it shall transfer

the matter forthwith to the competent court without making any decision to this effect and shall inform the parties thereof.

(3) Where the court to which the case has been transferred does not agree with the transfer, and where both courts fall under the jurisdiction of the same regional court, local competence shall be decided by the regional court. In all other cases local competence shall be decided by the Supreme Court of the Slovak Republic. The decision of the Supreme Court of the Slovak Republic shall be binding on lower-instance courts.

(4) Legal effects of filing the petition to commence proceedings shall be preserved.

Section 106

(1) As soon as the court ascertains in connection with an objection raised by the defendant not later than during his first act on the merits that, based on the agreement of the parties, the case should be handled in the proceedings before arbitrators, it may not continue to proceed and shall stay the proceedings; however, if the parties declare that they do not insist on honouring that agreement, it shall hear the case. The court shall hear the case also if it ascertains that the laws of the Slovak Republic do not permit concluding an arbitration agreement in respect of the case, or that the arbitration agreement is null and void or non-existent, or that dealing with the case in the proceedings before arbitrators would go beyond the scope of powers they have under the agreement, or that the arbitration court refused to deal with the case.

(2) Where judicial proceedings referred to in paragraph 1 are stayed and a motion is filed to commence proceedings before arbitrators, legal effects of the original motion shall be preserved if the petition to commence proceedings before arbitrators is filed within 30 days from the service of the court resolution on staying the proceedings.

(3) Where the proceedings before arbitrators have commenced before the court proceedings, the court shall suspend its proceedings concerning non-existence, invalidity or termination of the agreement until the decision on jurisdiction or on the merits in arbitration proceedings.

Impediments to the proceedings

Section 107

(1) Where a party loses competence to stand trial before the proceedings are finally concluded, the court shall decide, depending on the nature of the case, to stay, suspend or continue the proceedings.

(2) The court shall stay the proceedings in particular when one of the spouses dies before the court issues final decision in the proceedings concerning divorce, annulment of marriage or determination whether or not the marriage exists, unless the Family Act allows the proceedings to continue.

(3) The court shall suspend, in particular, proceedings concerning property in case of death of the plaintiff or the defendant; it shall resume proceedings with the heirs of the party after the conclusion of probate proceedings or earlier where the nature of the case permits.

(4) If a legal person is dissolved after the commencement of the proceedings, the court shall continue to proceed with its legal successor or, in the absence thereof, shall stay the proceedings.

Section 108

The court shall stay paternity proceedings if paternity is determined by consensual joint declaration of parents or in case of irrevocable adoption of the child.

Section 109

- (1) The court shall suspend the proceedings if
- a) the party has lost competence to stand trial and does not have a representative with full power of attorney;
 - b) the decision depends on an issue for which the court does not have jurisdiction in the given proceedings. The court shall also suspend the proceedings if it is of the opinion that the generally binding legal regulation concerning the matter is in conflict with the Constitution, laws or international treaty that is binding on the Slovak Republic; in this case it shall seek the opinion of the Constitutional Court.
- (2) Unless the court takes other appropriate measures, it may suspend the proceedings if
- a) the party cannot take part in the proceedings due to an impediment of a relatively long duration or because his whereabouts are unknown;
 - b) the representative-at-law of the party has died or has lost competence to stand trial;
 - c) parallel proceedings is pending on an issue that may be of relevance for the decision of the court, or if the court initiated such other proceedings on its own motion.

Section 110

Where the parties consensually propose that the proceedings be suspended or where they fail to appear at a hearing without just cause, the court shall suspend the proceedings if this does not obstruct the purpose of the proceedings. In divorce proceedings the court shall always suspend the proceedings.

Section 111

- (1) No hearing shall be scheduled when the proceedings are suspended and no time limits shall run under this Act. When the proceedings are resumed, the time limits shall start running anew.
- (2) Where the proceedings are suspended pursuant to Section 109, the court shall take all the necessary measures to eliminate the impediments that have caused the suspension or its continuation. As soon as the impediment that has caused the suspension is eliminated, the court shall resume the proceedings even without receiving a motion to this effect.
- (3) Where the proceedings are suspended pursuant to Section 110, the court shall resume proceedings on a motion after the lapse of three months; where there are serious grounds, the court may resume the proceedings on a motion even before the lapse of three months, except for divorce proceedings. Where no motion to resume the proceedings is filed within one year, the court shall stay the proceedings.

Joinder of cases

Section 112

- (1) With a view to ensuring efficiency of the proceedings, the court may join pending actions lodged in respect of related claims or actions concerning the same parties.
- (2) Where the matters referred to in the petition to commence proceedings may not be joined or where the reasons for the joinder of actions cease to exist, the court may split off a claim for separate proceedings.

Section 113

- (1) Joined to divorce proceedings shall be the proceedings concerning relationships between parents and their minor children after the divorce.
- (2) Joined to paternity proceedings shall be the proceedings concerning custody and support of a minor child.

Preparing a hearing

Section 114

- (1) The presiding judge shall prepare the hearing in a manner that should make it possible for the court to take decision at a single hearing.
- (2) To this end, the presiding judge
- a) shall serve the complaint and attached documents on the respondent instructing him that if he does not file a defence within 15 days of service the court may take decision in the case by rendering a default judgment pursuant to section 153b),
 - b) verifies the fulfilment of the conditions of the proceedings and oversees the elimination of defects and inaccuracies in the motions submitted by the parties;
 - c) makes sure that necessary evidence can be taken at the hearing and, where appropriate, he may request another court to take evidence;
 - d) takes other measures as appropriate.

Hearing

Section 115

- (1) Unless the law provides otherwise, the presiding judge shall schedule a hearing to address the case on its merits, to which he shall summon the parties and other relevant participants.
- (2) The summons shall have to be served with sufficient time advance to enable the parties to properly prepare, normally not less than five days before the date of the hearing.

Section 116

- (1) Hearings shall be held in public except for hearings conducted by notaries acting as court commissioners.
- (2) The court may take necessary measures to ensure that the conduct of the participants does not disturb the hearing.
- (3) Public may be excluded from the hearing in whole or in part only if public hearing of the case could endanger state, business, trade or professional secrecy, important interest of the parties or morality. In such case, however, the court may permit individual citizens to attend the hearing, instructing them of criminal liability resulting from the breach of secrecy.
- (4) Even if the public is not excluded from the hearing, the court may deny access to minors or persons if there are reasonable grounds to believe they would endanger the dignity of the hearing.

Section 117

- (1) The hearing shall be presided over by the presiding judge who makes sure that the hearing contributes to making a fair and just decision, fulfils an educational purpose, and is conducted with dignity and without disturbances. He shall take appropriate measures to secure fulfilment of the purpose of the hearing and the taking of evidence; he shall also ensure that the witnesses who have not yet been examined do not take part in the hearing.
- (2) The party who does not agree with a measure taken by the presiding judge at the hearing may request that the decision be made by a panel.

Section 118

- (1) At the hearing, the parties shall bring forward or supplement their motions, and the presiding judge shall sum up the results of preparations for the hearing.
- (2) The presiding judge shall then determine subsequent course of the hearing based on the circumstances of the case.

(3) In the final part of the hearing, the parties may sum up their motions and make any comments regarding the evidence and legal aspects of the case.

Section 119

(1) The hearing may be adjourned only on serious grounds that must be articulated. Where the hearing is adjourned, the presiding judge shall normally schedule a new hearing.

(2) At the beginning of the new hearing, the presiding judge shall sum up the statements and evidence taken by court.

Chapter Two

EVIDENCE

Duty to submit evidence

Section 120

(1) The parties are obliged to adduce evidence to uphold their claims. The court may take also evidence that has not been adduced by the parties. The court shall base its decision on the facts ascertained from the evidence it has taken and on other facts of non-contentious nature concerning the litigants if it does not have reasonable or serious doubts about their veracity.

(2) Besides the evidence adduced by the parties, the court shall be under an obligation to take additional evidence when such evidence is necessary to establish the facts in the proceedings which can be initiated on the court's own motion, such as proceedings concerning the permission to contract marriage, determination or denial of paternity, adoption, company register and certain issues related to companies or cooperatives (Section 200e).

(3) Except in cases referred to in paragraph 2, the court may admit in evidence consensual statements made by the parties.

(4) Except in cases referred to in Section 120 paragraph 2, before concluding the examination of evidence the presiding judge must instruct the participants of the hearing that all evidence must be submitted or adduced before the decision is made on the merits, since no evidence will be admitted afterwards.

Section 121

There is no need to bring proof of generally known facts or facts known to the court from its own work, or legal acts published or promulgated in the Collection of Laws of the Slovak Republic.

Examination of evidence

Section 122

(1) The court shall examine admissibility of evidence at a hearing.

(2) When appropriate, the court may ask another court to examine admissibility of evidence, or its admissibility may be examined by the presiding judge outside of a hearing on the basis of authority vested in him by the panel. The parties have the right to be present at the examination of admissibility of evidence. The results must be always announced at a hearing.

(2) Panels may always decide that admitted evidence be supplemented or repeated before the panel.

Section 123

The parties have the right to give comments on any adduced or admitted evidence.

Section 124

Examination of evidence must be conducted with a view to safeguarding State, business, commercial and professional secrecy and non-disclosure obligation imposed by the State. Oral examinations may be conducted in the aforesaid cases only if the person being examined has been exempted from obligation of secrecy or confidentiality by the competent body or the entity that imposed it. This applies, as appropriate, also to situations where evidence is taken by other means than oral examination.

Means of proof

Section 125

Means of proof are any means that allow to establish the facts, in particular examination of witnesses, expert opinions, reports and statements of bodies and legal persons, documents, inspection and examination of the parties. Where the method of examination of evidence is not prescribed, it shall be determined by the court.

Section 126

(1) Every citizen that has been served the summons is obliged to appear in court and to give witness testimony. He must tell the truth and not withhold any information. He may refuse to give testimony only if he could involve himself or close persons in a criminal prosecution or a danger thereof; the grounds for the refusal to give testimony shall be decided by the court.

(2) Witness examination must start with the identification of the witness and of the circumstances that could affect his credibility. Moreover, witnesses must be instructed of the significance of witness testimony, their rights and duties, and criminal liability for perjury.

(3) The presiding judge shall ask the witness to coherently describe all he knows about the object of the examination. He shall then ask additional questions necessary to supplement and clarify the testimony. Members of the panel and, with the consent of the presiding judge, the parties and experts may also ask questions.

Section 127

(1) Where the establishment of the facts necessary for the decision requires expert knowledge, the court shall appoint an expert after the examination of the parties. The expert will be heard by the court which may also request the expert to present his opinion in writing. Where more than one expert are appointed, they may submit a joint opinion. Where appropriate, the court may accept written expert opinions in lieu of oral examination.

(2) Expert opinions may be submitted for a review to another expert, to a research or other institution.

(3) The presiding judge may order a party or other individual to be at the disposal of the expert, submit relevant things, make relevant statements, undergo medical examination and/or blood test, do something or suffer something done, where this is necessary for preparing the expert opinion.

(4) Expert opinion may be substituted by a certificate or statement of the competent body if the court has no doubts as to their veracity.

Section 128

Public administration authorities and legal entities, as well as natural persons pursuing business activities, shall have to provide the court on application written information without

undue delay concerning the facts that are relevant for judicial proceedings and decision-making for the compensation of material costs.

Section 129

(1) Documentary evidence shall be examined by the presiding judge at the hearing by reading the document in whole or in part, or by giving information about its content.

(2) The presiding judge may request the entity that possesses a document needed as evidence to submit such document, or he shall procure the document from another court, body or legal person.

Section 130

(1) The objects that can be physically delivered to the court shall be inspected at a hearing. With a view to the above, the presiding judge may order the entity that has the relevant object in its possession to submit it.

(2) In other cases, inspection shall be performed in situ. The summons to attend the inspection shall be served on all those who are regularly summoned for the hearing.

Section 131

(1) When the court orders oral examination of the parties as a means of evidence, the parties must present themselves for oral examination, tell the truth and not withhold any information. They must be instructed of this duty.

(2) Provision of Section 126 paragraph 3 shall be used accordingly.

Evaluation of evidence

Section 132

The court evaluates evidence at its discretion, evaluating each item of evidence separately and in its entirety, while taking due account of everything that has transpired in the proceedings, including statements made by the parties.

Section 133

Where the law lays down the presumption of a proof to the contrary with respect to a certain fact, the court shall deem this fact to be proven unless the proceedings has shown that the contrary is true.

Section 134

Documents issued by courts of the Slovak Republic or other State bodies within the bounds of their authority, and documents declared as public deeds under separate legal provisions, certify orders or declarations made by the body that issued them and, unless there is a proof to the contrary, the truth of the facts they certify or confirm.

Section 135

(1) The courts shall be bound by the rulings of the Constitutional Court on compatibility of legal provisions with the Constitution, laws or international treaties binding on the Slovak Republic [Section 109 paragraph 1 letter b)]. The courts shall be bound also by the rulings of the Constitutional Court or the European Court of Human Rights concerning fundamental human rights and freedoms. Moreover, the courts shall be bound by the decisions of competent bodies establishing commission of criminal offences, administrative infractions or other administrative delicts punishable under separate legal provisions and their perpetrators, and by the decisions concerning personal status of individuals, creation or

dissolution of companies and registration of equity capital; / 33b/ however, courts shall not be bound by the decisions made in administrative hearings on tickets.

(2) Otherwise, the courts shall have discretion to examine all other issues that fall under the decision-making competence of other bodies. However, where the competent body has made a decision on an issue considered by the court, the court shall respect such decision.

/33b/ Section 161 paragraph 5 of the Commercial Code as amended by Act No. 500/2001 Coll.

Section 136

Where the value of a claim can be established only at the cost of unreasonable difficulties or cannot be established at all, the court shall establish it at its discretion.

Chapter Three

COSTS OF THE PROCEEDINGS

Specific types of costs of the proceedings

Section 137

Costs of the proceedings include, in particular, cash expenses of the parties and their representatives including court fees, lost earnings of the parties and their representatives-at-law, costs of taking evidence, fees and cash expenses of notaries acting as court commissioners, fees and cash expenses of probate estate administrators, fees of interpreters and representation fees when the representatives are attorneys or commercial lawyers.

Section 138

(1) On a motion filed by a party, the presiding judge may exempt a party from all or part of court fees if the party is destitute and if the motion does not constitute an arbitrary or manifestly unfounded attempt at exercising or defending one's right. Unless the presiding judge decides otherwise, exemption is granted in respect of the whole proceedings and has a retroactive effect; however, fees that had been paid prior to the exemption decision shall not be reimbursed.

(2) At any time during the proceedings, the presiding judge may withdraw the exemption, even with retroactive effect, if it becomes apparent prior to the conclusion of the proceedings that the personal situation of the party does not or did not warrant the exemption.

(3) Where the party exempted from the payment of court fees has been appointed a representative, the exemption shall also apply to the representative's cash expenses and representation fee.

Section 139

(1) Witnesses shall be entitled to be reimbursed cash expenses and lost earnings (witness allowance). This right will expire if it is not exercised within three days of the date of oral examination or the date on which the witness received information that there would be no examination. The court shall have to instruct the witnesses of this fact.

(2) Experts who prepare expert opinions shall be entitled to be reimbursed their cash expenses and to a fee (expert fee). A separate law lays down entitlement to the payment of expert fees.

(3) Any person other than a party on whom the court imposes an obligation in the examination of evidence, in particular to submit a document, shall have the same rights as a witness. He

shall exercise these rights under the same conditions as a witness.

Payment of costs of the proceedings

Section 140

(1) Every party shall pay the costs of the proceedings incurred by him personally and by his representative. The participants shall reimburse the costs incurred jointly in proportion to their participation in the case and in the proceedings.

(2) Where the party has been appointed an attorney, attorney's cash expenses and fee shall be paid by the State; where appropriate, the court shall grant the attorney an adequate advance.

(3) Fees and cash expenses of notaries in probate proceedings shall be payable by the heir who inherits the estate which is not overdebted; where there is more than one heir, heirs shall reimburse the costs proportionately to the net value of their shares. The costs in all other cases shall be borne by the State.

Section 141

(1) The court may request the party who is not eligible for court fee exemption to give security on the costs of evidence adduced by the party or ordered by the court with a view to ascertaining the facts put forward by the party or the facts that are in his interest.

(2) Costs of evidence that are not covered by the security, cash expenses of the appointed representative who is not an attorney, and costs connected with the use of the party's mother tongue in the proceedings shall be borne by the State.

Reimbursement of the costs of the proceedings

Section 142

(1) The court shall award the prevailing party the reimbursement of the costs incurred by the party when effectively exercising or defending his right against the unsuccessful party. In the proceedings concerning denial of paternity, initiated by a public prosecutor pursuant to Section 62 of Family Act, the court shall award the defendant the reimbursement of relevant costs by the State.

(2) Where a party is only partly successful, the court shall proportionately divide the costs, or shall rule that none of the parties is to be awarded the costs.

(3) The court may award full cost reimbursement even to the party who is only partly successful when the unsatisfied part of the claim is relatively insignificant or when the decision on the amount of consideration is taken on the basis of expert opinion or at court discretion.

Section 143

The defendant who has lost the case shall be entitled to be reimbursed the costs of the proceedings against the claimant if his conduct did not give rise to the filing of the petition to commence proceedings.

Section 144

The parties to divorce proceedings or to the proceedings concerning annulment of marriage or determination whether or not the marriage exists shall not be entitled to be reimbursed the costs of the proceedings. However, taking account of the circumstances or personal situation of the parties, the court may award reimbursement of the aforesaid costs or part thereof.

Section 145

The party who has been awarded reimbursement of the costs of the proceedings shall be awarded also reimbursement of the costs of preliminary measure and securing evidence.

Section 146

(1) No party shall be entitled to have the costs reimbursed on the basis of the outcome of the proceedings if the proceedings

- a) can be initiated on the court's own motion;
- b) were concluded with a settlement, unless a different cost reimbursement arrangement has been made;
- c) are stayed.

(2) Where the proceedings are stayed through a fault of one of the parties, the court shall award the costs of the proceedings against that party. If, however, the petition that was filed with just cause is withdrawn due to the conduct of the defendant, the court shall award the costs of the proceedings against the defendant.

Section 147

(1) The court may award the costs of the proceedings, that would otherwise not have been incurred, against a party or his representative if the costs were caused through the fault of their own or because the costs were incidental to something that happened to them.

(2) Where the witnesses, experts or other individuals involved in the examination of evidence cause the costs that would otherwise not have been incurred, the court may hold them liable for the reimbursement of such costs to the parties.

Section 148

(1) The State may, depending on the outcome of the proceedings, be awarded the reimbursement of the costs of the proceedings against the parties who are not eligible for exemption from court fees.

(2) The court may hold witnesses, experts or other persons involved in the taking of evidence liable for reimbursement to the State of the costs of the proceedings which they caused and which otherwise would not have been incurred.

Section 149

(1) Where the party that has been awarded reimbursement of the costs is represented by an attorney, the party held liable for the payment of the costs of the proceedings shall have to reimburse the attorney's costs.

(2) Where the party that has been awarded reimbursement of the costs is represented by an appointed attorney, the party held liable for the payment of the costs of the proceedings shall have to reimburse cash expenses of the attorney and his fee to the State. The amount of attorney's fee shall be determined under a separate legal act 34) concerning non-contractual attorney's fee.

(3) Paragraph 1 applies accordingly, if the party was represented by a commercial lawyer within the scope of his competence laid down under separate legal provisions.

34) Decree of the Minister of Justice of the Czech Republic No. 270/1990 Coll. on the Fees of Attorneys and Commercial Lawyers for the Provision of Legal Aid as amended by Decree No. 573/1990 Coll.

Decree of the Minister of Justice of the Slovak Republic No. 240/1990 Coll. on the Fees and Reimbursement of Attorneys for the Provision of Legal Aid as amended by Decree No. 44/1991 Coll.

Section 150

Under specific circumstances, the court may exceptionally decide not to award the costs of the proceedings in whole or in part.

Decisions on the costs of the proceedings

Section 151

(1) The court shall decide on awarding the costs of the proceedings on its own motion, usually in the same decision which concludes judicial proceedings. Where the costs of the proceedings are to be awarded pursuant to Section 149 paragraph 1 and 3, the attorney or the commercial lawyer shall have to compute legal representation costs prior to the pronouncement of the decision concluding the proceedings. In justified cases, the presiding judge may grant consent with cost computation after the pronouncement of the judgment. The rights under Section 139 shall be decided by the presiding judge.

(2) Even if a separate resolution is issued to award the costs, the time limit will start running only from the date of validity of the decision awarding the costs of the proceedings.

(3) The costs of the proceedings shall be assessed by the court in accordance with tariff lists and rules applicable to the reimbursement of wages and cash expenses. The presiding judge shall have the discretion to assess the costs only in the written copy of the decision.

Section 151a

(1) The court shall usually determine who will pay the notary's fee and cash expenses and their amount in probate proceedings in the resolution concluding the proceedings.

(2) Notary's fee and cash expenses in probate proceedings concluded with the issuing of an inheritance certificate shall be set out under a separate legal act. 34a)

34a) Section 12 of Decree No. 31/1993 Coll. of the Ministry of Justice of the Slovak Republic on Notaries' Fees and Reimbursements as amended by Decree No. 209/1994 Coll. of the Ministry of Justice of the Slovak Republic.

Chapter Four

DECISION

Judgment

Section 152

(1) The court shall decide a case on merits by rendering a judgment. The law sets out the cases when the court decides a case on merits by issuing a resolution.

(2) Judgments should generally determine the case as a whole. However, where appropriate, the court may render a judgment that determines only part of the case or the cause of action.

Section 153

(1) The court shall determine the case on the basis of facts ascertained from evidence and non-contentious facts concerning the parties, provided it has no reasonable and serious doubts about the veracity of such facts.

(2) The court may go beyond the motions of the parties and make an award exceeding the amount of the claim only in those proceedings that may be initiated on the court's own motion or where legal provisions provide for a specific type of settlement among the parties.

Section 153a

(1) Where the respondent admits liability for the claim or cause of action brought against him, or where the claimant waives his claim at any time during the proceedings, the court shall render a judgment based on the admission of liability or waiver of the claim.

(2) A judgment based on admission of partial liability for the claim may be rendered to determine a dispute only on a motion filed by the claimant, and a judgment based on full or partial waiver of the claim only with the consent of the respondent.

(3) No judgment based on the admission of liability for or waiver of the claim may be rendered in a dispute for which judicial settlement is not allowed.

(4) The court shall render a judgment based on the admission of liability for or waiver of the claim without a hearing.

Section 153b

(1) The court may render a default judgment when all the conditions set out in paragraph 2 are fulfilled at the same time.

(2) The court may render a default judgment if

a) the respondent who has been served the summons in a proper manner and in time does not attend the first hearing on merits (Section 79 paragraph 3 and Section 115 paragraph 2), although he has been instructed of the consequences thereof, including the possibility of making a decision in a manner provided for in paragraph 1,

b) the respondent has not filed a defence in writing to respond to the action and the attached documents within 15 days from their service, although he was requested by the court to submit it and instructed of the consequences of non-compliance with this obligation [Section 114 paragraph 2 letter a)],

c) the respondent did not give a just and timely excuse based on serious grounds,

d) the claimant who was present at the hearing proposed that the dispute be resolved in a manner provided for in paragraph 1.

(3) The judgment referred to in paragraph 1 shall be rendered on the basis of the cause of action alleged by the claimant, if such cause of action is not contested by the court.

(4) In case there are several respondents in one action, the judgment referred to in paragraph 1 can be rendered only if all of them meet the conditions set out in paragraph 2. On a motion from the claimant and subject to the consent of present respondents, the court may render the judgment referred to in paragraph 1 against absent respondents.

(5) A default judgment may not be rendered if

a) such judgment would give rise to, change, or terminate a legal relationship between the parties,

b) the dispute involves an international business transaction,

c) judicial settlement is not allowed for the dispute.

Section 153c

(1) Where the respondent had a just cause not to attend the first hearing at which the court rendered a judgment referred to in Section 153b paragraph 1, he can file a motion requesting the annulment of the judgment at any time before the judgment becomes final. Where the court grants the motion, it shall annul the judgment by a resolution and shall resume the proceedings in the case.

(2) Where the respondent files a motion referred to in paragraph 1 and simultaneously lodges an appeal against the default judgment, and the court grants the motion referred to in paragraph 1, the respondent shall be deemed not to have lodged the appeal.

Section 154

(1) The judgment shall be rendered on the basis of the situation existing at the time of its pronouncement.

(2) In case of recurrent benefits, the court may impose an obligation to pay the benefits that will become payable in the future.

Section 155

(1) The court shall specify the substance of its decision on merits in the terms of the judgment. The terms of the judgment shall also include award of the costs of the proceedings, unless the costs are determined separately.

(2) The term of the judgment awarding pecuniary performance may be denominated also in foreign currency where the circumstances permit, provided that

a) the cause of action is denominated in foreign currency and the party liable for the performance is a resident who has a foreign currency account, or

b) one of the parties is a non-resident.

Section 156

(1) The judgment shall always be pronounced publicly; it shall be pronounced by the presiding judge in the name of the Slovak Republic. He shall always pronounce the terms of the judgment, give the reasoning for the judgment, and instruction concerning enforcement and appeal.

(2) The judgment shall be pronounced, as a rule, immediately after the conclusion of the hearing that preceded the judgment; if this is not possible, the court shall adjourn the hearing at which the judgment is to be pronounced by not more than three days. Section 119 paragraph 2 shall not apply in this case.

(3) The court shall be bound by the judgment as from the moment of its pronouncement.

Section 157

(1) In the written copy of the judgment, the words "In the name of the Slovak Republic" shall be followed by the name of the court, names and surnames of judges and lay judges, exact designation of the parties and their representatives, participating prosecutor, designation of the case in question, terms of judgment, reasoning for the judgment, instruction concerning appeal, instruction concerning enforcement of the decision, date and place of the pronouncement.

(2) In the reasoning for the judgment, the court shall sum up the statements, give a concise and clear description of the facts that it considers proven or not proven, evidence on which it based its findings of facts and its deliberations in the examination of evidence, reasons for not admitting additional evidence, and shall give its evaluation of the ascertained factual situation in the light of relevant legal provisions that it applied.

(3) In order to make sure that the judgment has an educational impact, the court shall strive to present a convincing reasoning for the judgment, addressing also the causes of the dispute.

(4) Where the judgment is pronounced at a hearing in the presence of all parties or their representatives who waive the lodging of an appeal, the court shall give only the cause of action, concise statement of the grounds for its decision and relevant legal provisions in the written copy of the judgment; this does not apply to the proceedings that can be initiated on the court's own motion and proceedings conducted under the provisions of Part Five of this Act.

(5) In the reasoning for the judgments rendered according to Section 153a paragraph 1 and Section 153b paragraph 1, the court shall give only the cause of action, a concise statement of

the grounds for its decision and relevant legal provisions on which it based its decision.

Section 158

(1) The written copy of the judgment shall be signed by the presiding judge. Where the presiding judge cannot sign the judgment, it shall be signed by another member of the panel and, in case of decisions taken by single judges, by another authorised judge; the reason therefor shall be given in the written copy.

(2) The counterpart of a written copy of the judgment shall be personally served on the parties or their representatives.

(3) Unless the presiding judge decides otherwise, a counterpart of the judgment shall be mailed within thirty days of its pronouncement; in the matters involving support of minor children, a counterpart of the judgment shall be mailed within ten days of its pronouncement.

Section 159

(1) A judgment that has been served and that cannot be challenged shall be deemed as final.

(2) The terms of a final judgment shall be binding on the parties and all the bodies; the judgment rendered in respect of personal situation shall be binding on everybody.

(3) Where a final decision has been taken on a matter, it cannot give rise to new proceedings.

Section 160

(1) Where the court judgment imposes an obligation, such obligation must be fulfilled within three days after the judgment becomes final; the court may extend this time limit or determine that pecuniary performance be carried out in instalments whose amount and terms it shall specify.

(2) Where the court judgment imposes an obligation to provide recurrent benefits payable in the future, they will have to be provided as soon as they become payable according to the judgment.

(3) Where the court judgment imposes the duty to vacate a flat on a party who is entitled to alternative housing, the party shall not be required to vacate the flat pending the provision of an alternative flat or a shelter when the shelter is deemed sufficient under the Commercial Code.

Section 161

(1) The judgment shall be enforceable as from the expiry of the time limit for the performance in question.

(2) Where the judgment does not impose any performance, it shall be enforceable as from the moment it becomes final.

(3) Final judgments that determine the declaration of will shall be deemed to substitute such declarations.

Section 162

(1) The time limit for the performance imposed under a provisionally enforceable judgment shall start running as from the moment of service.

(2) Provisionally enforceable judgments shall be judgments that determine support payments or wage reimbursements for the last three months that precede the pronouncement of the judgment.

(3) On a motion, the court may rule that a judgment shall be provisionally enforceable; it shall give a ruling to this effect in the terms of the judgment when a party would be otherwise at risk of a loss difficult to replace, or of a substantial harm.

Section 163

(1) The judgment imposing performance in the form of benefits payable in the future or instalment payments may be amended in case of a substantial change in the circumstances that are decisive for determining the amount and continuation of benefits or instalments. The judgment may be amended with effect from the moment of occurrence of such change.

(2) Judgments rendered in respect of custody and maintenance of minor children or judgments restricting parental rights may be amended also on the court's own motion whenever there is a change in the circumstances.

Section 164

The court shall at any time correct on its own motion the spelling mistakes or computing errors and other obvious inaccuracies. It shall issue a correcting resolution that will be served on the parties. The court may postpone enforceability of the judgment until the time when such correcting resolution becomes final.

Section 165

(1) Where the reasoning for the judgment is not supported by duly established facts, a party may file a motion proposing the correction of the reasoning at any time before the judgment becomes final.

(2) Where the motion is dismissed by a first-instance court, the matter shall be referred to the appeal court for the decision on the correction.

(3) The presiding judge shall decide on correcting the reasoning by issuing a resolution. No hearing shall be necessary.

Section 166

(1) Where the judgment does not determine a certain part of the cause of action, costs of the proceedings or provisional enforceability, any party may file a motion within fifteen days of service of the judgment requesting that it be supplemented. The court may supplement the judgment on its own motion at any time before it becomes final.

(2) The court shall supplement the judgment by a supplementing resolution governed, as appropriate, by the provisions concerning the judgment. Where the court does not uphold the motion seeking that the judgment be supplemented, it shall dismiss the motion by issuing a resolution.

(3) The motion seeking that the judgment be supplemented shall not prejudice validity or enforceability of the original judgment.

Resolution

Section 167

(1) Unless the law provides otherwise, the court shall decide by issuing resolutions. Resolutions shall be issued to determine, in particular, conditions of the proceedings, stay or suspension of the proceedings, amendment of the petition, withdrawal of the petition, friendly settlement, costs of the proceedings, as well as the matters related to the conduct of the proceedings.

(2) Unless provided otherwise below, resolutions shall be governed, as appropriate, by the provisions concerning the judgment.

Section 168

(1) Resolutions shall be pronounced by the presiding judge in the presence of the parties.

(2) The court shall serve resolutions on the parties when the resolutions are appealable, when this is necessary for the conduct of the proceedings, or when the resolution imposes a duty on the parties.

Section 169

(1) A written copy of the resolution shall give the name of the court which has issued the resolution, designation of the parties and of the case, terms of the resolution, reasoning, appeal instructions, and date and place.

(2) No reasoning shall be required in the written copy of the resolution upholding an uncontested motion or resolution concerning conduct of the proceedings.

(3) Where the resolution needs not be served, it is sufficient to give the terms and date of the resolution.

Section 170

(1) The resolution shall be binding on the court as from the moment of its public declaration; if the resolution is not declared publicly, it shall be binding as from the moment of its service; if no service is required, as from the moment of its issuing.

(2) However, the court shall not be bound by a resolution concerning conduct of the proceedings.

Section 171

(1) The time limit for the performance shall start running from the time of service of the resolution; the resolution becomes enforceable on the expiry of such time limit.

(2) Where the resolution does not impose a performance, it shall become enforceable from the moment its service; where no service is required, from the moment of its pronouncement or issuance.

(3) Where the law or a court decision stipulate that the resolution becomes enforceable only after it has become final, the time limit shall start running only as from that moment.

Order to pay

Section 172

(1) Presiding judge may issue an order to pay even without an explicit request by the claimant and hearing of the defendant when the petition to commence proceedings claims a right to the payment of a pecuniary amount not exceeding SKK 100,000, in commercial matters not exceeding SKK 2,000,000 or the right to have a pecuniary sum paid on the basis of statements from the books of a domestic financial institutions when the claimed right results from the facts presented by the claimant. In the order to pay the defendant is ordered to pay the claimant the claimed receivable and costs of proceedings within 15 days from the service of the order to pay or to file a protest with the court that issued the order to pay within the same period. Lodging of protest must be substantiated. Provision of Section 43 paragraph 1 shall not be applied.

(2) The order to pay cannot be issued when

- a) the matter concerned should be tried and decided in a panel;
- b) the place of stay of the defendant is unknown or when the order to pay would have to be served on the defendant abroad.

(3) When the presiding judge issues no order to pay he shall order a hearing.

(4) An order to pay may also be issued in foreign currency under the conditions stipulated in Section 155 paragraph 2. The value of the pecuniary amount expressed in foreign currency

shall not exceed the amount specified in paragraph 1 after conversion according to the exchange rate valid at the time when the order to pay was issued.

Section 173

(1) An order to pay must be served on the defendant personally, alternative service is excluded.

(2) When the order to pay cannot be served to one defendant alone the presiding judge shall quash it in its full scope by issuing a resolution.

Section 174

(1) An order to pay that was not challenged with a substantiated protest shall have the effects of a final judgement.

(2) If even only one of the defendants files a substantiated protest on the merits it shall effect quashing of the order to pay in its full scope and the presiding judge shall order a hearing. An appeal is the only remedy against the term of the costs of proceedings that shall be decided by the court issuing the order to pay without hearing.

(3) The presiding judge shall reject the protest filed

a) late,

b) without substantiation; the party must be instructed on these consequences in the order to pay,

c) by an unauthorised person, by issuing a resolution.

(4) When the claimant withdrew the petition in its whole scope after the issuance of the order to pay and within the time limit under Section 172 paragraph 1, the order to pay shall be quashed and the court issuing it shall discontinue the proceedings. When the petition was partially withdrawn the court issuing the order to pay shall proceed in the same way in the part subject to withdrawal.

Section 175

(1) Where the claimant submits the original copy of a bill of exchange or cheque whose authenticity is uncontested and other documents to support his claim, the presiding judge of the regional court dealing with commercial matters shall, on a motion by the claimant, issue an order to pay a bill (cheque), holding the defendant liable for the payment of the claim and costs of the proceedings within three days; the defendant may raise an objection against the order to pay within the same time limit. The order to pay a bill (cheque) must be personally served on the defendant. Where the motion seeking the issuance of an order to pay is not upheld, the presiding judge shall schedule a hearing.

(2) Where the defendant does not raise an objection within the specified time or withdraws his objection, the order to pay a bill (cheque) shall have the effects of a final judgment. The presiding judge shall dismiss objections raised after the specified time or not duly justified.

(3) Where the defendant raises an objection within the specified time, the presiding judge shall schedule a hearing to examine his objection; however, it shall disregard objections raised after the specified time. In the judgment, the court shall rule either to uphold the order to pay a bill (cheque) or to annul it in whole or in part. Only the terms of the decision on the costs of the proceedings shall be appealable.

(4) The presiding judge shall proceed as provided for in paragraphs 1 to 3 also when the claimant submits the original of a warehouse warrant or a goods warrant 34a) whose authenticity is uncontested and other documents to support his claim.

34a) Act No. 144/1998 Coll. on Warehouse Warrant, Goods Warrant and amendments to certain acts.

Chapter five SPECIAL PROVISIONS

Probate proceedings

Section 175a

(1) The competent state administration body responsible for keeping registers of births, marriages and deaths shall inform the competent probate court in its jurisdiction of the death.

(2) The court shall also start proceedings without a petition as soon as the court learns of someone's death or declaration of death. The resolution to commence proceedings does not have to be served.

(3) The court shall decide by issuing a resolution; resolution under Section 175k paragraph 1 and 2, Section 175l, 175p, 175q and 175t shall be served personally.

Section 175b

Those persons where there is reason to believe that they are deceased person's heirs and where there are no such persons then the State shall be parties to the proceedings. Deceased person's creditor shall be party to the proceedings in case of Section 175p, in case his/her receivable is being settled, and in case of inheritance liquidation. In proceedings under Section 175h paragraph 2 only the person who arranged the funeral shall be party to the proceedings.

Section 175c

The court shall without any delay examine the register of testaments deposited with a notary in notary's books to determine whether deceased person's testament, disinheritance deed or revocation of these acts (hereinafter the "testament") is registered there and to identify the notary it is deposited with.

Section 175d

(1) In preliminary examination the court shall mainly collect information necessary to determine the heirs and deceased's property and debts and whether the heirs represented by the deceased at law need to have a guardian appointed.

(2) If a deceased left a testament the court shall determine its condition and content; a notary who is depositing the testament shall also do so upon court's request.

(3) When the condition and the content of the testament are ascertained its original shall be filed in the collection of announced testaments kept with the court unless the testament is written in the form of a notary record.

Section 175e

(1) When a general interest or an important interest of the parties makes it necessary the court shall take urgent measures even without a petition, in particular the court shall secure the inheritance, give items of personal use to the deceased's spouse or to another member of the household, arrange sale of items that cannot be stored without risk of damage or disproportional

costs, and/or shall appoint the administrator of the inheritance or of its part (hereinafter the “administrator”).

(2) Inheritance shall be secured mainly through its deposition with a court or with a depositary, its sealing in deceased person’s home or other appropriate place, order prohibiting payment with deceased’s debtor or a list taken on the spot.

(3) When selling movable items the court shall follow the provisions on the enforcement of the decision by selling movable items as appropriate, provided the court would take another method of selling.

(4) The court shall appoint the administrator mainly from the group of heirs or a group of persons who were close to the deceased or a notary may also be appointed administrator provided he/she does not act as a court commissioner in this proceedings. When the object of inheritance is an enterprise the court shall appoint a person experienced in enterprise management the administrator. Only a person who agrees with the appointment may be appointed administrator.

(5) Urgent measures can be taken by any court according to the possibilities and needs.

Section 175f

(1) During the period of probate proceedings the administrator shall take acts necessary to preserve the property that is a part of the inheritance in the extent determined by the court. The administrator shall have the obligation to perform his/her office professionally and he/she shall be liable for the damage caused by a violation of duties imposed by law or imposed by the court. When the court rules so the administrator shall submit the court periodic activity reports.

(2) An administrator may be removed from the office on serious grounds. The court shall appoint a new administrator as may be needed. Removal from the office of administrator shall be without prejudice to administrator’s liability under paragraph 1. An administrator who was removed from his/her office should duly inform the new administrator and make him/her all documents available.

(3) After closing the probate proceedings the administrator shall submit the heirs his/her final activity report via the court. Then the court shall decide on administrator’s fee and reimbursement of cash expenses to be paid by the heir acquiring the inheritance that is not over indebted; when there are several heirs they shall pay these costs according to the ratio of the their inheritance share net value. In other cases these costs shall be paid by the State.

Section 175g

Upon court’s request a competent state administration body or self-government body shall collaborate in collecting full background information for decision-making, preliminary examination, securing the inheritance in particular against unauthorised interventions, sale of items, ascertaining the value of deceased’s property and making the list on the spot.

Section 175h

(1) When the deceased left no property the court shall discontinue the proceedings.

(2) When the deceased left property of insignificant value the court may render it to the person who arranged the funeral and it shall discontinue the proceedings.

(3) There is no appeal against resolutions under paragraph 1 and 2.

Section 175i

(1) When proceedings were not discontinued under Section 175h the court should notify all those where there is reason to believe that they are heirs of their right of inheritance and of the possibility to renounce the inheritance within one month from the day the court notified the heir of his/her right to renounce inheritance; the court may prolong this time limit on serious grounds. At the same time the court shall instruct the heirs about the particulars and effects of renouncing the inheritance.

(2) The court shall serve the notification together with instructions personally or give them orally and the record shall state this fact.

Section 175j

No trial is required to hear the inheritance when the court confirmed its acquisition by a single heir or the inheritance was escheated to the State under Section 462 of the Civil Code.

Section 175k

(1) When, prior to the confirmation of inheritance acquisition, a person claims to be the heir and denies the right of inheritance of another heir who did not renounce the inheritance the court shall examine the conditions of the right to inherit of both and shall continue proceedings with the one the court believes to be the heir.

(2) However, when the decision on the inheritance right depends upon determining contentious facts the court shall, after failing to achieve conciliation, rule by issuing a resolution and refer the heir whose right to inherit seems less probable to claim his right with an action. It shall determine a time limit for filing the action. When no action is filed within the time limit time the court shall continue in the proceedings with no regard to this heir.

(3) When the assets and liabilities are contentious the court shall only limit itself to ascertaining their contentious nature; they shall not be considered in the listing of net property.

Section 175l

(1) When the deceased had assets in community property of spouses with the surviving spouse and no settlement proceedings has commenced before a court then this property shall be settled in probate proceedings under a separate regulation. 34b)

(2) The property specified in paragraph 1 can also be settled with an agreement concluded between the surviving spouse and the heirs in writing or orally taken into records. When no agreement is achieved this property shall be settled by a court

competent for probate proceedings. If the decision depends on a fact that is a contentious matter for the parties the court shall proceed according to Section 175k paragraph 3.

(3) The agreement on the settlement of spouses' community property or court's decision on property settlement pursuant to paragraph 2 shall include specification of the scope of deceased's property and of his/her debts together with the price of the property and the specification of items that are part of the inheritance and the ones that belong to the surviving spouse.

(4) If other assets in community property of the spouses are determined before the probate proceedings are finally closed its settlement shall be conducted according to paragraph 2.

(5) The preceding provisions shall also be followed in case when at the time of his/her death the deceased was a co-owner in the community property of the spouses that was dissolved in another way than the death of the deceased and when this community property was not settled on the day of the death of the deceased and no settlement proceedings concerning it were commenced before a court.

34b) Section 150 of the Civil Code.

Section 175m

The court shall ascertain deceased person's property and debts and it shall make a list of assets and liabilities. This shall be without prejudice to the provisions of Section 175k paragraph 3 and Section 175l paragraph 1 of the second clause.

Section 175n

Upon heirs' petition the court shall issue a resolution in which the creditors are called to report their receivables within a time limit determined by the court in the resolution and instructed that the heirs should not be liable to creditors who failed to report their receivables in time after the price of the inheritance acquired by the heirs was exhausted due to satisfying other creditors' liabilities. The court shall publish the resolution by displaying it on the information board of the court.

Section 175o

(1) On the basis of findings under Section 175m the court shall determine the general price of the property, amount of debts and net value of the property and/or the amount of its overindebtedness at the time of the death of the deceased.

(2) When the court determines new facts that necessitate changing this resolution before finally closing probate proceedings the court shall make the necessary corrections with a new resolution.

Section 175p

(1) The parties may agree that overindebted inheritance shall be given to the creditors to cover the debts. This agreement is subject to an approval by the court that shall approve the agreement provided it is not contradicting the law; when the court does not approve the agreement it shall continue in the proceedings after the decision became final.

(2) When other property emerged after final closing of the proceedings procedure under paragraph 1 shall be applied. When some property surplus remains the court shall hear it as inheritance.

Section 175q

- (1) In the resolution concerning the inheritance the court shall
- a) confirm acquisition of inheritance by a single heir or
 - b) confirm that inheritance not acquired by any heir was escheated to the State, or
 - c) approve the agreement on the settlement of the inheritance or the agreement on leaving the overindebted inheritance to pay the debt, or
 - d) confirm the acquisition of inheritance according to heir's interests if no agreement is reached among the heirs or
 - e) not approve the agreement on the settlement of the inheritance and shall confirm the inheritance according to heir's shares.

(2) Resolution under Section 175l and 175o can also be a part of the resolution under paragraph 1.

Section 175r

The heirs may sell and/or take other measures exceeding the framework of usual management with the items belonging to the inheritance only with the consent of the court during probate proceedings.

Section 175s

- (1) Probate hearing shall be concluded upon
- a) the resolution issued under Section 175p and 175q becoming final or
 - b) the issuance of the inheritance certificate under the conditions stipulated in Section 175zca.

(2) After concluding probate hearing the court shall cancel measures taken to secure the inheritance provided they were not already cancelled during the probate proceedings; mainly all prohibitions concerning paying out of deposits, policies and other values that were ordered or performed according to the law in the probate proceedings shall be cancelled. At the same time the person with whom these values were deposited shall be notified to whom they should be rendered; if this person is not known or his/her place of stay is unknown Section 185g shall apply as appropriate.

(3) The time limit under Section 185g paragraph 1 shall start to run from the day on which the decision concluding the proceedings became final. When the hearing of the inheritance ended with an inheritance certificate issuance the time limit under Section 185g paragraph 1 shall start to run from the day on which the inheritance certificate has come into effect as a final inheritance resolution.

Section 175t

(1) When the inheritance is overindebted and no agreement is reached according to Section 175p the court may order inheritance liquidation in its resolution. The court shall also decide so at the absence of a petition. The court shall proceed in

the same way when the State submitted liquidation of the inheritance on grounds that a creditor refused to accept an item from the inheritance as a payment of his/her receivable.

(2) The court shall issue a resolution ordering the liquidation in which the creditors are called to report their receivables within a time limit determined by the court in the resolution and instructed that those receivables that fail to be satisfied in the liquidation would be extinct. The court shall display this resolution on the information board of the court.

(3) As soon as the resolution ordering the liquidation of the inheritance came into effect Sections 175p to 175s should not be applied.

Section 175u

(1) The court shall liquidate the inheritance by cashing all property of the deceased according to the provisions on the enforcement of the decision by selling movable and immovable items or by sale out of an auction as appropriate according to a separate regulation. 34c)

(2) The court shall decide that deceased's property that failed to be cashed in this way is to be escheated to the State with effect of the day of death of the deceased.

34c) Section 27 paragraph 2 of Act No. 328/1991 Coll. on bankruptcy and settlement as amended.

Section 175v

(1) The court shall make a distribution of the proceeds from the sale of deceased's property (hereinafter the "proceeds") among creditors.

(2) From these proceeds the court shall settle the receivables according to these groups consecutively:

- a) costs of deceased's disease and appropriate costs of his/her funeral, court fees and accrued maintenance,
- b) outstanding taxes and charges,
- c) other liabilities.

(3) When the total of liabilities exceeds the proceeds in the first group then these liabilities shall be paid on a pro rata basis. Identical procedure shall be applied also in other groups, however, in group c) receivables secured with limitation of real estate transfer or with liens shall be paid before other liabilities.

(4) Final closing of the liquidation shall result in extinction of unsatisfied creditors' receivables against the heirs. However, when new property of the deceased emerged the court shall distribute the property among the creditors up to the amount of their unsatisfied receivables regardless of this extinction. When some property surplus remains the court shall hear it as inheritance.

Section 175w

When it is later determined that the deceased is alive or his/her declaration of death was cancelled the court shall cancel the resolution on inheritance under Section 175p and 175q.

Section 175x

(1) When some property and/or debt of the deceased is discovered after the resolution closing the probate proceedings became final or the inheritance certificate (Section 175zca) was issued the court shall hold probate proceedings concerning this property upon a petition (Section 42 paragraph 3 and Section 79 paragraph 1 and 2). When only deceased's debt is discovered no probate proceedings shall be held.

(2) In justified cases mainly upon a motion by the court, notary, state body or territorial self-government body the court may commence proceedings concerning the property specified in paragraph 1 also without a petition.

Section 175y

(1) Non-inclusion of property or debts into assets and liabilities of the inheritance as a consequence of procedure under Section 175k paragraph 3 shall be without prejudice to the parties' to the proceedings right to claim it by lodging an action out of the probate proceedings.

(2) With the exception of inheritance liquidation court's resolution shall be without prejudice to the right of a person who was not party to the probate proceedings that resulted in the resolution to claim his/her right by lodging an action.

Section 175z

(1) When hearing the probate case does not fall under the jurisdiction of a court of the Slovak Republic the court shall carry out preliminary examination and issue the parties an official statement of investigation result upon their request.

(2) When the property has to be delivered to a foreign country the court shall notify the domestic heirs and creditors of this fact with a notification displayed on the official board of the court for a period of 15 days; this notification shall be served on the parties known.

The role of notaries in probate proceedings

Section 175za

Notaries having a seat in the jurisdiction of a district court are evenly tasked with acts to be performed in probate proceedings according to the schedule issued by the President of the regional court for each calendar year upon the proposal of the competent chamber of notaries.

Section 175zb

(1) The court may withdraw the case from the authorised notary who caused unnecessary delays in court proceedings despite previous warning. The court shall then task another notary with acts in probate proceedings according to the schedule.

(2) Withdrawal of the case under paragraph 1 is not a court decision.

Section 175zc

(1) If a deputy, substitute is appointed according to separate regulation or a new notary is to be appointed in compliance

with a separate regulation he/she shall take cases in which the court already granted authorisation.

(2) If a notary candidate is appointed deputy according to a separate regulation he/she shall be considered notary during the period of representing a notary for the purpose of this law. However, the court shall decide on the remuneration and reimbursement of cash expenses of the notary represented by a deputy. A separate regulation stipulates the way of determining deputy's share in notary's remuneration.

Section 175zca Inheritance certificate

(1) A notary authorised by the court (Section 38 paragraph 1) shall issue an inheritance certificate when

- a) a sole heir, who shall not be a minor nor a person who must have a legal guardian by law, acquired the inheritance,
- b) the inheritance not acquired by any heir was escheated to the State,
- c) the heirs achieved settlement among them by means of an agreement,
- d) the heirs concluded an agreement with creditors on surrendering the overindebted inheritance to pay the debts.

(2) The inheritance certificate shall mainly include

- a) marking of the court commissioner,
- b) marking of the probate case,
- c) marking of the parties and their representatives ,
- d) heirs' statement on the way and content of the settlement of community property of spouses that ceased to exist due to the death of the deceased,
- e) the content of the fact attested,
- f) the amount of the interest expressed as a fraction of the whole in case of co-owners,
- g) other data, in particular data necessary for the entry of legal relationships with respect to the real estate into the real estate register and data necessary for determining tax base under separate regulation, 34d)
- h) signature of the parties and their statement of agreeing with the content of the certificate,
- i) instruction that a party to the proceedings may ask the court to continue in probate proceedings under Section 175l to 175z within 15 days from receiving the inheritance certificate,
- j) place and day of inheritance certificate issuance,
- k) mark of notary's official stamp and notary's signature.

(3) Procedure under Sections 175b to 175q shall be followed in the issuance of inheritance certificate. The certificate shall be issued by the notary to the parties present or to their representatives.

i) A party may ask the court to continue in probate proceedings under Section 175l to 175z within 15 days from receiving the inheritance certificate. When the application is not filed on time the inheritance certificate shall acquire the effects of a final resolution on the inheritance [Section 175q paragraph 1 letters a) to c), Section 175l and 175o]; filing the application on time shall effect invalidity of the inheritance certificate and the court shall continue in the proceedings regardless of its issuance.

(5) A party may waive his/her right to file an application under paragraph 4. In this case the inheritance certificate shall acquire

the effect of a final resolution on the inheritance on the day when all parties waived their right to file an application.

(6) Provisions of a separate regulation shall be applied to the correction of an inheritance certificate as appropriate. 34e)

34d) Act of the Slovak National Council No. 318/1992 Coll. on inheritance tax, gift tax and real estate transfer tax as amended.
34e) Section 43 paragraph 2 of Act of the Slovak National Council No. 323/1992 Coll. on notaries and notarial activity (Notarial Code).

Section 175zd

(1) When the hearing of the inheritance did not end with an inheritance certificate issuance the notary should prepare all necessary documents for issuing a court resolution and a petition for court resolution and account for his/her remuneration and cash expenses. 34f) When the documentation fails to be complete or the petition for a court resolution has errors in substance the court may return the case to the notary with an instruction to complete the proceedings or to amend the petition for resolution; the notary shall be bound by court's instructions.

(2) The notary shall have the right to appeal against the terms of remuneration and cash expenses.

34f) Act of the Slovak National Council No. 323/1992 Coll. on notaries and notarial activity (Notarial Code).

Decree of the Ministry of Justice of the Slovak Republic No. 31/1993 Coll. on fees and compensations of notaries as amended by Decree of the Ministry of Justice of the Slovak Republic No. 209/1994 Coll.

Care for minors by courts

Section 176

(1) In cases of court care for minors the decision on the merits shall have the form of a judgement on upbringing and maintenance of the minors, visitation rights, restriction or deprivation of parental rights, approval of minor's important acts and on matters where the parents fail to reach agreement. In addition, prolongation of placement in a special treatment institution after legal age and termination of such measure shall be decided with a judgement.

(2) Other matters shall be decided with a resolution.

(3) Petition concerning substitute family care, in particular placing the child into the care of another citizen who is not the parent and placing the child into foster care shall be decided by the court without undue delay within one year from filing the petition concerning placing of the child into the care of another citizen who is not the parent and placing the child into foster care. Proceedings may be prolonged only when evidence cannot be taken for objective reasons.

Section 177

(1) If the competent court is not known or if it cannot act on time, the court in the jurisdiction of which the minor is staying

shall act. However, the case shall be referred to the competent court as soon as possible.

(2) When the circumstances under which the competence is judged change the competent court may transfer its competence to another court if it serves the interests of the minor. If this court does not agree with the transfer of competence its superior court shall decide.

Section 178

(1) The court shall encourage the parents or the guardians of the minors to duly perform their responsibilities in the care for the minor. The court shall handle information and notifications concerning the upbringing of the minor filed by citizens and legal entities and it shall take appropriate measures.

(2) The court shall usually collect the opinion on the appropriateness and meaningfulness of the proposed or intended measures from of the body responsible for the care for children, municipal body and/or individual citizens well-informed of the situation. When appropriate it shall also interview the minor about it.

Section 179

If the validity of the legal act conducted by minor's representative at law requires an approval by the court the court shall do so if it serves the interests of the minor.

Section 180

(1) The guardian of the minor appointed by the court shall make a pledge before the presiding judge that he/she will duly perform his/her duties while considering the instructions given by the court. After taking the pledge the presiding judge shall issue him/her a deed with authorisation to raise and represent the child and limitation of the scope of rights and duties resulting from this authorisation.

(2) The court shall oversee the administration of the property of a minor represented by a guardian and it shall take necessary and appropriate measures to determine and secure this property.

(3) After the lapse of the representation the guardian shall present the court the final statement concerning the administration of the property; the court may also order to have regular reports on his/her activity submitted during the period of representation.

Adoption proceedings

Section 181

(1) The child to be adopted, his/her parents, the adopter and his/her spouse shall be parties to the proceedings.

(2) However, the parents of the child to be adopted shall not be parties to the proceedings when they are deprived of their parental rights or when they have no legal capacity and also when their consent is not needed for adoption in spite of the fact that they are representatives at law of the child to be adopted.

(3) The spouse of the adopter shall not be party to the proceedings when his/her consent is not needed for the adoption.

(4) The court shall decide on the adoption without undue delay within one year from filing the petition concerning the adoption. Proceedings may be prolonged only when evidence cannot be taken for objective reasons.

Section 182

(1) The court shall interview the child to be adopted only when the child is capable of understanding the meaning of adoption and the interview is not in conflict with his/her interests. If the child to be adopted is not going to be interviewed the child shall not be summoned to the hearing.

(2) The court shall always, and if possible separately, interview the other parties.

Section 183

(1) The court shall determine on the basis of a medical examination whether the health of the child to be adopted and of the adopter is not in contravention with the purpose of adoption. The court shall inform the parties on the results of the examinations.

(2) The court shall instruct the parties about the significance of adoption with a view to the interests of the society and the interests of the child to be adopted and also of the duties of the adopter.

Section 184

In the judgement granting adoption the court shall also state the family name the adopted child will have.

Section 185

Provisions of Sections 181 to 184 shall apply to the cancellation of adoption as appropriate. However, the adopted child may also file a petition.

Custody proceedings

Section 185a

(1) Money, securities and other movable assets appropriate to be placed into custody in order to satisfy a liability can be placed under the custody of a court.

(2) The petition for custody shall include a statement by the person placing the money, securities or other items into custody (hereinafter the "depositor") that the liability comprising the deposited values cannot be satisfied due to the absence of the creditor or his/her default or because the depositor has justified doubts as to the identity of the creditor or the depositor does not know the creditor.

(3) The court shall decide without holding a hearing by issuing a resolution served on the parties personally.

Section 185b

The parties to the proceedings shall be the depositor and also the person who shall receive the money, securities and/or other items (hereinafter the “recipient”) after their receipt into custody. After the resolution on receipt into custody became final persons claiming a right to the matter of custody should also be party to the proceedings.

Section 185c

When the custody requires expenditures the court shall order the depositor to deposit an appropriate advance payment to cover the costs. When the advance payment is not paid within the specified time limit the court shall reject the petition for custody; the court shall also reject the petition for deposit when the item is not appropriate for custody or when no appropriate way of custody is found.

Section 185d

(1) The court shall render the recipient the subject of custody upon his/her request. If placing into custody was applied because another person than the recipient claimed the right to have the subject of custody rendered or some one else, whose consent is needed, did not agree with rendering the matter of custody to the recipient then consent by all parties to the proceedings and the person whose disagreement with the performance resulted in placing into custody should be needed to render the subject of the custody. Depositor’s consent shall, however, be needed only when the performance was deposited in favour of an unknown creditor.

(1) The court shall render the depositor the subject of custody upon his/her request,

- a) when the recipient demonstrates consent with this procedure or
- b) when the recipient states before the court that he/she does not accept the subject of custody or
- c) when the recipient fails to give a statement in the time limit given by the court in spite of being instructed of such consequences.

(3) The court shall render the subject of custody to another person than stated in paragraph 1 and 2 requesting rendering of the subject of custody only with the consent of the depositor and recipient.

Section 185e

When the consent with rendering the subject of custody was denied then it can be replaced with a final decision of a court in which it was decided that the one who opposed the rendering has the obligation to agree with rendering the applicant the subject of custody.

Section 185f

When the court receives items into custody in cases provided for in separate regulations then it shall follow the provisions of the pertinent regulation and in case of their absence it shall follow the provisions of Sections 185a to 185h as appropriate for the nature and purpose of the custody.

Section 185g

(1) If the time limit of three years lapsed since the resolution on receiving into custody became final or from the day when the subject of custody was to be rendered to the depositor the court should decide that the subject of custody be escheated to the State in case nobody would apply for it within three years from the day of pronouncing this resolution. The court shall display this resolution on the official board of the court.

(2) If a request to have the subject of custody rendered arrived within the time limit under paragraph 1 after issuing the resolution the court should proceed according to Section 185d.

(3) If no request to have the subject of custody rendered was filed the subject of custody should be escheated to the State by the lapse of the time limit determined in the resolution under paragraph 1. The State should also acquire the subject of custody by the lapse of this time limit when the filed application was not satisfied with a final resolution.

Section 185h

When the subject of custody is escheated to the State the rights of the parties and other persons to the subject of custody should extinct.

Proceedings concerning redemption of instruments

Section 185i

(1) A lost or destroyed instrument that has to be presented in order to claim one’s right can be redeemed.

(2) Instruments where the legal entity issuing them is authorised to redeem them by law cannot be redeemed in proceedings before a court.

(3) Money, lottery tickets, betting tickets, tickets and stamps used everyday circulation (admission tickets, transport tickets and alike), coupons and talons of securities, instruments linked with the right to pay certain legal entity in the country the price of goods and services as well as instrument on the basis of which only the entitlement to collateral performance can be claimed shall not be subject to redemption.

Section 185j

(1) A redemption motion concerning an instrument may be filed by anybody who has a legal interest in its redemption.

(3) The court shall decide without holding a hearing by issuing a resolution served personally.

Section 185k

The petitioner, the person obliged to perform under the instrument, the person possessing the instrument and the person filing objection under Section 185m paragraph 2 shall be parties to the proceedings.

Section 185l

(1) The petition to have an instrument redeemed shall include facts from which it is clear that a right may be claimed from the instrument or on its basis. A copy of the instrument shall be

submitted with the petition or the instrument, its issuer and/or also other persons obliged by the instrument, and also such data that differentiate this instrument from other instruments of the same kind shall be identified.

(2) If the instrument specifies certain amount this information shall also be given.

Section 185m

(1) When the court determines that the instrument petitioned for redemption was not issued or it was not lost or destroyed then the court shall reject the petition.

(2) Otherwise the court shall issue a decision including a call that the person who has the instrument should report with the court issuing the resolution within one year from the issuance of the resolution and, if possible, present the instrument or file objections against the petition. The court shall display this resolution on the information board of the court.

(3) If a promissory note or a cheque is being redeemed the court shall stipulate a two-month time limit in the resolution according to paragraph 2 and, at the same time, it shall prohibit payments under the instruments to be redeemed.

(4) In case of a redeemed instrument that is not due yet the time limit under paragraph 3 shall start to run from the first day of its maturity. In case the redeemed instrument is mature this term shall start to run from the day of its display.

Section 185n

If it is an instrument payable to the bearer except for bearer policies the time limit under Section 185m shall terminate one year after the due date of the receivable from the instrument.

Section 185o

(1) No period of limitation, time limit for the extinguishment of a right or the time limit for paying the amount of money under the redemption instrument shall run against the petitioner from the beginning of the proceedings to its final end.

(2) The one who was served the resolution on or the one who could learn about it with due care shall not dispose of the rights from the redeemed instrument, make payments or other performances under it, transfer it or to amend it as the consequence shall be the invalidity of these acts. The one who is obliged under the instrument has the duty to retain the presented instrument and to inform the court who presented it.

Section 185p

When redemption proceedings concerning the promissory note or cheque have already started the petitioner who presents the resolution has the right to claim payment of the promissory note or cheque against an appropriate escrow until the promissory note or cheque are not declared redeemed. The one who deposits no escrow may file an action requesting to have the outstanding amount placed under the custody of the court.

Section 185q

The court shall review the application of the person having the instrument and determine his/her objections. When the court finds that the instrument was not lost or destroyed then the court shall reject the petition.

Section 185r

(1) When the time period under Section 185m paragraph 2 or 3 lapsed and the petition was not rejected the court shall declare the instrument redeemed upon the next petition.

(2) If no other petition under paragraph 1 is filed within one month since the lapse of the time limit stipulated in Section 185m paragraph 2 or 3 the court shall discontinue the proceedings. The petitioner shall be instructed about this consequence in the resolution under Section 185m paragraph 2 or 3.

Section 185s

The resolution on the redemption of an instrument shall replace the redeemed instrument until the obliged by the instrument issued the beneficiary a substitute instrument.

Capacity proceedings

Section 186

(1) Petition to commence capacity proceedings (deprivation, restriction or re-establishment of legal capacity) can also be lodged by a health care institution that shall be party to the proceedings in this case.

(2) If the petition to commence proceedings was not filed by a state body or health care institution the court may order the petitioner to present examined person's mental capacity medical certificate within an appropriate time limit; if no medical certificate was presented within this period the court should discontinue the proceedings.

(3) A legal capacity re-establishment petition may also be filed by the person who was deprived of legal capacity. However, when the court rejected his/her petition and no improvement of person's condition can be expected the court may decide that this right does not belong to the person concerned for an appropriate period of time, however, not longer than three years.

Section 187

(1) The presiding judge shall appoint a guardian for the proceedings to the person whose legal capacity is concerned.

(2) The court may refrain from interviewing the examined person if this interview cannot be conducted at all or it would cause damage to the health condition of the examined person.

(3) The court shall always interview an expert with respect to examined person's health condition. Upon expert's motion the court may order to have the person concerned examined in a health care facility for a period not longer than three months if this is necessary to examine the health condition.

Section 188

(1) However, when there are conditions to restrict legal capacity for excessive alcohol or narcotics or poisons consumption but it may be expected that the condition of the examined person will improve, the court may suspend the proceedings for a period of time it shall also determine; at the same time it may also decide that the examined person shall undergo necessary treatment.

(2) The court shall continue in the proceedings prior to the lapse of the determined time only when it is observed that no improvement is achieved.

Section 189

(1) The presiding judge does not have to order hearing on grounds of appropriateness.

(2) The court may decide to refrain from the service of the legal capacity decision if this service could have an adverse effect on the addressee due to his/her mental disorder or if the addressee is incapable to understand the meaning of the decision.

Section 190

The court shall set aside the judgement when it is later determined that conditions for deprivation or restriction of legal capacity were absent.

Section 191

(1) The costs of the proceedings shall be paid by the State. If there is a possibility of fair requirement the court shall award the state their compensation against the person whose legal capacity was concerned in the proceedings.

(2) The one who files a manifestly unfounded petition for deprivation or restriction of legal capacity shall be obliged to compensate the damage caused to the examined, his/her representative and the State by the proceedings.

Proceedings on the admissibility of commitment in a health care institution

Section 191a

(1) Institution providing health care services (hereinafter the "institution") in which persons are committed on grounds stipulated in a separate regulation has the obligation to inform the court in the jurisdiction of which the institution is located of the admission of every person placed in it without person's written consent (hereinafter only the "sick person") within 24 hours.

(2) When the person admitted to the health care institution with person's written consent is restricted in his/her free movement or contact with the outside world only in the course of treatment the institution shall have the obligation of notification under paragraph 1 within 24 hours from the moment when such a restriction was imposed.

Section 191b

(1) The court in the jurisdiction of which the institution is located shall commence proceedings on the admissibility of

commitment in a health care institution on every person the institution has the obligation to notify under Section 191a unless the court ordered admission and holding in an institution in other proceedings.

(2) If the person received by the institution has no other representative the court shall appoint a guardian for these proceedings.

(3) The court shall take evidence necessary to judge whether the admission (Section 191a paragraph 1 and 2) occurred on legal grounds, it shall interview the sick person and the attending medical doctor. Hearing usually does not have to be ordered.

(4) The court shall decide by issuing a resolution within five days from imposing restriction under Section 191a whether admission occurred on legal grounds (Section 191a paragraph 1).

Section 191c

(1) Resolution under Section 191b paragraph 4 shall be served on the person committed except when according to attending medical doctor's opinion the person is incapable to understand the content of such decision, and also on his/her representative (guardian) and the institution. The resolution shall be served on the person committed and on the institution within 24 hours from the decision, however, not later than five days from the day of imposing restriction under Section 191a. When the decision is not served on the person committed it must be served on his/her representative (guardian) within the specified time limit.

(2) Appeal against this resolution shall have no suspensory effect. The institution may also lodge an appeal when it was stated that the admission failed to be in compliance with legal grounds.

(3) The institution may release the person committed even when the court ruled that admission was in compliance with legal grounds.

Section 191d

(1) If the court ruled that admission was in compliance with legal grounds and the committed person is under restricted or excluded contact with the outside world the court should continue in the proceedings on the admissibility of further commitment to the institution.

(2) The court shall appoint an expert to determine the health condition of the person committed. The task of the expert shall be to give an opinion on the need to continue commitment of the person committed in the institution under restricted or excluded contact with the outside world. A medical doctor working in the institution the committed person is hold in cannot be appointed expert.

(3) The court shall order hearing to which the committed person (provided he/she is capable of understanding the course and meaning of the hearing according to attending medical doctor's statement or written expert's opinion) and his/her representative (guardian) are invited. The expert and when

appropriate the attending doctor, the committed person shall be heard and other appropriate evidence taken if necessary.

(4) The court shall rule on the admissibility of continued commitment and its duration in a judgement that must be promulgated within three months from the terms of the admissibility of the commitment to an institution. Provisions of Section 191c paragraph 2 and 3 shall apply accordingly.

Section 191e

(1) The effect of the judgement under Section 191d paragraph 4 shall extinct by the lapse of a one-year period from the day of its promulgation unless a shorter period was stipulated in it. If the commitment to the institution is to be extended over this period of time new examination shall be carried out and the court must decide on the permission of further commitment again. Provisions of Section 191c paragraph 2 and 3 shall apply accordingly here.

(2) Judgement under paragraph 1 shall be without prejudice to the release of the person committed to the institution by the institution before the lapse of the period of time stipulated in paragraph 1 and/or to other measures taken by the guardianship court.

Section 191f

Even before the lapse of the period in which commitment is admissible, the person committed to an institution, if having legal capacity, his/her representative (guardian) and persons close to him/her may request a new examination and decision on release when there is justified reason to believe that there is no ground for continued commitment to the institution. When the court rejects the motion for release it may decide not to take another examination before the lapse of the period of permitted commitment to the institution.

Section 191g

(1) The costs of the proceedings shall be paid by the State. However, it shall not pay the costs of legal representation with the exception of cases provided for in Section 30 paragraph 2 herein.

Guardianship Proceedings

Section 192

(1) Presiding judge has the obligation to ensure that a guardian is appointed to persons who must have a guardian under the law.

(2) The court shall also stipulate the scope of guardianship rights and duties in the resolution in which the court appoints the guardian.

Section 193

Provisions of Section 176 to 180 shall apply accordingly.

Proceedings to qualify a minor to enter into marriage

Section 194

(1) The court shall decide on the permission to enter into marriage upon a petition lodged by the entitled person who is the one intending to enter into marriage.

(2) The person intending to enter into marriage and his/her representatives at law shall be parties to the proceedings. Prior to ruling the person who intends to enter into marriage shall be heard as to his/her true intention to enter into marriage in the absence of other persons and also the person to be married shall be heard.

(3) The judgement conferring the right to marry must also include exact description of the person to be married.

Proceedings to declare a person dead

Section 195

(1) The petition may be lodged by the person having a legal interest in the matter.

(2) When the court concludes that under the information in the petition there are conditions to declare the missing person dead the court shall appoint a guardian to the missing person.

Section 196

(1) The court shall call the missing person to report within one year and every one who knows about the person to inform the court or the guardian or the representative of the missing person identified in the call by means of a notice or in another appropriate way. At the same time the court shall take all necessary investigation concerning the missing person.

(2) The court shall mention all significant facts of the case in the notice and it shall also inform that after the lapse of the time limit given in the notice it shall rule on declaration of death in case the missing person fails to report or no information about the person being alive is received. The court shall stipulate a period of one year from publishing the notice. The notice shall also give the date when the time limit expires.

Section 197

If the court determines during the proceedings that the conditions for declaring a person dead failed to be met the court shall discontinue the proceedings.

Section 198

After the lapse of the time limit stipulated in the notification the court shall award the judgement declaring the person dead. It shall identify the date that is the date of death of the missing person or the date that the missing person did not survive.

Section 199

(1) If the court finds that the person declared dead is alive or was alive at a date from which insufficient time lapsed to declare the missing person dead it shall quash its ruling declaring the person dead.

(2) The court shall correct the date given in its decision as the date of death upon a party's motion when it additionally finds

that the person declared dead died on a different day or the person could not live on that day or survived the date. The court may do so also without a petition.

Section 200

When it is certain that a citizen died but it is impossible to prove his/her death in the way as stipulated the court shall issue a ruling declaring the citizen dead.

Commercial register proceedings

Section 200a

(1) Proceedings in matters concerning the commercial register shall commence upon a petition filed by a natural person or a legal entity concerned with the entry in the commercial register (hereinafter the “undertaker”), persons entitled by law or persons authorised in writing by these persons unless the law provides otherwise.

(2) The entry shall be made as of the date given in the petition for entry. When the resolution on the entry is issued later or the petition fails to identify the date on which the entry should be made the entry shall be made as of the date given in the terms of the resolution on the content of the entry.

(3) The authenticity of the signature of the person lodging the petition for an entry into the commercial register and the authenticity of the signature of an authorised person under paragraph 1 must be verified. /34fa/

(4) The court may also start proceedings without a petition if conformity of the entry in the commercial register with the reality is to be achieved.

(5) Separate regulations stipulate which undertakers and which facts concerning them shall be entered into the commercial register.

34f) Act of the Slovak National Council No. 323/1992 Coll. on notaries and notarial activity (Notarial Code) as amended. Act of the National Council of the Slovak Republic No. 15/1993 Coll. on the verification of documents and signatures on documents by district authorities.

Section 200b

(1) In the proceedings on the entry the court shall have the obligation to examine whether requirements to make the entry stipulated in regulations are met.

(2) The court shall decide on the content of the entry without a hearing by issuing a resolution. The date of entry shall be given in the terms of the resolution. The entry shall be made within one month from the award of the resolution on the content of the entry. The facts entered into the commercial register shall be effective as of the day of the entry regardless of the fact whether the resolution permitting the entry is final unless the law provides otherwise.

(3) The provision on procedural fines shall also be applied in case the undertaker fails to follow the call of the court to inform

the court of facts or to present documents necessary for making the entry under Section 200a paragraph 2.

(4) If a natural person entered in the commercial register or a person authorised to act on behalf of a legal entity entered in the commercial register fails to comply with his/her obligations under separate regulation, /34fb/ the register court may sanction him/her with a fine amounting up to SKK 100,000.

(5) Provisions on imposing a procedural fine under this law shall apply to fine proceedings as appropriate.

/34fb/ Section 3a, Section 28b of the Commercial Code as amended by Act No. 500/2001 Coll.

Section 200c

(1) The commercial register is a public list of data provided for by a separate law that also includes the collection of instruments. The commercial register and the collection of instruments are open to every one; every one has the right to search in it and to make copies of it after complying with the obligation to pay fee.

(2) Upon request and after complying with the obligation to pay fee the register court shall issue the requesting party a copy, statement or certificate of certain entry or of the absence of a certain entry in the commercial register.

(3) The requesting party shall be issued a copy of an instrument from the collection of instruments under conditions stipulated in paragraph 2.

Section 200d

(1) A district court in the seat of the regional court (hereinafter the “register court“ shall keep the commercial register for undertakers who have their seat in the jurisdiction of the regional court. If they do not have their seat the competent court is the one according to the place of business; if the undertaker has no place of business then the court with territorial jurisdiction according to undertaker’s place of residence shall be the court competent to keep the commercial register.

(2) A separate law stipulates which district court or a court of equal status in the seat of the regional court shall be the register court.

(3) The commercial register for a foreign entity (Section 21 paragraph 2 of the Commercial Code) shall be kept by the court in the jurisdiction of which the enterprise or its organisational part is located (Section 21 paragraph 3 of the Commercial Code).

Section 200e

Proceedings concerning some issues related to companies and co-operatives

(1) The court having competence in commercial matters in the jurisdiction of which the co-operative has its seat shall be competent to act in matters provided for in Section 9 paragraph 4 letter b).

(2) The register court in the jurisdiction of which the legal entity is entered shall be the competent one to act

a) in dissolution of a company, dissolution of a co-operative and ordering their liquidation,

b) in the appointment of a liquidator, his/her removal or replacement with another person as well as in decisions on liquidator's fee,

c) in the invalidity of a company, /34fc/

d) in the appointment of an auditor to assess the draft merger contract, consolidation contract or project of dividing a company according to a separate law, /34fd/

e) in authorisations to convene a general meeting under a separate law. /34fe/

(3) Proceedings under paragraph 1 and paragraph 2 letter a) and b) may also be commenced without a petition.

(4) Participation in matters stipulated in paragraph 1 is subject to the provision of Section 94. No hearing in the matter has to be ordered. Decision is made by issuing resolution.

/34fb/ Section 68a of the Commercial Code as amended by Act No. 500/2001 Coll.

/34fb/ Section 218a paragraph 2 of the Commercial Code as amended by Act No. 500/2001 Coll.

/34fb/ Section 181 of the Commercial Code as amended by Act No. 500/2001 Coll.

Proceedings in matters concerning polls

Section 200f

Proceedings in matters concerning polls and lists of persons entitled to vote in a referendum

(1) If a municipality itself does not correct errors or deficiencies in the permanent poll or list of persons entitled to vote in a referendum the citizen who feels affected may lodge a petition to have a decision on correcting or supplementing the list issued with the court competent according to the precinct.

(2) The petitioner and the municipality shall be parties to the proceedings.

(3) The court shall decide by issuing a resolution without a hearing within three days from filing the petition. The decision should be served on the parties on the day of ruling.

(4) No remedy is admissible against the ruling of the court.

Section 200g

Proceedings in matters concerning registration of tickets

(1) When the election commission competent according to separate law 34c) decided

a) on the registration of the ticket the political party or coalition may file a petition to have the registration of the ticket cancelled with the Supreme Court of the Slovak Republic,

b) on the registration of the ticket made according to a separate law, 34d) the political party or coalition may file a petition to

have a decision on keeping a candidate in the ticket with the Supreme Court of the Slovak Republic,

b) on the rejection of registration of the ticket the political party or coalition may file a petition to have a decision on the registration of this ticket issued with the Supreme Court of the Slovak Republic.

(2) Political party or coalition filing the petition under paragraph 1, political party or coalition having the registration of its ticket challenged under paragraph 1 letter a) or b) or political party or coalition concerned in the petition to have the decision on rejecting the registration of its ticket issued under paragraph 1 letter c) and the Central Election Commission shall be parties to the proceedings.

(3) The court shall decide by issuing a resolution within five days from filing the petition.

34c) Section 13 paragraph 3 letter a) of Act of the Slovak National Council No. 80/1990 Coll. on the elections to the Slovak National Council as amended by Act No. 187/1998 Coll.

34c) Section 19 of Act of the Slovak National Council No. 80/1990 Coll. as amended by Act No. 187/1998 Coll.

Section 200ga

Proceedings in matters concerning registration of tickets

(1) When the election commission decided on registering a candidate or not registering a candidate in elections to the bodies of municipal local governments the political party, political movement or independent candidate may file a petition to have the decision on cancelling the registration of the candidate issued or a petition to have the decision on candidate registration issued with a court within three days from the day of decision by the local (municipal) election commission.

(2) Political party, political movement or independent candidate who filed the petition, local election commission and the candidate, political party, political movement or independent candidate challenged by the petition shall be parties to the proceedings.

(3) The court shall decide by issuing a resolution within three days from filing the petition.

(4) No remedy shall be admissible against the ruling of the court.

Section 200gb

Proceedings in matters concerning the acceptance of proposal of candidates for the office of the president of the Slovak Republic

(1) When the Speaker of the National Council of the Slovak Republic decided on the rejection of a proposal for a candidate to the office of the President of the Slovak Republic the candidate concerned may file a petition to have a decision on the acceptance of his proposal for a candidate to the office of the President of the Slovak Republic issued with the Supreme Court of the Slovak Republic.

(2) The candidate concerned and the Speaker of the National Council of the Slovak Republic shall be party to the proceedings.

(3) The court shall decide by issuing a resolution within five days from filing the petition.

Section 200gc

Proceedings in matters concerning registration of tickets

(1) When the election commission competent under separate law 34e) decided to have a candidate for the election to the bodies of the self-administrated region deleted or to reject the registration of a ticket the political party concerned or the candidate concerned may file a petition to have decision concerning the duty of the self-administrated election commission to keep the candidate on the ticket or the register the ticket issued with the district court in the seat of the election commission of the self-administrated region within 24 hours from the service of self-administrated region election commission's decision.

(2) The political party concerned, the candidate concerned and the self-administrated region election commission shall be party to the proceedings.

(3) The court shall decide by issuing a resolution within three days from filing the petition.

34e) Section 15 paragraph 3 and Section 20 paragraph 2 of Act No. 303/2001 Coll. on elections into bodies of self-administered regions and the amendment of the Code of Civil Procedure.

Section 200h

Proceedings concerning association in political parties and political movements

(1) If a preparatory committee of a political party or political movement disagrees with the notice from the competent ministry that the registration petition lacks particulars required by the law or that the petition has incomplete or inaccurate data the preparatory committee may seek ascertainment that the registration petition has no deficiencies.

(2) The preparatory committee and the competent ministry shall be party to the proceedings.

(3) The regional court in the jurisdiction of which the preparatory committee has its seat shall be the competent court to decide.

(4) Decisions shall be taken by issuing a resolution without a hearing. No appeal against the decision shall be admissible.

Section 200ha

Proceedings concerning the lawfulness of municipal council, city council, local council or higher territorial unit council by-laws

(1) If a municipal council, city council, local council or higher territorial unit council fails to cancel its by-law that is in violation of the law on the basis of a prosecutor's protest the

prosecutor may file a motion to have this by-law cancelled with a court.

(2) The municipality, city, city part or a higher territorial unit and the one who filed the motion shall be party to the proceedings.

(3) The district court in the jurisdiction of which the municipality, city, city part or the seat of a higher territorial unit is located shall be the competent court.

Section 200hb

Proceedings concerning agreements of municipalities on co-operation with territorial units or other country's authorities and membership in international association

(1) A regional authority may file a petition to have the obligation of a municipality or a higher territorial unit of terminating a co-operation agreement concluded with another municipality, other higher territorial unit or with a territorial and administrative unit of another state or a body or authority of another state performing regional functions determined with a court on grounds of failing to comply with the requirements stipulated by law. Equally, a regional authority may file a petition to have the obligation to terminate membership of the municipality in an association of municipalities, membership of a higher territorial unit in an association of higher territorial units or their membership in an international association of territorial units or territorial bodies determined.

(2) The regional authority, municipality or higher territorial unit shall be party to the proceedings.

(3) The district court in the jurisdiction of which the municipality or the seat of a higher territorial unit is located shall be the competent court.

(2) The court shall decide by issuing a resolution. No hearing shall be necessary.

Chapter six

DEFAMATION PROCEEDINGS

Section 200i

(1) The court in the jurisdiction of which the claimant has his/her place of residence shall be the competent court in defamation proceedings 34g).

(2) In matters referred to in paragraph 1 the court has the obligation to act on the merits not later than 30 days from lodging the action.

(3) repealed from 20 December 1997

(4) The court has the obligation to decide in defamation matters not later than one year from filing the action.

34g) Section 11 and consecutive of the Civil Code.

Section 200j

Repealed from 1 December 1995

Section 200k

Repealed from 1 December 1995

Section 200l

Repealed from 1 December 1995

Section 200m

Repealed from 1 December 1995

Section 200n

Repealed from 1 December 1995

PART FOUR REMEDIES

Chapter one APPEAL

Filing of appeal

Section 201

Parties may challenge first instance court decision by filing an appeal provided it is admissible under the law.

Section 202

(1) Appeal against a judgement issued on the basis of recognising or waiving a title and against a default judgement, except for cases of appeal filed on grounds of failing to comply with the requirements for issuing such decision or that the challenged judgement is based on a wrong point of law, shall not be admissible.

(2) Appeal against a resolution in execution proceedings under a separate law /34h/ shall be not admissible, either, provided this separate law does not stipulate otherwise and it shall not be admissible against a resolution in enforcement proceedings concerning court receivables under a separate law, either. /34i/

(3) Appeal shall not be admissible against resolution that

- a) regulates the conduct of the proceedings;
- b) includes another party under Section 94 paragraph 2;
- c) commenced proceedings without a petition;
- d) returned a motion for correction;
- e) pardoned default of time;
- f) admitted or did not admit change of the petition;
- g) ruled on witness fee and/or claims under Section 139 paragraph 3;
- h) approved conciliation;
- i) decided on citizen's petition to have the polls corrected or supplemented;
- j) satisfied petition under Section 153c paragraph 1;
- k) allowed deciding under Section 17 paragraph 2,
- l) allowed deciding under Section 43 paragraph 2,
- m) allowed deciding under Section 174 paragraph 2.
- n) is a full approval by the court with entry into the commercial register under Section 200a,

o) is authorisation of a party by the court to convene a general meeting under a separate law. /34fe/

(4) Appeal against grounds reasons for decision only shall not be admissible.

34h) Act of the National Council of the Slovak Republic No. 233/1995 Coll. on court executors and execution activity (The Execution Rules) and on the amendment of other laws.

/34i/ Section 2 letter a) of Act No. 65/2001 Coll. on the administration and enforcement of court receivables.

Section 203

Repealed from 1 December 1992

Section 204

(1) Appeal shall be filed with the court the decision of which is appealed within fifteen days from the delivery of the judgement. If a correcting resolution was issued this term should start to run again from the service of the correcting resolution.

(2) Appeal shall be considered filed on time when it if is filed after the lapse of the fifteen day time limit because the appellant followed an incorrect instruction by the court on the appeal. When the decision fails to include instructions on appeal or when it includes incorrect instruction on the inadmissibility of appeal then an appeal may be lodged within three month from the service.

(3) Pardoning default of time shall not be admissible if it is an appeal against a judgement declaring a marriage divorced, null or not existing. In these cases the provision of paragraph 2 of the second clause shall not apply, either.

Section 205

(1) In addition to general particulars (Section 42 paragraph 3) the appeal shall identify against which decision it is filed, in what scope it is challenged, where this decision or the procedure by the court is considered incorrect and what does the appellant claim.

(2) Appeal against a judgement or resolution that decided on the merits can be substantiated mainly with

- a) the failure to comply with the conditions of the proceedings, a decision made by a first instance court that lacks substantive competence, being declared by an excluded judge or the first instance court was wrongly set up; this shall not apply when a panel decided instead of a single judge,
- b) the first instance court not taking into account the facts or evidence submitted by the appellant in spite of non-compliance under Section 175 paragraph 3, part of the first clause following the semi-colon,
- c) proceedings affected by another error that could result in erroneous decision on the merits,
- d) the first instance court determining the facts of the case in an incomplete way because it failed to take proposed evidence necessary to find decisive facts,
- e) the first instance court arriving to wrong facts of the case based on the evidence taken,

f) the facts of the case determined fail to correspond because there are other facts or evidence not applied, yet (Section 205a),
g) the decision by the first instance court being based on an erroneous determination of law in the case.

(3) The appellant may also amend appeal petitions and appeal grounds without court's consent after the lapse of the time limit for lodging an appeal.

(4) The scope in which the decision is challenged may only be enlarged by the appellant before the lapse of time limit for appeal.

Section 205a

(1) Facts or evidence not referred to before the first instance court shall be appeal grounds in appeal against the judgement or resolution on the merits only when

- a) they concern conditions of the proceedings, substantive competence of the court, exclusion of a judge (judge sitting in a panel) or set up of the court,
- b) they should prove that errors that could result in erroneous decision on the merits occurred in the proceedings,
- c) they should challenge the credibility of evidence that is the basis for the decision by the first instance court,
- d) the appellant was not duly instructed under Section 120 paragraph 4,
- e) the party to the proceedings could not identify them or submit them without any own fault before decision made by the first instance court.

(2) The provision of paragraph 1 shall be not applied to proceedings under Section 120 paragraph 2.

Section 206

(1) If the entitled person files appeal on time the decision shall not become final until an appeal court makes a final decision.

(2) When decision was made on several rights with separate merits or when the decision concerned several parties out of which each acts on his/her own behalf (Section 91 paragraph 1) and the appeal explicitly applies only to some rights and/or some parties the appeal shall be without prejudice to the final nature of the terms that are not subject to challenge. This shall not apply to cases where terms not explicitly affected depend from the decision on the challenged term or where a certain way of settlement among the parties ensues from a piece of legislation.

(3) The validity of other terms shall also not be affected when the appeal concerns only the terms of the costs of the proceedings, appurtenance of the claim, its maturity or preliminary enforceability of the judgement.

Waiver of appeal and its withdrawal

Section 207

(1) Only on appeal against a court may be waived and this may be done only after the award of the decision.

(2) An appeal may be withdrawn until its decision. If a person withdrew an appeal he/she may not file it again.

(3) When an appeal that has not been decided yet was withdrawn the court shall discontinue appeal proceedings.

Section 208

When an appeal to commence proceedings has been withdrawn after the decision of the first instance court and its decision has not become final yet the appeal court shall decide on the admissibility of withdrawal. The court shall not admit withdrawal when the other party does not agree on serious grounds. When withdrawal is admitted the appeal court shall set aside the decision by the first instance court and shall discontinue the proceedings.

Acts by the first instance court

Section 209

When the presiding judge of the panel of the first instance court determines that the appeal was filed late or it was filed by a person not entitled to do so or that it is inadmissible he/she shall submit the case to appeal with a report to the appeal court after the lapse of the time limit. This report shall be served on the parties to the proceedings.

Section 210

(1) If it is not a case under Section 209 the presiding judge shall serve the other parties the appeal against the judgement.

(2) When necessary the presiding judge shall examine compliance with the conditions of the proceedings, he/she shall acquire information and documents referred to by the appellant and he/she shall also take other similar examination.

(3) As soon as the time limit to file an appeal lapsed for all parties and examinations under paragraph 2 have been taken the presiding judge shall submit the case to an appeal court.

Section 210a

The resolution on the obligation to pay court fee or the resolution based on which no other person acquired rights so far but the appellant or a resolution imposing a procedural measure (Section 53) may be directly changed into an appeal by the first instance court provided the court fully accepted the appeal.

Proceedings before an appeal court

Section 211

Provisions on proceedings before a first instance court shall apply as appropriate to the proceedings before an appeal court except when provided otherwise.

Section 212

(1) The appeal court shall hear the case within the scope the appellant claims decision review. It shall not be bound by this scope

- a) in matters where proceedings may be commenced without petition,
- b) in cases where a term not affected by the appeal depends from the decision on the challenged term,
- c) in cases when such common rights or duties are concerned that the decision must apply to all parties on one side and where acts performed by one party shall also apply to other parties (Section 91 paragraph 2) though the appeal has been lodged only by one of the parties,
- d) when a certain way of settlement of the relation among the parties ensues from a regulation.

(2) An appeal court shall consider errors of the proceedings before a first instance court only inasmuch as they could effect an erroneous decision on the merits.

(3) An appeal court may set aside a decision of the first instance court though its amendment is proposed and vice versa.

(4) The parties may amend appeal motions and appeal grounds without the consent of the court.

Section 213

(1) The appeal court shall not be bound by the facts of the case as found by the first instance court.

(2) The appeal court may repeat evidence taking and/or supplement it if supplementing is not too extensive and it can be taken without delays. It shall supplement evidence taking itself or through the first instance court or the requested court.

Section 214

(1) The presiding judge of the appeal court shall order a hearing to try an appeal.

(2) No hearing shall be necessary when

- a) appeal is rejected under Section 218;
- b) the proceedings are discontinued or suspended;
- c) it is an appeal against resolution;
- d) it is a decision concerning legal capacity, declaration of admissibility of admission or commitment in a health care institution or declaration of a person dead;
- e) decision is appealed under Section 221 paragraph 1;
- f) the appeal applies only to the costs of proceedings, appurtenance of a claim or its maturity or preliminary enforceability of the judgement;
- g) appeal challenges the judgment that ruled on the maintenance of a minor only.

Section 215

At the opening of the hearing the presiding judge or authorised member of the panel shall give a report of the conduct of the proceedings so far. Then the parties shall make their statements and present their motions.

Section 216

(1) Provisions of Section 92 shall not apply to appeal proceedings.

(2) Failure of the parties to appear at a hearing before the appeal court shall not be a ground for interrupting the proceedings.

Section 217

Repealed from 1 January 1992

Decision on the appeal

Section 218

(1) The appeal court shall reject the appeal that

- a) was filed late;
- b) was filed by a person not entitled to appeal;
- c) is challenging a decision where no appeal is admissible;
- d) was not duly substantiated in the appeal time limit and that challenged a decision under Section 174 paragraph 3.

(2) An appeal that was filed with appeal court within the time limit or on records with the incompetent district court cannot be refused as late appeal.

Section 219

The appeal court shall uphold the decision when it is substantively correct.

Section 220

(1) The appeal court shall change the decision when the first instance court decided wrongly though the facts of the case were found correctly.

(2) The appeal court may change its decision also when the facts of the case after additional evidence taking are determined in such a way that it is possible to decide on the merits.

Section 221

(1) If there are no conditions for upholding or changing the judgement the court shall set aside the decision. It shall set it aside mainly when

- a) other evidence that cannot be taken in appeal proceedings (Section 213 paragraph 2) shall be taken to determine the facts;
- b) there are such errors that due to lack of conditions the proceedings should not be conducted or an excluded judge decided or the court was incorrectly set up unless a panel decided instead of a single judge;
- c) the judgement cannot be reviewed on grounds of illegibility or lack of grounds;
- d) the court failed to include as a party someone who should be party.

(2) When the appeal court sets aside the decision it shall return the case to the first instance court for further proceedings or it shall discontinue the proceedings and/or submit the case to a body under the competence of which the case falls.

Section 222

(1) If the appellant withdraws the appeal the challenged decision shall become final as if no appeal was filed.

(2) The appeal court may also handle the appeal in such a way that it admits withdrawal of the motion to open proceedings or approves conciliation.

(3) Under the conditions of Section 164 the appeal court may also order correcting the challenged decision.

Section 223

The court shall decide by issuing a judgement when it upholds or changes a judgement; otherwise it shall decide by issuing a resolution.

Costs of appeal proceedings

Section 224

(1) Provisions applying to the costs of proceedings before a first instance court shall also apply to the appeal proceedings.

(2) When the appeal court changes decision it shall also decide on the costs of proceedings before a first instance court.

(3) When the appeal court sets aside the decision and when it refers the case to the first instance court for further actions the reimbursement of the costs shall be decided by the first instance court in a new decision on the merits.

Other procedures

Section 225

The first instance court shall serve the decision on the appeal unless the appeal court served it directly.

Section 226

When the decision was set aside and the case was referred to additional proceedings and a new decision the first instance court is bound by the opinion as to points of law of the appeal court.

Heading repealed from 1 January 1993

Section 227

Repealed from 1 January 1993

Chapter two NEW TRIAL

Admissibility

Section 228

(1) A party may challenge a final judgement with a re-trial petition:

a) if there are facts, decisions and/or evidence he/she could not use in the original trial not out of own guilt provided they can result in a more favourable decision on the merits for him/her;

b) if evidence that could not be taken in the original trial can be taken provided it can result in a more favourable decision on the merits for him/her;

c) if decision to his/her detriment was taken as a consequence of a crime committed by the judge.

(2) In addition to general particulars (Section 42 paragraph 3) the petition for re-trial shall include the marking of the challenged judgement, grounds for re-trial, facts that prove that the petition is filed on time, evidence that should prove grounds of the petition as well as the claim of the petitioner.

Section 229

Re-trial is inadmissible in judgements

- a) declaring a marriage divorced, null or not existing;
- b) that can be set aside or changed in another way.

Section 230

(1) The petition for re-trial shall be lodged within a three-month time limit from the day when the re-trial petitioner learned on grounds for re-trial or from the time he/she could apply it.

(2) After three years lapsed since the judgement became final petition can be lodged only on grounds stipulated in Section 228 paragraph 1 letter c). The petition may also be lodged after the lapse of this time limit if the criminal judgement based on which a right recognised in civil proceedings was later cancelled under criminal legislation.

(3) The recurrence of time limit in order to pursue re-trial shall not be admissible.

Section 231

(1) A petition for re-trial can also be applied to challenge resolution approving conciliation when grounds for re-trial can also be applied to assumptions under which conciliation was approved; this shall apply to the order to pay accordingly.

(2) A petition for re-trial can also be applied to challenge a decision issued in inheritance proceedings with the exception of those decisions that can be set aside or challenged under this law in another way.

Proceedings on re-trial

Section 232

(1) The court that decided in the matter at the first instance shall hear the petition for re-trial.

(2) Provisions on first instance proceedings shall apply to re-trial proceedings as appropriate.

Section 233

If it is probable that the petition for re-trial will be satisfied the court may order enforceability suspension of the decision on the merits.

Section 234

(1) The court shall either reject or approve the petition for re-trial by issuing a resolution.

(2) If the court rejects a petition for re-trial because it is inadmissible or it was filed by a person not qualified to do so or because it is manifestly late it shall not be necessary to order hearing.

(3) The enforceability of the decision on the merits is suspended by permitting re-trial.

Section 235

(1) As soon as the decision to permit re-trial becomes final the court shall hear the case without any other petition being lodged. While doing so it shall consider everything that was found in the original proceedings and also in the hearing of the renewal.

(2) When the court determines that the challenged decision is correct as to the substance it shall reject the petition to have it changed by issuing a resolution.

If the court changes the decision on the merits the new decision shall replace the original one.

(3) The court shall decide on the reimbursement of the costs of the original proceedings and also of the proceedings on re-trial in the new decision on the merits.

(4) The new decision shall be without prejudice to legal relations of any one else than a party to the proceedings.

Chapter three

APPEAL ON POINTS OF LAW

Admissibility of appeal on points of law

Section 236

(1) Final decision of an appeal court may be challenged with an appeal on points of law when the law permits it.

(2) Appeal on points of law only against grounds of decision shall be inadmissible.

Section 237

Appeal on points of law shall be admissible against any decision by an appeal court when

a) decision was made in a matter not falling under the jurisdiction of courts,

b) the person acting as a party to the proceedings lacked capacity to be party to the proceedings,

c) the party to the proceedings lacked procedural capacity and was not duly represented,

d) an earlier final decision has already been made in the same matter or proceedings have already started in the same matter earlier,

e) no petition to commence proceedings has been filed though it was necessary under the law,

f) a party to the proceedings has been deprived of the possibility to act before a court as a consequence of the procedure by the court,

g) an excluded judge was deciding or the court was incorrectly set up unless a panel decided instead of a single judge.

Section 238

(1) An appeal on points of law shall also be admissible against an appeal court's judgement that changed the judgement of the first instance court on the merits.

(2) An appeal on points of law shall also be admissible against an appeal court's judgement in which it deviated from the opinion as to the merits of the appellate review court given in this matter.

(1) An appeal on points of law shall also be admissible against an appeal court's judgement that confirmed the judgement of the first instance court when the appeal court

a) declared in the term of its upholding judgement that appeal on points of law would be admissible because it concerns a decision of fundamental importance on points of law,

b) upheld a judgement that decided in a different way than the earlier judgement because the first instance court was bound by the opinion as to the law of the court that set the earlier decision aside.

(4) Appeal on points of law shall not be admissible in matters covered by the Family Act except for judgements on limitation or deprivation of parental rights, determination (denial) of paternity or irrevocable adoption.

Section 239

(1) An appeal on points of law shall also be admissible against an appeal court's resolution that changed the resolution of the first instance court.

(2) An appeal on points of law shall also be admissible against an appeal court's resolution that changed the resolution of the first instance court when

a) an appeal court declared in its upholding resolution that appeal on points of law would be admissible because it concerns a decision of fundamental importance on points of law,

b) it is a resolution on a petition to have the enforcement of the decision suspended on the basis of a foreign country's decision,

c) it is a resolution on a petition to have the enforcement of the resolution suspended under Section 268 paragraph 1 letter g) and h).

(3) Provisions of paragraph 1 and 2 shall not apply when it is resolution on the jurisdiction, preliminary measure, procedural fine, expert's fee, interpreter's fee and the costs of the proceedings and also on matters regulated in the Family Act where decisions on the merits are taken by issuing a resolution.

Lodging of appeal on points of law

Section 240

(1) A party may lodge an appeal on points of law with the court that decided in the first instance within one month from the date when appeal court's decision became final. When the appeal court issued a correcting resolution this time limit should lapse from the service of the correcting resolution.

(2) Default of time limit under paragraph 1 cannot be pardoned. However, the time limit shall be maintained if the appeal on points of law is filed with the appeal court or the appellate review court on time.

Section 241

(1) In addition to general particulars (Section 42 paragraph 3) the appeal on points of law must identify which decision is challenged, in what scope and on what grounds it is challenged and/or which evidence is to be taken to prove the grounds of appeal on points of law and what the appellate review applicant claims. The appellate review applicant must be represented by a lawyer or a commercial lawyer when he/she or his/her employee (member) acting on his/her behalf has no education in law.

(2) An appeal on points of law may only be substantiated with statement that

- a) errors under Section 237 occurred in the proceedings,
- b) the proceedings are affected with another error that resulted in an erroneous decision on the merits,
- c) the decision is based on facts lacking support in evidence taken in its significant part,
- d) the decision is based on a wrong assessment of the matter as to the points of law.

(3) Provisions of Section 209 and 210 shall apply accordingly.

Section 241a

Repealed from 4 October 1996

Proceedings before an appellate review court

Section 242

(1) The appellate review court shall review the decision issued by the appeal court in the scope its term was challenged. If the errors are not covered in Section 237 the errors in the proceedings not challenged in the appeal on points of law shall not be considered save those ones that were applied in the appeal on points of law provided these errors did not result in an erroneous decision on the merits.

(2) The appellate review court shall not be bound by the scope of appeal on points of law petitions

- a) in matters which may be commenced without a petition,
- b) in cases when a term not affected by the appeal on points of law depends on the decision on the challenged term,
- c) in cases where such common rights or duties are concerned that the decision must apply to all parties on one side and where acts performed by one party shall also apply to other parties (Section 91 paragraph 2) though the appeal on points of law petition has been lodged only by one of the parties,
- d) when a certain way of settlement of the relation among the parties ensues from a regulation.

(3) The parties may amend the scope in which they challenge the decision of the appellate review court during the time limit for appeal on points of law. No consent by the court shall be needed to amend an appeal on points of law petition.

Section 243

Prior to the decision on the appellate review the court that should decide can suspend the enforceability of the challenged decision.

Section 243a

The appellate review court shall usually order a hearing of the appeal on points of law against judgement; it shall not order a hearing in cases under Section 237, v Section 241 para 2 letter b) and d). The appellate review court shall usually order a hearing of the appeal on points of law against judgement; it shall not order a hearing in cases under Section 237, v Section 241 paragraph 2 letter b) and d).

(2) If an appellate review court orders hearing it shall proceed in an identical way according to Section 215 and Section 216 paragraph 2. However, it shall not take evidence.

(3) An appeal on points of law against a resolution shall always be decided without a hearing.

Section 243b

(1) The appellate review court shall refuse the appellate review with a judgement when it concludes that the appeal court's decision was correct; otherwise it should set the challenged decision aside by issuing a judgement.

(2) If the appellate review court sets the appeal court's decision aside it shall refer the case to it for additional action. If the decision by the first instance court has also errors on grounds of which the appeal court's decision was set aside the appellate review court shall also set aside this decision and refer the case to the first instance court or the to the body competent in the matter.

(3) When the appellate review court sets the decision of the appeal court and the first instance court aside on grounds under Section 237 letter a), b), d) and e) it shall also decide on discontinuing the proceedings in its resolution.

(4) Provisions of Section 218 paragraph 1, Section 224 paragraph 1, Section 225 and 226 shall apply to the proceedings before an appellate review court accordingly. When the appellate review petitioner withdraws the appeal on points of law the appellate review court shall discontinue the proceedings by issuing a resolution.

Section 243c

Provisions applying to proceedings before a first instance court shall apply to the proceedings before an appellate review court as appropriate provided not stipulated to the contrary; provisions of Section 92 and 95 shall, however, not apply to the proceedings before an appellate review court.

Section 243d

(1) When a challenged decision is set aside the court the decision of which was set aside shall continue to act in the matter. While doing so the opinion on points of law of the court deciding on the appeal on points of law shall be binding. In the new decision the court shall also again decide on the costs of the original proceedings and of the appeal on points of law proceedings.

(2) The new decision shall be without prejudice to legal relations of any one else than a party to the proceedings.

Chapter four EXTRAORDINARY APPEAL ON POINTS OF LAW

Section 243e

(1) When Prosecutor General of the Slovak Republic (hereinafter "Prosecutor General") concludes, on the basis of a petition by a party to the proceedings, person affected by the decision of the court or person damaged by the decision of the court, that the final decision of the court violated the law (Section 243f) and when the protection of the law and interests protected by law of natural persons, legal entities or the State requires it and when this protection cannot be achieved with other means he/she file an extraordinary appeal on points of law against such decision made by a court.

(2) Extraordinary appeal on points of law can only be filed against such term of court decision that is challenged by a party to the proceedings, person affected by this decision or person damaged by this decision of the court.

(3) Prosecutor General shall not be bound by the scope of the petition in the cases where the appellate review court is not bound by the scope of appellate review petitions either (Section 242 paragraph 2).

(4) Prosecutor General has the right to lodge an extraordinary appeal on points of law in matters under Section 35 paragraph 1 and 2 also when no prosecutor entered pending proceedings.

Section 243f

(1) Final decision of a court may be challenged with an extraordinary appeal on points of law under conditions stipulated in Section 243e when

- a) errors under Section 237 occurred in the proceedings,
- b) the proceedings are affected with another error that resulted in an erroneous decision on the merits,
- c) the decision is based on facts lacking support in evidence taken in its significant part,
- d) the decision is based on a wrong assessment of the matter as to points of law.

(2) Extraordinary appeal on points of law shall not be admissible in court's decisions deciding on

matters covered by the Family Act except for decision on limitation or deprivation of parental rights, determination (denial) of paternity or irrevocable adoption,

b) conditions of the proceedings, discontinuation or interruption of the proceedings or the ones regulating the conduct of proceedings,

c) appeal on points of law or extraordinary appeal on points of law.

Section 243g

Extraordinary appeal on points of law shall be lodged by Prosecutor General with the appellate review court within one year from a final decision by a court.

Section 243h

(1) In addition to general particulars (Section 42 paragraph 3) the extraordinary appeal on points of law must identify which decision is challenged, in what scope and on what grounds it is challenged.

(2) The scope of the extraordinary appeal on points of law can be amended only within the time limit under Section 243g. The grounds may be amended until the decision is declared.

Section 243i

(1) The appellate review court shall serve the extraordinary appeal on points of law on the parties to the proceedings to give their statements.

(2) In extraordinary appeal on points of law proceedings the provisions applicable to proceedings before an appellate review court (Section 242 to 243c) shall apply as appropriate provided this law does not stipulate to the contrary.

Section 243j

The appellate review court shall serve the decision on extraordinary appeal on points of law on the parties to the proceedings and Prosecutor General.

PART FIVE ADMINISTRATIVE JUSTICE

Chapter One GENERAL PROVISIONS ON ADMINISTRATIVE JUSTICE

Section 244

(1) Based on complaints or remedies, courts in administrative justice review the lawfulness of decisions made by and procedures applied by the bodies of public administration.

(2) Courts in administrative justice review the lawfulness of decisions made by and procedures applied by the bodies of public administration, self-governments as well as self-government bodies of professional organisations and other legal persons should law assign them jurisdiction on the rights and duties of natural and legal persons in the field of public administration (hereinafter referred to as "decisions of administrative authorities").

(3) Decisions of administrative authorities shall mean decisions issued by them in administrative proceedings as well as other decisions that create, modify or revoke the entitlements and duties of natural or legal persons or by which the rights,

legally protected interest or duties of natural or legal persons could be directly affected. Procedure applied by an administrative authority shall also mean the inactivity of such authority.

Section 245

(1) When reviewing the lawfulness of a decision made by the administrative authority, the court shall also consider the lawfulness of the preceding administrative decision on which the decision reviewed is based should the preceding decision be binding upon the decision reviewed and unless a specific procedure is specified for such review.

(2) In respect of a decision issued by an administrative authority on the basis of legally allowed discretion (administrative discretion), the court shall only review whether such decision goes beyond the scope and points of view set forth by the law.

Section 246

(1) Regional courts have substantive competence to review decisions and procedures, unless the law stipulates otherwise.

(2) The Supreme Court of the Slovak Republic has substantive competence to review the decisions made by and procedures applied by

- a) the central bodies of state administration,
- b) state administrative bodies with nation-wide competences and responsibilities in the Slovak Republic,
- c) other nation-wide bodies, which are vested with decision-making in the field of state administration by the law, should the competence of the Supreme Court of the Slovak Republic be laid down by a special law.

(3) District courts have substantive competence to review decisions and procedures related to transgressions and in cases stipulated by the law.

Section 246a

(1) Locally competent is the court within the jurisdiction of which the registered office of the administrative authority whose decision and procedure are being reviewed is located, unless the law stipulates otherwise.

(2) With respect to proceedings under this Chapter, the court of general jurisdiction of the plaintiff or the regional court to whose jurisdiction this court belongs is locally competent.

(3) Instead of the court competent pursuant to paragraph 2 above, the competent court is the court in whose jurisdiction the intangible asset is located should the proceedings relate to any right to such asset.

Section 246b

(1) When reviewing the decisions and procedures of administrative authorities, the courts hear and decide in panels

composed of a presiding judge and two judges, unless the law stipulates otherwise.

(2) The single judge hears and decides the cases about remedies for decisions on social security, the cases for the hearing of which district courts are locally competent and the cases expressly stipulated by the law.

Section 246c

Matters that are not directly governed by this Part shall be governed, as appropriate, by the provisions of Parts One and Three of this Code.

Chapter Two

ADJUDICATION ABOUT COMPLAINTS AGAINST THE DECISIONS AND PROCEDURES OF ADMINISTRATIVE AUTHORITIES

Section 247

(1) The provisions of this Chapter shall apply to the cases when a natural or legal person claims that the decision and procedure of an administrative authority had curtailed his or her rights and requests the court to review the lawfulness of such decision and procedure.

(2) The procedures pursuant to this Chapter shall be applied with respect to a decision made by an administrative authority in administrative proceedings assumed that the decision following exhaustion of admissible regular remedies became a valid decision.

(3) The procedures pursuant to this Chapter shall be applied with respect to the procedure of an administrative authority assumed that a period of 30 days specified for the submission of information on measures taken to the regional authority has lapsed.

Section 248

(1) The courts shall not review decisions made by administrative authorities that do not have nature of decisions about the right or duty of natural or legal person, particularly generally binding (prescriptive) acts, decision of organisational nature and decisions governing the internal arrangements of the authority, which issued such decisions, and shall not review the procedure of administrative authorities that did not directly affect the rights, legally protected interests or duties of a natural or legal person.

(2) The courts shall also not review

a) decisions subject to review pursuant to Chapter Three of this Part or the general provisions of the Code of Civil Judicial Procedure,

b) the decisions of administrative authorities in civil and commercial cases where the administrative authority acts on behalf of the state as an owner or other party to the legal relationship,

c) the decisions of military administrative authorities issued for preparation and performance during the state's defence emergency,

d) the orders of functionaries of the Armed Forces and Armed Corps,

e) the decisions of administrative authorities of preliminary, adjective or procedural nature,

including decisions on procedural fines,

f) the decisions of administrative authorities about disciplinary punishment of members of the armed forces and corps provided that they do not curtail personal liberty or provided that they do not result in the termination of service, of convicts in prisons as well as the accused during the service of custody,

g) decisions the issue of which is exclusively dependant on the assessment of human health or technical conditions of things, provided they do not constitute a legal obstacle to the performance of job, employment or entrepreneurial or other economic activity,

h) decisions on rejection to grant to or withdraw professional competence from legal persons or natural person, provided they do not constitute a legal obstacle to the performance of job, employment or entrepreneurial or other economic activity,

decisions about requests for performance or payment without the corresponding entitlement or requests for the amelioration of harshness of the legislation, particularly the decisions of financial authorities about relief on taxes, transfers and fees,

j) decisions rejecting requests for granting exceptions from safety regulations and technical standards.

(3) Judicial review shall not apply to the decisions of administrative authorities issued on the basis of the provisions specified in Annex A attached to this Code as well as decisions excluded from review by special laws.

Section 249

(1) Proceedings shall begin with a petition, which is called a complaint.

(2) Complaint shall contain all general particulars as well as the specification of the decision and procedure of the administrative authority, which is contested by such Complaint, a statement specifying the scope at which such decision and procedure are contested, the specification of causes, the plaintiff's specification of the unlawfulness of such decision and procedure of the administrative authority and the plaintiff's final proposal.

(3) Where a petition was filed under Section 35 paragraph 1 b) (hereafter referred to as "complaint"), the public prosecutor shall take care as to minimise the effect on the rights acquired in good faith.

Section 250

(1) The parties to the proceedings are the plaintiff and the respondent.

(2) Plaintiff is a natural or legal person claiming that as a party to the administrative proceedings his or her rights were curtailed by the decision and procedure of an administrative authority. A complaint may also be filed by a natural or legal person who was treated as a party to the administrative proceedings although such person was to be treated as a party to the proceedings.

(3) Should several persons be of opinion that their rights are curtailed by the decision and procedure of an administrative

authority, they may file a joint complaint. The parties to the proceedings shall also be those who are subject to the decision and procedure of the court (Section 91 paragraph 2) on the grounds of indispensable unity of rights with the plaintiff

(4) In the case of the decision of an administrative authority issued in the administrative proceedings, the respondent shall be the administrative authority, which decided in the last instance.

Section 250a

The plaintiff must be represented by a counsel or a commercial lawyer, unless the plaintiff or his employee (member) acting on the plaintiff's behalf in the court has a degree in law; this shall not apply to cases where the district courts have substantive competence or in the case of the review of decisions about health insurance or social security and in the cases of applicants for refugee status.

Section 250b

(1) A complaint shall be filed within two months of the delivery of the decision of the administrative authority in the last instance, unless a special law stipulates otherwise. Failure to file a complaint within the prescribed time-limit shall not be excused.

(2) Where a complaint is filed by a person claiming that the decision of the administrative authority was not delivered to him or her although such person was to be involved in the proceedings as a party, the court shall verify the correctness of such claim and impose the duty on the administrative authority to deliver the administrative decision to such party and shall postpone, if appropriate, its enforcement. This judicial opinion is binding upon the administrative authority. Following the service, the administrative authority shall submit the file to the court to decide the complaint.

(3) A complaint may be filed by the public prosecutor within two months after the validity of the decision which did not satisfy the protest, however such complaint may be filed no later than within one year after the validity of the decision of the administrative authority. Should the notice by the regional authority indicating the violation of laws and other generally binding regulations be not be satisfied, the regional authority may file a complaint within two months after the lapse of the period specified for the submission of information on measures adopted, however such complaint may be filed no later than one year after the date on which the administrative authority acted.

Section 250c

A complaint shall not have the effect of suspending the enforcement of the decision of an administrative authority, unless a special law stipulates otherwise. Upon the request of a party to the proceedings, the presiding judge may suspend by a resolution the enforcement of the decision, should there be a threat of a serious damage if the decision contested was promptly enforced.

Section 250d

(1) The presiding judge shall request the file to be submitted by the sued administrative authority, which shall provide it without any delay as well as the file of the administrative authority of the first instance.

(2) Should the presiding judge find that the court does not have substantive or local competence, by means of a resolution the presiding judge shall refer the case to the competent court .

(3) By means of a resolution, the presiding judge shall discontinue the proceedings should the complaint be filed late, be filed by an unauthorised person, be directed against a decision that may not be subject to judicial review, should the plaintiff fail to correct the defects of the complaint or should the plaintiff fail to be represented pursuant to Section 250a or should the complaint be withdrawn (Section 250h paragraph 2).

Section 250e

Should a complaint fail to be dealt with in accordance with the procedure referred to in Section 250d paragraphs 2 and 3, the court shall serve the counterpart of the complaint on the respondent. The presiding judge may order the respondent to respond to the contents of the complaint within the period specified by the presiding judge.

Section 250f

This provision is not in compliance with the provision of Article 48 paragraph 2 in connection with Article 12 paragraph 1 and Article 13 paragraph 4 of the Constitution of the Slovak Republic and the provision of Article 6 paragraph 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocols No. 3, 5 and 8 published under No. 209/1992 of the Collection/.

The text of the provision, which is not compliant:

(In simple cases, notably when there is no doubt that the administrative authority acted upon correctly identified facts at issue and when only a matter of law is to be considered, the court may adjudicate upon the complaint by its judgement. Equally, the court shall apply the same procedure if the decision contested is not reviewable due to incomprehensibility or the lack of causes.)

Repealed by Judgement No. 166/1999 of the Collection of Laws of 14 July 1999.

Section 250g

(1) If a complaint is not handled as referred to in Section 250f, the presiding judge shall summon the parties for the hearing; for the purpose of such hearing the presiding judge may ask for necessary documents and/or other written statements by the parties.

(2) If the parties fail to appear before the court, the case may be heard in their absence; the proceeding must not be suspended on the grounds of such failure.

Section 250h

(1) Until a judgement is made by the court, the plaintiff may narrow down the scope of the complaint contesting the administrative decision; he or she may only expand it within the time-limit pursuant to Section 250b.

(2) Until a judgment is made by the court, the plaintiff may withdraw the complaint; if the respondent incurred any costs of the proceedings in the meantime, the court shall decide about reimbursement of the costs.

Section 250i

(1) When reviewing the lawfulness of a decision, the terms of the judgement are determined by the facts existing when the decision contested was issued; fact-finding shall not be carried out.

(2) If the decision of the administrative body was in the meantime contested by the protest of the prosecutor, the court shall suspend proceedings in respect of the complaint till the protest is handled; if the contested decision was cancelled or modified, the court shall suspend the proceedings in respect of the complaint. Equal procedure shall be applied if prior to the filing of a complaint with a court, an application for extraordinary relief was filed against the valid decision of the administrative authority.

(3) The mistakes in proceedings before the administrative authority shall only be taken into account by the court if such mistakes could affect the lawfulness of the decision contested.

Section 250j

(1) If the court holds that the decision and procedure contested are in compliance with the law, the court awards a judgement dismissing the complaint.

(2) If the court holds that the administrative decision determined law in the case erroneously or that the identified facts at issue on which the administrative decision is based contradict the contents of the records or that the identified facts at issue were insufficient to consider the case, the court shall award a judgement cancelling the contested decision of the administrative authority as well as the decision of the administrative body of the first instance, as the case may be, and refer the case back to the sued administrative authority for further proceedings. The court shall also cancel the contested decisions if the proceedings show that such decisions are not reviewable because of incomprehensibility or the lack of causes.

(3) Administrative authorities shall be bound by the legal opinion of the court.

(4) Save the extraordinary appeal on points of law, no remedies are permitted against the adjudication of the court.

Section 250k

(1) If the plaintiff succeeded on the whole or in part, the court shall adjudicate on the plaintiff's right to full or partial reimbursement of the costs of the proceedings against the respondent. The court may also hold that the reimbursement of

costs on the whole or in part will not be granted if it is justified by specific causes.

(2) If a new decision was issued following the cancellation of the decision of the administrative authority and such new decision was again cancelled in respect of a new complaint because the administrative authority deviated from the legal opinion expressed in the first judgement of the court while the facts of the case or legal conditions remained the same, the court shall hold that the administrative authority must compensate the plaintiff for all costs of the proceedings.

Chapter Three ADJUDICATION UPON REMEDIES AGAINST THE DECISIONS OF ADMINISTRATIVE AUTHORITIES

Section 250l

(1) The provisions of this Chapter shall apply to the cases when the law vests in courts decision making in respect of remedies against the unlawful decisions of administrative authorities. 35)

(2) Unless this Chapter stipulates otherwise, the provisions of Chapter Two, with the exception of Section 250a, shall be applied as appropriate.

35) At present, these are, inter alia, the following cases:

Section 57b paragraph 1 of Act No. 54/1956 Coll. on the health insurance of employees as amended by Act No. 180/1990 Coll., where it involves a decision about the obligation of an employee or any other recipient of cash benefits under a health insurance scheme or children allowances to return any amount overpaid in respect of the benefits erroneously or unjustly paid as well as decisions in respect of matters other than those related to health insurance benefits,

Section 122 paragraph 1 of Act No. 103/1964 Coll. on allowances for co-operative farmers in the case of a sickness or disease and allowances for mother and child as amended by 180/1990 Coll., where it involves a decision about the obligation of a recipient of sickness allowances and mother and child allowances to return any amount overpaid in respect of allowances erroneously or unjustly paid as well as decisions in respect of matters other than those related to sickness allowances and mother-and-child allowances,

Section 112 paragraph 3 of Act No. 44/1974 Coll., i.e. the Customs Law as amended by Act No. 117/1983 of Coll. and Act No. 5/1991 Coll.

Sections 7, 8 and Section 61 paragraph 2 of Act No. 147/1983 Coll. on weapons and ammunition as amended by Act No. 49/1990 Coll.

Sections 122 and 145a of Act No. 100/1988 Coll. on social security as amended by Act No. 110/1990 Coll. and Act No. 180/1990 Coll., where it involves a decision about a lawful entitlement to a pension benefit referred to in Section 7 a) 1-7 and Sections 7b) and c) of the above-specified law,

Section 8 paragraph 3, Section 11 paragraph 2 and Section 12 paragraph 3c) of Act No. 83/1990 Coll. on the association of citizens,

Section 11 paragraph 3 and Section 13 of Act No. 84/1990 Coll. on the right of association,

Section 27 paragraph 3 of the Slovak National Council Act No. 132/1990 Coll. on the Bar,

Section 28 paragraph 3 of Act No. 172/1990 Coll. on universities,

Section 11 paragraph 2 of Act No. 382/1990 Coll. on parent's allowance, where it involves a decision on the return of an overpaid amount,

Section 28 of the Slovak National Council Act No. 129/1991 Coll. on commercial lawyers,

Section 9 paragraphs 3 and 6 of Act No. 229/1991 Coll. on the arrangements of ownership rights to land and other agricultural property,

Section 18 paragraph 1 of Act No. 451/1991 Coll. laying down certain other preconditions for certain functions in state bodies, authorities and organisations of the Czech and Slovak Federal Republic, Czech and Slovak Republics,

Section 17 of Act No. 308/1991 Coll. on the freedom of religion and the status of churches and religious societies,

Section 34 of Act No. 237/1991 Coll. on patent representatives,

Section 8 paragraph 5 of Act No. 429/1991 Coll.

Section 250m

(1) Proceedings shall begin with a petition, which is a remedy against the decision of an administrative authority.

(2) The petition shall be filed with the competent court within thirty days of the service of the decision, unless a special law stipulates otherwise. A petition shall be considered as filed within the prescribed time-limit specified if it was filed with the authority, which issued the decision, within the prescribed time-limit. Where a decision does not contain a notice indicating the right to apply for remedy or if it contains a wrong notice, such decision may be contested within six months of its service.

(3) The parties to the proceedings are those who are the parties to the proceedings before the administrative authority and the administrative authority, whose decision is reviewed.

Section 250n

Where the nature of the matter does not exclude this, the person applying for a remedy may propose to postpone the enforcement of the contested decision. The court may accept such proposal if the execution of the contested decision would result in the frustration of the purpose of the review thereof.

Section 250o

Where the administrative authority whose decision is reviewed by the court issues a new decision which fully satisfies the petition, the court shall stay the proceedings by its resolution.

Section 250p

Where a petition was filed late or it was lodged by a person that is not authorised to file such petition or if it contests a decision that is not subject to review or if the plaintiff failed to eliminate the mistakes or defects as requested by the court and which prevent the substantive handling of the petition, the court shall reject the remedy by its resolution.

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Section 250q

(1) If an application for remedy is not handled in compliance with the procedure referred to in Section 250f or 250o, the court shall order a hearing. The court may carry out fact-finding necessary to review the contested decision.

(2) The court shall adjudicate upon the remedy by its judgement, through which the court will either confirm the reviewed decision or cancel and return it for further proceedings.

Section 250r

Where the court cancelled the decision of an administrative authority, the administrative authority shall be bound by the legal opinion of the court with respect to new determination.

Section 250s

(1) With the exception of extraordinary appeal on points of law and cases referred to in paragraph 2 herein, no remedies shall be permitted against the judicial judgement.

(2) With respect to the cases of pension schemes, an appeal against the ruling of a regional court may be lodged and the Supreme Court of the Slovak Republic shall decide such case; appeal on points of law shall be permitted. The provisions of Chapter One of Part Four herein shall apply to the appellate procedure, as appropriate, and the provisions of Chapter Three of Part Four of this Code shall apply to the procedure of appeal on points of law, as appropriate; hearing does not need to be ordered.

PART SIX EXECUTION OF A DECISION

Chapter One ORDER TO EXECUTE AND SATISFY A DECISION

Pre-requisites for the execution of a decision

Section 251

If the obligor does not voluntarily comply with that what is imposed upon him by an enforceable decision, the beneficiary may file a petition to commence judicial execution proceedings or a petition to commence distraint under a special law. 34h)

34h) Slovak National Council Act No. 233/1995 Coll. on distrainers and distraint procedures (the Distraint Rules) and amendments and modifications to other laws.

Section 252

(1) The district court has substantive competence to execute a decision, unless the law stipulates otherwise.

(2) The court of general jurisdiction of the obligor shall have competence to order and execute a decision.

(3) Where the obligor does not have a court of general jurisdiction in the Slovak Republic, the competent court is the court within the jurisdiction of which the obligor has his property; in the case of the execution of a decision by garnishment, the competent court shall be the court of general jurisdiction of the obligor's debtor.

(4) If the judgement execution applies to an intangible asset, the competent court shall be the court in whose jurisdiction the intangible asset is located.

(5) If the judgement execution applies to the enforcement and collection of maintenance and support of a minor, the competence with to order and execute has the court in whose jurisdiction the minor resides upon the agreement of his or her parents or a on the basis of a judicial ruling and/or other decisive facts. On the grounds of substantive reasons, the competent court may transfer its competence to another court, should it be in the interest of the minor. If such court does not agree with the transfer of competence, its superior court shall decide. This provision shall not apply to the execution of a judgement in respect of the enforcement of the maintenance and support of a minor residing abroad.

Section 253

(1) The execution of a judgement shall be ordered by the presiding judge, usually without hearing the obligor.

(2) The presiding judge shall only order a hearing if he considers it necessary or if required by the law.

Section 254

(1) The provisions of the preceding Parts shall apply to the execution of a judgement, unless this Part stipulates otherwise. Adjudication shall be in the form of resolution.

(2) In the course of the execution of a judgement, the proceedings shall not be suspended and any failure to meet the prescribed time-limit shall not be excused. A petition to renew proceedings cannot be filed.

(3) The provisions of the preceding Parts herein shall apply to the distraint procedure pursuant to a special regulation/34h/, unless such special regulation stipulates otherwise. Adjudication shall be in the form of resolution.

34h) Slovak National Council Act No.

233/1995 Coll. on distrainers and distraint procedures (the Distraint Rules) and amendments and modifications to other laws.

The parties to the proceedings

Section 255

(1) In the course of the execution of a judgement, the parties to the proceedings are the obligor and the beneficiary.

(2) Where the ordered judgement execution affects things of community property, the spouse of the obligor shall also be a party to such proceedings in respect of such things.

Section 256

(1) The judgement may only be ordered and executed against a person other than the person designated as the obligor in the judgment or to the benefit of a person other than the person

designated as the beneficiary if it is proven that such obligation or right under the judgment was assigned to such other person.

(2) The assignment of an obligation or right may only be proven and documented by a written document issued or certified by a state authority, unless it arises out of the legal regulation.

Modes of the execution of a judgement

Section 257

The execution of a judgement may only be ordered and accomplished in compliance with the methods and modes specified in this Code.

Section 258

(1) A judgement imposing a money payment may be executed by the attachment of earnings, by garnishment, by selling tangible and intangible assets.

(2) The execution of a judgement imposing an obligation other than money payment is subject to the nature of the imposed obligation. This can be carried out by means of vacation, the division of a joint thing, the provision of works and performance.

Activity of the court prior to ordering the execution of a judgement

Section 259

Where the beneficiary requests so before filing a petition to commence judgment execution or upon the filing of such petition and if the presiding judge considers that as meaningful and efficient, the presiding judge shall summon the obligor and call upon him to meet voluntarily the obligation imposed upon him by the judgement and to provide an account of his property.

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Section 260

(1) In the case of the enforcement of delinquent maintenance and support of a minor, the court shall provide assistance upon the request of a party as to the detection of the residence of the person subject to the obligation under the judgement. The court shall co-operate with other state bodies and authorities in this respect.

(2) Upon the request of the party, who is under the judgement entitled to a cash payment, the presiding judge shall ask the person, upon whom such payment is imposed, who pays his or her wage or any other regular income and/or in which financial institution his or her account is kept and what is the number of such account.

(3) The requested person shall provide the court with replies within one week of the service of such inquiry. If he fails to meet this obligation or intentionally provides untrue or incomplete data in his response, the court may impose a procedural fine (Section 53) on him.

Order to execute a judgement

Section 261

(1) The execution of a judgement may only be ordered upon the petition lodged by the beneficiary. The beneficiary shall specify the method of judgement execution in the petition to execute the judgement, which imposes a money payment. Where the beneficiary proposed to execute the judgement by means of the attachment of earnings, he shall specify in the petition the person from whom the obligor is entitled to wage (wage payor). Where the beneficiary proposed to execute the judgement by garnishment, he shall specify in the petition the natural or legal person against whom the obligor holds the claim (obligor's debtor) and indicate the cause of such claim; if it is a claim in respect of a bank account, the beneficiary shall indicate in the petition, if possible, the number of the account to be debited to satisfy the claim.

(2) The petition to execute a judgment shall be accompanied with the counterpart of the judgement along with a confirmation of its enforceability. The confirmation of enforceability shall be provided by the court which adjudicated the case as the court of first instance. The counterpart of the judgement does not need to be provided if the petition to execute a judgement was filed with the court which adjudicated the case as the court of first instance.

(3) Where a petition to execute a judgement was filed by the beneficiary with the court, which adjudicated the case as the court of first instance, such court shall confirm the enforceability of the judgement directly in the petition and if the court does not have competence to execute the judgment, the court shall refer the petition to the competent court.

Section 262

(1) If that what is imposed by the judgement upon the obligor requires the fulfilment of a condition or a mutual duty of the beneficiary, the judgement execution may only be ordered if the beneficiary proves that the condition was met or that he fulfilled the mutual duty towards the obligor and/or at least ensured its fulfilment.

(2) Cases referred to in paragraph 1 above shall be accompanied with the confirmation of judgement enforceability and a document issued or certified by a state authority evidencing that the condition was met or that the beneficiary fulfilled or at least ensured the fulfilment of his mutual duty.

Section 263

(1) The execution of a judgement may only be ordered within the scope sufficient to satisfy the beneficiary.

(2) if in order to enforce his money claim the beneficiary proposed to execute the judgement by means of several methods at the same time, although only one of them would probably suffice, the presiding judge shall order to execute the judgement by the method sufficient to satisfy the beneficiary's claim.

Section 264

(1) If the beneficiary proposed to execute the judgement by a method that is apparently inappropriate, particularly in respect to a disproportion between the amount of the beneficiary's

claim and the price of the object to satisfy the claim, the presiding judge may order, following the hearing of the beneficiary, to execute the judgement by other appropriate method.

(2) The execution of a judgement against a legal person may only be ordered by a method other than by the compulsory debiting of a bank account if the beneficiary's claim could not be satisfied from the beneficiary's money in the bank account.

(3) The presiding judge shall dismiss a petition to execute a judgement if the petition clearly indicates that the proceeds to be generated would not be even sufficient to cover the costs of the judgement execution.

Accomplishment of the execution of a judgement

Section 265

(1) Following the ordering of the execution of a judgement, the presiding judge shall provide for the accomplishment of the judgement execution.

(2) The presiding judge may authorise a court worker (administrator) to carry out simple acts related to the judgement execution and the administrator shall follow the presiding judge's instructions when carrying out such activities. The administrator may only refrain from the further execution of a judgement in the absence of the relevant presiding judge's order, if the beneficiary agreed with such refraining or if the obligor voluntarily fulfilled the requirements of the judgement.

Section 266

(1) Upon a motion, the presiding judge may suspend the execution of a judgement if the obligor was not responsible for getting temporarily into a situation when the prompt execution of the judgement would adversely affect him or his family members and the suspension of the judgement execution would not result in a serious harm to the beneficiary.

(2) Even without the obligor's motion, the presiding judge may suspend the execution of a judgement if the discontinuation of the judgement execution could be anticipated (Section 268).

Section 267

(1) The right to a thing that does not allow executing a judgement may be exercised with respect to the beneficiary by means of a motion to exclude the thing from the judgement execution in proceedings pursuant to Part Three of this Code.

(2) A petition pursuant to Part Three herein shall also be filed to deny the authenticity, the amount or the ranking of any claim registered in respect of the distribution of proceeds where the execution of the judgement was ordered by means of garnishment and/or sale of tangible and intangible assets.

Discontinuance of the execution of a judgement

Section 268

(1) The execution of a judgement shall be discontinued if

a) if it was ordered although the judgement has not become enforceable yet;

b) the judgement, which is the basis for the execution was cancelled or became ineffective after the execution order was issued;

c) the discontinuance of the execution of a judgement was proposed by that who filed the petition to order such judgement execution;

d) the execution of judgement affects the things, which are excluded from it under Sections 321 and 322;

e) the course of the execution of a judgement indicates that proceeds to be generated would not even be sufficient to cover its costs;

f) there is a valid judgement specifying that this execution of the judgement would affect a thing to which a person has the right not allowing the judgement execution (Section 267);

g) after the award of the judgement, the right awarded by such judgement extinguished;

h) the court held that execution of the judgement was not permitted due to the existence of other reason preventing the execution of the judgement.

(2) If any of reasons for discontinuance apply to the ordered judgement execution in part or if the judgement execution was ordered at a scope larger than needed to satisfy the beneficiary, the execution of the judgement shall be discontinued in part.

Section 269

(1) The ordered judgement execution shall be discontinued by the presiding judge upon a motion or even in the absence of such motion.

(2) Cases referred to in Section 268 paragraph 1 g) and h) shall be usually adjudicated following a preceding hearing.

(3) Changes in circumstances decisive in respect of the amount and duration of benefits, allowances or instalment payments (Section 163 paragraph 1) shall not be applied as grounds for the discontinuance of execution of a judgement. 1).

Costs of the execution of a judgement

Section 270

(1) The presiding judge shall order to execute a judgement as well as impose a duty to reimburse the costs of the judgement execution without specifying a time-limit for such payment. The order to execute a judgement shall also apply to such costs.

(2) The beneficiary shall be entitled to the reimbursement of all meaningful costs of the judgement execution.

(3) The reimbursement of judgement execution costs shall also be governed by the provisions of Sections 147 to 150.

Section 271

Where the execution of a judgement was discontinued, the court shall decide about the reimbursement of costs incurred by the parties as a result of the execution of the judgement, taking into consideration the reasons due to which the execution of the judgement was discontinued. The court may also cancel the existing rulings in respect of the costs of execution and/or

impose on the beneficiary the obligation to return any amount already paid to him by the obligor with respect to the costs of judgement execution.

Execution of a judgement about the custody of minor children

Section 272

(1) The provisions of Sections 252 to 271 shall not apply to the execution of a judgement or an approved agreement on the custody and visitation of minor children; the parties shall be governed by the provisions of Section 94.

(2) Prior to ordering the execution of a judgement, the presiding judge shall call in writing upon the person refusing to comply with the judgement or violating the agreement on the custody and visitation of minor children approved by court to comply with the judicial decision or fulfil the agreement approved by the court. The presiding judge shall also indicate in such notice the consequences of not complying with the duties laid down by the judicial decision or agreement.

(3) The presiding judge shall usually ask the competent municipal authority and child care authority to appeal to the obligor to voluntarily comply with the judicial decision or court-approved agreement on the custody and visitation of minor children in order to avoid the need to order the execution of the judgement.

Section 273

(1) Where the presiding judge's notice pursuant to Section 272 paragraph 2 was futile, the presiding judge shall gradually levy fines on the person rejecting to comply voluntarily with the judicial decision or court-approved agreement on the custody of minor children and/or visitation of such children. The individual fines may not exceed the amount of SKK 2,000 each and shall devolve on the state.

(2) In co-operation with the competent municipal authority and/or state authorities, the presiding judge may arrange for the child to be taken away from the person with whom the child is not to be under the judgement or agreement and ensure that the child is given to the person in whose custody the child is to be under the judgement or agreement or to the person who under the judgement or agreement has the right of visitation for a limited period of time.

(3) The court competent in respect of the execution of a judgement or court-approved agreement on the custody and visitation of minor children shall be the court of general jurisdiction of the child.

Section 273a

(1) The provisions of Section 272 and 273 paragraphs 2 and 3 shall be appropriately applied to the execution of a judgement in the case of the unlawful relocation or detention of a child under an international agreement binding upon the Slovak Republic.

(2) Where a notice pursuant to Section 272 paragraph was unsuccessful, the presiding judge shall act in co-operation with state authorities to take away the child from the person with whom the child is not to be and ensure that the child is given to

the person to whom it should be returned under the judgement or to whose custody the child is placed under the judgement.

Application of the provisions on the execution of a judgement

Section 274

The provisions of Section 251 to 271 shall also apply to the execution of

- a) repealed;
- b) the enforceable judgments of courts and other law enforcement agencies provided that they award a right or affect property;
- c) the enforceable judgments of arbitration committees and their approvals of pre-trial settlement;
- d) the probates of inheritance, the enforceable decisions of former state notary's offices and agreements approved by them;
- e) notarial records containing a legal obligation and specifying the beneficiary and obligor, the legal cause, the subject matter and time of delivery, if the obligor acknowledged the enforceability in the notarial record;
- f) the enforceable decisions of state administrative bodies and self-governments, including payment assessments, the statements of tax and fee arrears as well as settlement approved by such authorities;
- g) the enforceable decisions and statements of sickness insurance and social security arrears;
- h) other enforceable decisions and approvals of pre-trial settlement, the judicial execution of which is allowed under the law.

Section 275

(1) The judgment shall be accompanied with the confirmation of enforceability and/or the statements of arrears that will be provided by the body or authority, which issued them and the body or authority, which approved them in the case of agreements.

(2) Prior to ordering the execution of a judgement, the court shall always have competence to review the correctness of the enforceability confirmation with respect of all titles for the execution of the judgement.

(3) Prior to the discontinuance of the execution of a judgement, the court with respect to cases referred to in Section 274 usually requires a statement to be produced by the body or authority which issued the decision and/or statement of arrears or approved the settlement or agreement that are subject of execution.

Chapter Two

ATTACHMENT OF EARNINGS

Scope of the attachment of earnings

Section 276

Earnings may only be attached up to the amount of the adjudicated claim and accessions thereof.

Section 277

(1) Deductions are subtracted from the net wage that is calculated by subtracting the individual income tax from the wage.

(2) The net wage also includes net premiums for part-time employment. The net wage however does not include children's allowances and amounts provided to reimburse work-related costs, including, but not limited to, travel expenses.

Section 278

The basic sum must not be deducted from the obligor's monthly wage; the basic sum calculation methods shall be stipulated by the government of the Slovak Republic in its ordinance.

Section 279

(1) Only one third of the net wage may be deducted to satisfy the beneficiary's claim, whereas the net wage is a result of the deduction of the basic sum, which is rounded down to an amount dividable by three and expressed in full SKK. Two thirds shall be deducted for prior claims referred to in paragraph 2. Prior claims shall be first satisfied from the second third and when this third is not sufficient to satisfy these claims, the prior claims along with the other claims shall be satisfied from the first third.

(2) The prior claims are as follows

- a) claims to maintenance and support;
- a) claims to damages caused to the aggrieved party as a result of bodily harm;
- c) claims to damages caused by wilful crimes;
- d) judicial claims; /34i/
- e) claims to taxes and fees, claims to insurance contributions against persons obliged to pay sickness and pension insurance pursuant to a special regulation, 35a) claims to the reimbursement of overpaid amounts of sickness insurance, pension insurance and health insurance, claims to compensation for the maintenance of a child and contribution to provide necessities of life for a child in commissioned into foster care and claims to compensation for social services provided by state social care authorities and municipalities and claims to compensation for social services provided by legal and natural persons under a special regulation, 35b) claims to unemployment insurance contributions against persons obliged to pay unemployment insurance contributions under a special regulation, 35c) and claims to the refund of the overpaid amounts of unemployment benefits.

(3) By its ordinance, the Government of the Slovak Republic shall specify an amount in excess of which the remaining portion of the net wage calculated pursuant to the first sentence of paragraph 1 shall be deducted without any restriction.

35a) Section 25 of Slovak National Council Act No. 274/1994 Coll. on the Social Insurance Fund.

35b) Act No. 195/1998 Coll. on social assistance.

35c) Section 57 of Slovak National Council Act No. 387/4996 Coll. on employment.

Section 280

(1) If earnings are attached to satisfy multiple claims, the individual claims shall be satisfied from the first third of the

remaining portion of the net wage in the sequence of such claims irrespectively of the fact whether these are prior claims or other claims.

(2) If under Section 279 paragraph 1 earnings are attached in respect of the second third of the remaining portion of the net wage, the claims to the reimbursement of maintenance and support shall be satisfied first without taking into consideration their ranking and then other prior claims shall be satisfied according to their order (paragraph 3). If the amount deducted from the second third is not sufficient to satisfy all claims of maintenance and support, the regular maintenance and support of all beneficiaries shall be satisfied first and then all earlier outstanding amounts shall be paid off according to the proportion of the regular maintenance and support. However, if the amount deducted from the second third would not be sufficient to pay off the regular alimonies of all beneficiaries, the amount deducted from the second third shall be distributed among the beneficiaries on a pro rata basis according to the amount of the regular maintenance and support irrespectively of the amount of outstanding payments. Ak by však nebolo sumou zrazenou z druhej tretiny kryté ani bežné výživné všetkých oprávnených, rozdelí sa medzi nich suma zrazená z druhej tretiny pomerne podľa výšky bežného výživného bez ohľadu na výšku nedoplatkov.

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Section 281

Attachment of earnings attached at a larger scope than allowed by the provisions of this Code shall not be permitted even with the obligor's consent.

Order and execution of attachment of earnings

Section 282

(1) By an order to execute a judgement, the court shall order the wage payor to make the specified attachment of earnings and not to pay the deducted amounts to the obligor following service of the execution of the judgement.

(2) The court shall serve the order for judgement execution on the beneficiary, the obligor and the wage payor. The obligor and wage payor shall be served in their hands.

(3) Upon the date on which the judgement execution order or resolution containing a notice of the order of judgement execution was served on the wage payer (Section 294 paragraph 3), the obligor shall be deprived of the right to receive that portion of wage corresponding to the adjudicated amount of the attachment of earnings.

Section 283

As soon as the judgement execution order comes into force, the court shall notify of that the wage payor who is then obliged to pay the amounts deducted from the obligor's wage to the beneficiary.

Section 284

(1) The wage payor shall discontinue attaching earnings as soon as the beneficiary's claim is satisfied (Section 276).

(2) Where a judgement awarding the beneficiary with the right to recurring benefits is executed, the order to execute the judgement shall also apply to benefits due in the future. The same shall apply when obligor is required by the judgement to pay a money amount in instalments.

(3) Where in the course of judgement execution a change in the judgement under Section 163 occurs that would result in an increase in the amount of maintenance and support, the order to execute the judgement shall also apply to any amount of increased maintenance and support; the increased maintenance and support has the same ranking as the rest of the claim.

Section 285

(1) If the wage payor pays the monthly wage in two parts (as an advance payment and remaining portion), the wage payor may make appropriate deductions from the advance payments to the obligor. However, attached earnings shall be paid to the beneficiary after the relevant month has elapsed.

(2) Where the order to execute a judgment was delivered to the wage payor after a portion of monthly wage was already paid to the obligor, the payment made shall not be taken into consideration and deductions shall be made as if the obligor was only entitled, for the whole month, to the wage that has not been paid to him.

(3) If an advance payment is paid for a period longer than one month, the advance payment shall be apportioned to the individual months and deductions shall be made from the calculated monthly remuneration of the obligor. The obligor's total remuneration for the previous year shall be evenly broken down by the month. The ultimate amount of the attachment of earnings shall be then calculated on the basis of the monthly remuneration and the beneficiary shall be paid the difference between the amounts, which were to be deducted from the obligor's remuneration in the individual months, and the amounts already paid to the beneficiary from the advance payments.

Section 286

Where wage is paid for a period of several months, the attachment of earnings shall be calculated for each month individually.

Section 287

(1) Where the beneficiary and obligor came to an agreement that the beneficiary would accept lower amount of the attachment of earnings than those set forth by Sections 277 to 280 and if both of them notify the court of such agreement, the court shall call upon the wage payor to monthly deduct from the obligor's wage an amount satisfactory to the beneficiary is such amount does not exceed in the relevant payroll period the permissible amount of attachment of earnings pursuant to this Code. If it exceeds the permissible amount, the wage payor shall only make deductions in the relevant payroll period within the scope permitted by the provisions of Sections 277 to 280.

(2) The beneficiary may any time notify the court of the withdrawal of his consent to a lower attachment of earnings pursuant to paragraph 1. The presiding judge shall notify the obligor and wage payor of such withdrawal.

(3) The court's notice in respect of lower attachment of earnings shall expire on the date when the wage payor is served another order to execute the judgement by attachment of earnings in respect of the obligor's wage or a notice from the court indicating that the beneficiary withdrew his consent to a lower attachment of earnings. Since that date, the wage payor shall make deductions fully pursuant to the preceding judgement execution order.

Section 288

If the wage payor, beneficiary or obligor applies in that respect, the court shall specify an amount to be attached from the obligor's wage in the relevant period and if there are multiple beneficiaries, the court shall also specify an amount apportioned to each of them.

Suspension and discontinuance of the execution of a judgement

Section 289

(1) Where the court allowed suspending the execution of a judgement pursuant to Section 266 paragraph 1, the wage payor shall discontinue attaching earnings on the date on which the resolution of suspension was served on him until the judicial order to continue with the attachment of earnings is served on the wage payor.

(2) Where the court allowed suspending the execution of a judgement pursuant to Section 266 paragraph 2, the wage payor shall continue attaching earnings but he shall not pay them to the beneficiary until the suspension of the execution is cancelled. Where the court discontinues the execution of a judgement, the wage payor shall pay the amounts deducted from the wage to the obligor.

Section 290

(1) Upon the motion of the wage payor, beneficiary or obligor, the presiding judge shall discontinue the ordered judgement execution by attachment of earnings provided that the obligor has not received, for at least one year, his wage at an amount sufficient for the attachment of earnings.

(2) Upon the motion of the obligor, the presiding judge may discontinue the ordered execution of a judgement by attachment of earnings provided that earnings are only attached for regular maintenance and support and taking into consideration the obligor's behaviour and his attitude to work and if the obligor could be expected to continue paying maintenance and support voluntarily.

Payment of attached earnings

Section 291

(1) The deducted amount shall be paid by the wage payor directly to the beneficiary. However, if multiple claims are to be satisfied from the deducted amounts, the wage payor may also send the deducted amount to the court to be apportioned and distributed among the beneficiaries. The wage payor shall send the deducted amount to the court if the presiding judge issued an order to this effect upon the request of any beneficiary.

(2) The wage payor shall pay the deducted amount to the beneficiary even if the wage payor also has a money claim against him, which he could otherwise set off.

Section 292

Where the wage payor does not attach the obligor's wage properly and in due time, if the wage payor makes deductions lower than the prescribed amount or if the wage payor does not pay the attached earnings to the beneficiary without any delay following the delivery of a notice to him indicating that the order to execute the judgement came into force or if other monthly wage amounts became due, the beneficiary may assert the right against the wage payor in court in order to be paid the amounts that were to be deducted from the obligor's wage.

Change in wage payor

Section 293

(1) Where the wage payor changed after the court ordered to execute a judgement, the judgement execution order by the attachment of earnings shall also apply to the obligor's wage paid by the new wage payor.

(2) The duty to attach earnings arises in respect of the new wage payor upon the date on which the new wage payor learnt from the obligor or from the existing wage payor that the court ordered to execute the judgement by attachment of earnings and in respect of which claims; if the new wage payor did not learn about such circumstances earlier, the new wage payor shall be obliged to make attachment upon the date on which he was serviced the resolution pursuant to Section 294 paragraph 3. The ranking of the beneficiary's claim pursuant to Section 280 paragraph 3 shall remain the same with respect to the new wage payor.

(3) If the obligor following the ordering of judgement execution becomes entitled to a cash benefit of sickness insurance replacing wage and if such benefit is paid to him by the wage payor, this shall not be considered as a change in wage payor pursuant to paragraph 1.

Section 294

(1) A person who hires a citizen to do work shall be obliged to ask him to provide a certificate issued by the previous employer of the citizen indicating whether the execution of a judgement execution by attachment of earnings was ordered, which court issued such order and to the benefit of whom. Any employer for whom the citizen discontinued to work shall be obliged to issue such certificate.

(2) If the new employer of the obligor finds that the execution of a judgement by attachment of earnings was ordered, the new employer shall promptly notify the court, which ordered such execution.

(3) The court shall deliver to the hands of the new employer the resolution notifying the new employer of the judgement execution order by attachment of earnings, of the existing course of the execution of this judgement, notably the amount of attachment made so far, specifying the amount of the claim in respect of which the attachment of earnings is to be

continued and the ranking of the claim; the court shall call upon the new employer to continue attaching earnings following the date on which the new employer was delivered the resolution pursuant to this paragraph and indicate all the new employer's duties in respect of the execution of the judgement by attachment of earnings.

Section 295

(1) If the obligor discontinued working for the existing wage payor, within one week the obligor shall notify the court, which ordered the execution of the judgement by attachment of earnings. Within one week the obligor shall also notify that he was hired by a new wage payor.

(2) Within one week, the wage payor shall notify the court of the fact that the obligor discontinued working for him. At the same time, the wage payor shall send the court the account of the earnings attached by him in respect of the obligor's wage and paid to the beneficiaries and indicate the claims subject to the execution of the judgement by the attachment of earnings and the ranking of such claims.

Section 296

(1) If any wage payor failed to meet the obligation referred to in Section 294 paragraphs 1 and 2 or in Section 295 paragraph 2 the beneficiary may seek the payment by the wage payor of an amount to which he would have been entitled if the wage payor had met the mentioned duties.

(2) The court may impose a procedural fine upon the beneficiary as well as the wage payor (Section 53) if they fail to meet the obligations referred to in Sections 294 and 295.

Multiple wage payors

Section 297

(1) Where the obligor receives wages from several wage payors, the order to execute a judgement shall apply to all of his wages.

(2) Each wage payor shall begin to attach earnings upon the date on which the order to execute the judgement was served on him.

(3) If a citizen begins to work without leaving the existing wage payor, the provisions of Sections 293, 294 and 296 shall apply appropriately.

Section 298

(1) Where the court ordered several wage payors to attach earnings, the court shall specify to each wage payor the portion of the basic sum (Section 278) not to be deducted. If the obligor's income from any of the wage payors is less than the specified portion of the basic sum, the wage payor shall notify the court of this. In that event, the court shall again specify the portion of the basic sum to be deducted from the wage by each wage payor. Where earnings are only attached for the purpose of regular maintenance and support, the court may also hold that such attachment will only be made by one of the wage payors and others would desist from attaching earnings.

(2) Where several wage payors attach earnings at the same time, the attached amounts shall always be sent to the court. The court shall check whether the total attached amount does not exceed the beneficiary's claim. Where the total attached amount does not exceed the beneficiary's claim, the court shall pay the whole attached amount to the beneficiary. If it is in excess, the court shall only pay off an amount corresponding to the beneficiary's claim and return the rest to the obligor.

Attachment of other income

Section 299

(1) The provisions on judgement execution by attachment of earnings shall also apply to judgement execution by the attachment of the remuneration of co-operative members and income replacing remuneration for the obligor, notably pension, sickness benefits, maternity benefits, scholarship, compensation for lost income, compensation in respect of social functions and the subsistence and support of an applicant for employment.

(2) In the case of judgement execution by deductions from the pension of a citizen who pays from the pension his costs of stay in a social care facility, the amount necessary to pay for the stay and an amount equal to pocket money in such facility shall not be subject to the execution of judgement.

(3) The provisions on judgement execution by means of attachment of earnings shall also apply the execution of judgement by deductions from remuneration under a work contract.

(4) Remuneration for work pursuant to Section 236 of the Labour Code shall not be considered other income pursuant to paragraph 1, irrespectively of arrangements with respect to the due date of such remuneration.

Section 300

If advance payments are paid to co-operative members for a period longer than one month, the advance payment shall be appropriated to the individual months and deductions shall be made from the calculated monthly remuneration of the obligor.

Section 301

(1) If the provisions governing judgement execution by means of attachment of earnings refer to a wage payor, such provisions shall also apply to a legal and natural person from whom the obligor is entitled to any of income referred to in Section 299.

(2) The net income shall include neither raising allowance paid to social security pension nor paralysis-related increase in pension.

Section 302

(1) If the obligor is entitled to wage as well as other income referred to in Section 299, these shall be treated as multiple wages.

(2) If after ordering judgement execution by means of attachment of earnings the obligor acquires instead of a wage or

in addition to his wage, the right to any of income referred to in Section 299, the order to execute judgement shall also apply to such income.

Chapter Three APPROPRIATION ORDER

Compulsory debiting of a bank account

Section 303

(1) Judgement execution by the compulsory debiting of an account maintained by a domestic bank shall be implemented by debiting the account up to the amount of the adjudicated claim and accessions thereof.

(2) The provisions on compulsory debiting must not be applied with respect to passbook account deposits.

Section 304

Repealed as from 1 January 1992.

Section 305

Upon the obligor's motion, the court shall adjudicate upon execution order by means of a resolution, in which the court

a) shall order the bank to hold in the obligor's account an amount corresponding to the adjudicated claim and accessions thereof after the service of judgement execution order and pay the amount to the beneficiary after the resolution came into force,

b) prohibit the obligor following the service of judgement execution order from using funds in the account up to the amount of the adjudicated claim and accessions thereof.

Section 306

Order to execute a judgement shall be serviced on the beneficiary, the obligor and the bank; it shall be delivered into the hands of the bank.

Section 307

(1) The court shall notify the bank of the fact that the resolution on judgement execution order came into force; the court shall service such notice into the hands of the bank.

(2) The bank shall then pay the claim from the obligor's account.

Section 308

In respect of the ranking of the payments of the claims subject to the judgement execution order, the day on which the judgement execution order was serviced on the bank shall be decisive if the bank was serviced on the same day with the judgement execution order involving several claims and the funds of the obligor's account are not sufficient to satisfy all the claims. In that event, the individual claims in respect of which judgement execution orders were serviced on the same day shall be paid off on a pro rata basis. The provisions of Section 316 paragraphs 2 and 3 shall apply similarly.

Section 309

Order to execute a judgment shall also apply to amounts that will be credited to the obligor's account after the bank was serviced the judgement execution order.

Section 310

In respect of a bank account, the regulations excluding or restricting the use of claims by legal persons for a purpose other than the specified purpose shall not be affected by the provision on compulsory debiting.

Section 311

If a bank does not comply with the procedures referred to in Sections 305, 308 and 309, the beneficiary may seek the payment by the bank of the amount to which he would be entitled if the bank complied with the procedures.

Other appropriation orders

Section 312

(1) Judgement execution by appropriation order other than the compulsory debiting of a bank account shall be implemented through the prohibition of the payment of the claim to the obligor.

(2) This procedure shall also apply to a claim of the obligor that will become due in the future as well as when partial claims in respect of the same legal cause will gradually arise to the obligor in the future.

(3) Judgement execution shall only affect the debt of the obligor up to the amount of the beneficiary's adjudicated claim and accessions thereof.

Section 313

(1) In its judgement execution order the court shall prohibit the obligor from any use of the claim. Following the service of judgement execution order, the court shall prohibit the obligor's debtor from paying the claim to the obligor.

(2) The judgment execution order shall be served by the court to the debtor, the obligor, and the obligor's debtor; the court shall serve the order to the obligor's debtor's own hands.

(3) The obligor shall not be entitled to the payment of the claim as of the date on which the obligor's debtor was delivered the judgement execution order.

Section 314

(1) As soon as the judgement execution order comes into force, the court shall notify the obligor's debtor of that. The obligor's debtor shall pay the claim to the beneficiary, if it is due; if the obligor's claim is not due, the obligor's debtor shall pay it to the beneficiary as soon as it become due.

(2) The payment to the beneficiary shall relieve the obligor's debtor from his duty in respect of the obligor.

Section 315

(1) If the obligor's debtor fails to pay the claim to the beneficiary promptly after he was serviced the notice indicating that the judgement execution order came into force or when the claim became due, the beneficiary may in his name claim the payment of such claim by the obligor's debtor before his court of general jurisdiction. However, the beneficiary must neither reach a pre-trial settlement nor forgive the payment of such claim to the detriment of the obligor. In that event the obligor's debtor must not set off his own claim against the beneficiary.

(2) If the beneficiary fails to assert the claim of the obligor in respect of the obligor's debtor before court or with other body or if he fails to notify the obligor of this assertion, the beneficiary shall be liable for any loss incurred by the obligor in such event.

Section 316

(1) If there are several orders for judgement execution involving several claims, the individual claims shall be satisfied in the order in which the judgement execution orders were serviced on the obligor's debtor. If several orders for judgement execution were serviced on the obligor's debtor involving multiple claims that could not be fully satisfied from the claim of the obligor, the obligor's debtor shall satisfy such claims on a pro rata basis.

(2) If several claims are to be satisfied, the obligor's debtor may hand over the deducted amount to the court. The obligor's debtor shall hand over the deducted amount to the court if he was ordered to this end by the presiding judge upon the request of any beneficiary. The court shall appropriate the received amount among the beneficiaries and pay them corresponding amounts.

(3) By handing over the deducted amount to the court, the obligor's debtor shall be relieved of his obligation in respect of the obligor up to the amount of such sum.

Claims exempt from judgement execution

Section 317

(1) Claims to compensation paid by an insurance company under an insurance policy are exempt from judgement execution if such compensation is to be used to build or to repair a building.

(2) Social assistance benefits or cash contributions for the compensation of social consequences of a serious health handicap provided under a special regulation 35b) and state social benefits shall be exempt from judgement execution, unless a special regulation stipulates otherwise.

(3) Funds in the account, which on the basis of the explicit statement of the obligor are earmarked as wages for his employees for the payroll period closest to the date on which the bank was serviced with the order for judgement execution, shall be exempt from judgement execution by means of account debiting.

Section 318

Repealed as from 1.1 1992.

Section 319

(1) If the obligor is an author, claims to royalty shall only be subject to judgement execution by one fifth. However, if a petition to execute a judgement was filed in respect of any prior claim referred to in Section 279 paragraph 2, the court may order judgement execution in respect thereof up to two fifths taking into consideration the condition of the obligor. The provisions of Section 280 paragraphs 2 and 3 shall appropriately apply to the order of the payments of prior claims.

(2) If an author is paid his royalty via a copyright protection organisation, the court shall also service the judgement execution order on such organisation, which then has the rights and duties of the obligor's debtor. The judgement execution order shall apply to the amounts already deposited with the copyright protection organisation to the benefit of the author as well as any amounts that will be deposited with the organisation during the regular calendar year.

(3) The provisions of paragraphs 1 and 2 shall also similarly apply to claims to copyright-neighbouring rights and claims of natural persons in respect of their entrepreneurial activities.

Affecting other property rights

Section 320

(1) If the obligor proposed the execution of the judgement adjudicating him a cash claim by affecting other property right that is transferable and is neither a cash claim nor a right belonging personally to the obligor, the provisions of Sections 313 to 316, 321, 327 and 330 shall appropriately apply to the execution of such judgement.

(2) Judgement execution against a co-operative member by means of affecting his membership stake in the building society during the existence of the obligor's membership shall not be permitted.

Chapter Four

SALE OF TANGIBLE AND INTANGIBLE PROPERTY

Things exempt from judgement execution

Section 321

Judgement execution must not affect things the sale of which is prohibited by special regulations or which are exempt from judgement execution under special regulations.

Section 322

(1) Judgement execution must not apply to the things owned by the obligor, which he necessarily needs to satisfy the material needs of him and his family or to perform his work duties or for his pursuit of business as well as other things the sale of which would contradict moral rules.

(2) The following is thus exempt from judgement execution in particular:

- a) regular clothes, regular household equipment,
- b) engagement ring and other objects of similar nature,

- c) health products and aids and other things needed by the obligor in respect of his disease or handicap,
- d) cash up to SKK 3,000.

Sale of tangible property

Section 323

(1) The execution of a judgement may be ordered upon the beneficiary's motion expressly specifying things to be sold or without such specification.

(2) If the beneficiary has knowledge that certain tangible property of obligor is located outside his apartment, the beneficiary shall specify the location of such property in his motion, if possible.

Section 324

In its judgement execution order, the court shall prohibit the obligor from using the things listed in the inventory produced by the administrator.

Section 325

(1) The order for judgement execution by means of the sale of tangible property shall be serviced on the obligor when carrying out the execution. If the obligor fails to be present during the execution act, the judgement execution order shall be delivered to him along with a notice indicating that the inventory list was produced and which things are on the list.

(2) The notice indicating that the inventory list was produced and the specification of listed things shall also be delivered to the beneficiary and the obligor's spouse.

Section 325a

If the purpose of judgement execution requires so, the person carrying out this act may search the obligor and the apartment and other rooms of the obligor where the obligor's property is located; for this purpose, the beneficiary shall be entitled to seek to gain access to the obligor's apartment or any other room of the obligor.

Section 326

(1) The presiding judge shall take measures to produce the list of things in the obligor's apartment or any other place where the obligor's things are located, which could be sold at a scale that would produce proceeds sufficient to satisfy the beneficiary's claim and the costs of judgement execution. The list of the things that are dispensable for the obligor and easy to sell shall be produced first; perishable things shall only be listed if there was a lack of other things and if they can be quickly sold. The obligor shall provide the person producing the list with access to all places where his tangible property is located. The administrator producing the list shall be accompanied by a suitable person, a representative of the municipal authority, if possible.

(2) If the beneficiary does not accept the perishable things at a price set by the administrator in such cases, the things shall be handed over for free disposal by the obligor.

(3) If the judgement execution order only applies to certain tangible property of the obligor, the list of the things identified in the judgement execution order shall only be produced.

(4) Other things shall be added onto the list if the proceeds of sale of the listed property was not sufficient to satisfy the beneficiary's claim or if another judgement execution by means of the sale of the obligor's tangible property was ordered.

Section 327

(1) When there are concerns that the listed tangible property could be removed, damaged or destroyed, the presiding judge shall ensure upon the beneficiary's motion that such property is properly secured.

(2) If costs were incurred in respect of the securing of the tangible property, the court shall only secure the property if the beneficiary makes and advance payment to such costs.

Section 328

Following the coming of the resolution on judgement execution order into force, the listed things shall be assessed, unless the price was set by an official assessor. 36) The presiding judge shall ensure the assessment; an expert shall be joined in the process if an assessment made by the administrator when producing the list of things is not sufficient in simple cases.

36) Section 5 of Act No. 209/1992 Coll. on prices.

Section 328a

(1) Following the coming of the resolution on judgement execution order into force and assessing the listing things, the presiding judge shall ensure that

- a) the works and monuments of fine arts of extraordinary importance,
- b) the literary manuscripts of extraordinary importance,
- c) the personal things and correspondence of leading writers and representatives of culture as well as other objects of museum value commemorating such persons,
- d) the objects of higher cultural historic value and sets thereof, are offered for sale and paid in cash by institutions whose mission is to take care of such objects, whereas such objects shall be offered for sale at the assessed prices at least.

(2) If such institutions fail to respond within thirty days of the delivery of the notice indicating the offer for sale and fail to deposit with the court money equal to the assessed price, the court shall also sell such objects applying a method described below.

Section 328b

(1) The listed things shall be sold at an auction, that will be held either at the location of the listed things or in court.

(2) The court shall notify an auction year to the obligor, the beneficiary and a co-owner of thing and the local body of state administration in whose district the auction will be held and where the obligor resides. In addition, the auction year shall also be published by means common and usual at the place.

(3) The auction shall be carried out by the administrator who will produce a record of the auction. The administrator and the obligor shall not auction.

Section 329

(1) The lowest bid shall equal to two thirds of the estimated or assessed price. The bidders shall be bound by their bids, unless a higher bid is made. The price of an auctioned thing shall not be restricted by the provisions of the pricing regulations.

(2) The court shall award the knock-down to the bidder offering the highest bid. If several bidders made the same bid and if a higher, permitted bid was not made, the court shall decide by drawing a lot to whom the property is struck off by the fall of the hammer. The successful bidder shall pay the bid immediately; if he fails to pay the bid, the thing shall be auctioned again without his involvement.

(3) By the passage of ownership to the successful bidder, the defects attached to the thing shall expire.

Section 330

(1) The auction shall be closed as soon as the generated proceeds are sufficient to satisfy the creditors.

(2) If the auction failed to find a buyer for the auctioned things, the court shall order a new auction.

(3) The things that failed to be sold in the repeated auction may be received by the beneficiary within 15 days of a notice indicating the failure to auction the things at two thirds of the estimated or assessed price. The ranking (Section 332 paragraph 1) shall decide among several beneficiaries willing to accept the things. Sale by means of acceptance shall have the same effects as sale by auction.

Section 331

(1) If the execution of a judgement by the sale of tangible property was only ordered in respect of one claim, the presiding judge shall ensure that the generated proceeds, less the costs of sale, are paid directly to the beneficiary.

(2) If the execution of a judgement by the sale of tangible property was ordered in respect of graduated multiple claims, the presiding judge shall ensure that the generated proceeds, less the costs of sale, are paid to the beneficiaries. Each beneficiary shall be entitled to the proceeds from the sale of the things, which were listed in favour of his claim.

(3) If the generated proceeds are in excess of the claim for which the judgement execution was ordered, the remaining portion of the proceeds shall be paid to the obligor.

Section 332

(1) The order in which the court pays off the individual claims shall be governed by the date on which the court received the order for judgement execution in respect of the individual claims.

(2) If several claims have the same rankings and the proceeds of sale are not sufficient to fully satisfy such claims, the claims

shall be satisfied on a pro rata basis. Irrespectively of the rankings, prior claims referred to in a special regulation shall be given priority in satisfaction.

Cash and other things exempt from sale

Section 333

(1) If in the course of judgement execution an amount higher than the sum exempt from judgement execution pursuant to Section 322 paragraph 2d) is found, any amount subject to judgement execution shall be treated as proceeds of sale (Sections 331, 332).

(2) If in the course of judgement execution precious metals or foreign currency (Section 1 paragraph 2 of Act No. 528/1990 Coll. the Foreign Exchange Law) is found, they shall be handled by the presiding judge in compliance with special regulations. The generated proceeds shall be apportioned and paid off pursuant to Sections 331 and 332.

Section 334

(1) Passbooks, bills of exchange or other paper that are submitted in order to exercise a right shall be listed as other things and shall always be handed over to the court.

(2) The court shall present the passbook to the bank and withdraw an amount to which the obligor is entitled. The bank shall make the payment immediately, even if such payment is bound. In the case of bills of exchange, cheques or other papers that have to be presented in order to exercise a right, the court shall call upon the person who is to pay according to such paper to provide the court with an amount to which the beneficiary is entitled. The provisions on judgement execution by appropriation order shall be applied appropriately, however, the acts necessary to exercise the right shall be carried out by the administrator instead of the obligor.

(3) Any amount obtained in such way shall be treated as proceeds of sale (Sections 331, 332).

Sale of intangible property

Section 335

(1) Judgement execution by means of the sale of intangible property may only be ordered if the beneficiary clearly identifies the intangible property proposed for sale and if the obligor is a proven owner of the property.

(2) Judgement execution order shall apply to intangible property and its fixtures and appurtenance.

(3) The resolution on judgement execution must also include a prohibition preventing the obligor from assigning or charging the intangible property. The resolution shall also require the obligor to specify within 15 days whether and who has a pre-emptive right to the intangible property, including instructions that if the obligor fails to provide such information he shall be liable for any damaged caused by such failure.

(4) The resolution on judgement execution order shall be serviced by the court on the beneficiary, the obligor, the co-owners and persons having pre-emptive rights to the intangible

property or any other real right, the competent financial authority of state administration and local government in whose district the intangible property is located as well as the local body of state administration in whose district the obligor resides. Furthermore, the resolution shall be displayed on an official board of the court till the placement of an auction decree.

Section 335a

(1) Judgement execution shall be carried out by means of an auction; it shall be carried out by a judge.

(2) For the ranking of the beneficiary in respect of satisfaction from the proceeds of judgement execution the time when the court received the petition to order judgement execution by auction shall be decisive.

Section 336

(1) Following the coming of the resolution on judgement execution order into force, the court shall provide for the assessment of the intangible property and appurtenance to it. The court shall notify the beneficiary, the debtor, the co-owners as well as persons due to whom other defects are attached to the intangible property and the district authority.

(2) If the intangible property was assessed within one year prior to the date on which the judgement execution order came into force and provided that the circumstances decisive for the determination of price have not changed, the court may desist from a new assessment.

Section 336a

(1) The price of the intangible property shall be estimated. In addition, the individual defects that a successful bidder will have to accept without setting off against the highest bid (Section 336m paragraph 1) as well as the defects that the successful bidder will accept with setting off against the highest bid (Section 336m paragraph 2) shall be estimated.

(2) The rights related to the intangible property shall be estimated by identifying an advantage, which such rights bring to the beneficiary over a period of one year, and the value of such advantage shall be multiplied by twenty in respect of timeless rights and by the number of years over which such advantage shall exist in respect of time-limited rights, however, by not more than twenty.

(3) Defects attached to the intangible property shall be estimated according to economic loss resulting from the defects to the disturbed party. In respect of the defects of unlimited duration, a period of twenty years shall serve as the basis for calculation. In respect of defects of indefinite duration, the probable length of duration shall serve as the basis, however, not longer than twenty years. In respect of defects of definite duration, this length shall serve as the basis for calculation. Defects resulting from entitlements to recurring performance and benefits shall be estimated by calculating an amount that would be sufficient along with the interest generated by this amount to make performance and benefits or their cash equivalent value.

(4) According to the results of the estimate exercise, the court shall specify the estimated price and the service the ruling thereof on the persons referred to in Section 336 paragraph 1 as well as the persons due to whom real rights obvious from the records are attached to the intangible property

Section 336b

(1) Following the valid specification of estimated price, the court shall determine by its guidelines auctionary hearing to be held at least 30 days later.

(2) The auction guidelines shall contain the following:

- a) the time and venue of the auction,
 - b) the specification of the intangible property, appurtenance to such property and the owner,
 - c) the estimated price, which is also the lowest bid,
 - d) the amount of deposit,
 - e) payment method in respect of the highest bid,
 - f) the defects that a successful bidder will have to accept without setting off against the highest bid,
 - g) the provisions on the passage of defects and benefits of the intangible property,
 - h) the provisions on the delivery of the auctioned intangible property to the successful bidder,
 - i) a call on those who are dependant by their claims on the highest bid, to specify the amounts of their claims and accessions thereof as of the auction day and prove such claims by deeds, including a warning that if they fail to do so their claims will only be considered according the records,
 - j) a call on the creditors to specify whether they request cash payments, including a warning that if they fail to ask for cash payment prior to the auction, the successful bidder may assume the debt,
 - k) a call to prove the vindication of rights excluding the auction (Section 267 paragraph 1) before the beginning of the auction, including a warning indicating that otherwise such right could not be exercised to the detriment of the successful bidder acting in good faith,
- l) a warning indicating that persons having pre-emptive rights in respect of the intangible property may only exercise such rights as bidders and the pre-emptive right shall extinguish by the knock of the hammer.

Section 336c

(1) The auction guidelines shall be delivered to:

- a) the beneficiary, the obligor, the co-owner and any other person having real or pre-emptive right to the intangible property, if they are obvious from the records or intangible property registration records,
- b) the bodies and authorities assessing and collecting taxes and public benefits and sickness insurance premiums,
- c) the authorities referred to in Section 335 paragraph 4.

(2) The persons referred to in paragraph 1a) shall be serviced in their hands.

(3) The court shall display the auction guidelines on the court's official board and ask local authorities in whose district the intangible property is located to publish the substantive contents of the guidelines by method usual and common at the place.

(4) If a beneficiary in respect of pre-emptive right applies later, the auction guidelines shall be delivered into his hands so that the guidelines are served prior to the beginning of the auction.

Section 336d

(1) Those interested in buying the intangible property put up shall make a deposit equal to a half of the estimated price, such payment shall be made in cash or by cheque to the court's account. If a bidder wishes to exercise his pre-emptive right, the bidder shall prove it to the court no later than upon providing the deposit. Prior to the beginning of the auction, the court shall decide (Section 336f paragraph 1) whether the pre-emptive right has been proven and documented.

(2) The lowest bid shall equal the estimated price.

(3) In the auction guidelines, the court shall specify a period within which the highest bid shall be paid, whereas such prescribed limit shall begin on the date when the knock-down became valid and shall not be longer than two months.

(4) In respect of the highest bid, the deposit made shall be set off and amounts corresponding to the defects assumed by the successful bidder and which are set off in respect of the highest bid (Section 336 paragraph 1), which would have been paid from the highest bid if the highest bid had been deposited in cash.

Section 336e

(1) If the successful bidder fails to pay the highest bid in due time, the court shall order a repeated auction of the intangible property; the repeated auction shall not be held if the successful bidder has paid the highest bid prior to the expiration of a period prescribed for the filing of an appeal against the decision on repeated auction.

(2) Any repeated auction shall be governed by the provisions governing the first auction, whereas the lowest bid shall be equal to two thirds of the estimated price. The court shall also notify the successful bidder referred to in paragraph 1 of the auction. Such bidder shall pay the difference in respect of the highest bid, the costs of the repeated auction and a loss incurred as a result of his failure to pay the highest bid in due time (Section 336l). Such compensation shall revert to the estate to be apportioned.

Section 336f

(1) Following the provision of deposits, the judge shall call upon the bidders to auction.

(2) Offers are made in person or via a representative who must prove the entitlement to represent the interested party by means of a public or certified deed.

(3) The judge managing the auction, the record-keeper, the obligor, the successful bidder referred to in Section 336e paragraph 1 and a person prevented from acquiring the thing by a special regulation shall not auction.

(4) The auction shall be carried out as long as the bidders come up with their bids; the bidders shall be bound by their bids until the court awards the knock-down. The price of the auctioned

thing shall not be restricted by the provisions of the pricing regulations.

Section 336g

If even the lowest bid failed to be made in the auction, the court shall desist from continuing in the process. When at least three months have elapsed since the unsuccessful auction, a motion to continue in the process may be filed. If such motion was not filed within one year, the court shall discontinue the execution of the judgement.

Section 336h

(1) Before the closing of the auction, the judge shall ask the persons present at the auction whether they have any objections to the awarded knock-down.

(2) Such objections shall be included in the record, they may be raised by the bidders, the obligor, the beneficiary and the representatives of state administrative bodies and authorities (Section 335 paragraph 4) if they are present at the auction.

(3) The court shall award the knock-down to a person complying with the requirements laid down by the law and who offered the highest bid. If several bidders made the same bid and if a higher, permitted bid was not made, the court shall decide by drawing a lot to whom the property is struck off by the fall of the hammer. If a co-owner or a person benefiting from the pre-emptive right of real nature were one of such bidders, the knock-down shall be awarded to him.

(4) If the court rejects to award the knock-down taking into consideration the objections raised, the auction shall continue by calling the penultimate bid.

Section 336i

Following the award of the knock-down, the successful bidder may take possession of the auctioned article; the successful bidder shall notify the court of that. If a resolution on the award of the knock-down becomes valid and if the successful bidder paid the highest bid, the successful bidder shall become the owner of such article as of the date on which the knock-down was awarded.

Section 336j

(1) The resolution on the knock-down shall be delivered to the beneficiary, the obligor, the successful bidder and to those who raised objections to the knock-down.

(2) Only those who were present at the auction and raised objections may appeal against the resolution awarding the knock-down. In addition, within 15 days of the auction day any person who was not serviced in respect of the auction guidelines in violation of the provision of Section 336c paragraph 1a) and thus he was not present at the auction may file an appeal.

Section 336k

(1) An appeal may only be admitted if it claims defects to the detriment of the person who filed the appeal or if the court detected a substantial violation of law.

(2) An appellate decision shall be delivered to the appellant, the successful bidder, the beneficiary and the obligor.

(3) If the appellate court cancels the knock-down resolution, a new auction hearing shall be provided for.

(4) If the knock-down was validly denied, the successful bidder shall return the auctioned article to the obligor, to provide him with benefits and compensate for a loss caused in respect of the administration of the intangible property.

Section 336l

(1) The court shall adjudicate upon the obligations pursuant to Section 336e paragraph 2 and Section 336k paragraph 4 by its resolution following the hearing.

(2) Amounts corresponding to obligations imposed pursuant to paragraph 1 shall be enforced upon the motion of the administrator by the court from the other property of the successful bidder.

Section 336m

(1) Without setting off in respect of the highest bid, the successful bidder shall assume easements, if a special regulation stipulates that, and rent rights.

(2) Otherwise the successful bidder shall only assume easements if they are fully paid from the estate to be distributed.

(3) Pre-emptive right to the auctioned intangible property shall extinguish by the award of the knock-down.

Section 336n

(1) Following the valid award of the knock-down, the court shall order a hearing about the distribution of the proceeds of sale. The court shall summon the successful bidder and other persons who are to be delivered the auction guidelines (Section 336c) or who registered their claims [Section 336b paragraph 2 i)] to attend the hearing, provided that such claims did not discharged by the auction.

(2) Following the end of the hearing on the distribution of the proceeds of sale, an amount higher than the registered one [Section 336b paragraph 2 i)] may not be claimed from the highest bid.

Section 336o

The hearing on the distribution of the proceeds of sale shall determine the order and payment method in respect of claims that have to be taken into consideration. Any claim that cannot be satisfied from the highest bid and unproven and undocumented objections of the persons not attending the hearing shall not be heard.

Section 336p

Estate for distribution shall consists of the highest bid and interest thereof, the deposit of the successful bidder referred to

in Section 336e paragraph 1 and/or any amounts corresponding to the claims referred to in Section 336l paragraph 1.

Section 337

(1) According to the results of the hearing to distribute the proceeds of sale the claims shall be satisfied in the following order:

- a) outstanding costs of the proceedings incurred by the state in respect of the execution of the auction,
- b) outstanding maintenance and support due as of the date of the distribution of the proceeds of sale,
- c) claims to the mortgage loans and municipal loans covering the nominal value of secured mortgage bonds and municipal bonds issued by the bank and/or the yield thereof,
- d) claims secured by the statutory pledge, contractual lien, judicial lien or executor's lien, the transfer of a right as a security, the assignment of debt and/or a limitation on the transfer of intangible property on the whole according to the time of the creation of pledge and/or the creation of the limitation on the transfer of tangible property,
- e) the claims of the beneficiary, taxes, fees, customs duties, judicial claims, /34i/ claims to health insurance premiums, sickness insurance premiums, pension insurance premiums and unemployment insurance contributions, the payment of easements assumed by the successful bidder set off with respect to the highest bid and claims to compensation for easements not assumed by the successful bidder according the auction results,
- f) other debts.

(2) If the claims of the same ranking cannot be fully satisfied, they shall be satisfied on a pro rata basis.

(3) The satisfaction of interest generated over a period of last three years prior to the award of the knock-down as well as the costs of the proceedings shall rank as principal. If the estate to be distributed is not sufficient, it shall be paid before the principal.

(4) If the proceeds of sale are in excess of all claims pursuant to paragraphs 1 and 2, the court shall pay a portion of the proceeds left after the payment of all beneficiaries' claims to the obligor.

Section 337a

(1) If all intangible property with attached claims secured by a pledge pursuant to Section 151a and the Civil Code in respect of the same claim (hereafter referred to as "security interest"), such claims shall be settled in cash from the proceeds of the individual estates for distribution apportioned on a pro rata basis according to the remaining portions of the estates for distribution left in respect of each piece of intangible property following the payment of the preceding claims. If a credit requires the satisfaction of claims in a different ratio, an amount corresponding to such claim up to the deficit of the individual distribution estates shall be ordered in respect of the persons who would receive less from the estate to be distributed provided that the other distribution ratio applied.

(2) If the auction failed to sell all intangible property to which claims secured with an interest are attached, the value of all

intangible property determined pursuant to general regulations shall serve as the basis for the calculation of payments. The amounts of which the lower-ranking creditors would fall short because the creditor of the claim secured with a security interest received more than he would have received from the proceeds of sale of the intangible property, shall be secured, upon such creditor's motion, with the pledge of the unsold intangible property in the order that would correspond to the satisfied creditor.

(3) The principles referred to in the paragraphs above shall also appropriately apply to claims encumbered with the interest of several co-owners of the same intangible asset.

Section 337b

(1) According to the estimate, the court shall determine the values of the easements, which will be at least partially satisfied from the distribution estate according to the time of their creation. In respect of claims to recurring performance and benefits, the court shall determine an amount that will be sufficient to provide performance and benefits or their cash value from such amount and interest thereof.

(2) In respect of easements assumed by the successful bidder set off against the highest bid, the amount deducted shall be provided to the successful bidder in the case of an easement of unlimited duration; in the case of an easement of limited duration, the amount shall be deposited to bear interest and the successful bidder shall be provided with a compensation over the period of the existence of the easement. In the case of an entitlement to pensions and other recurring performance, the amount shall always be deposited to bear interest and payments shall be made directly to the beneficiary. The beneficiary's claim shall extinguish by the exhaustion of the amount.

(3) Any easement not assumed by the successful bidder with setting off against the highest bid shall be cancelled and the beneficiary shall be ordered to receive a cash compensation at an amount specified by the court. In the case of claims giving entitlement to recurring performance and benefits, the rest of the highest bid shall be deposited to bear interest and the beneficiary shall be provided with performance and benefits or a compensation thereof as long as the deposited amount is sufficient or until the claim extinguishes.

(4) An amount available as a result of the earlier extinguishment of an easement shall be allocated to other beneficiaries.

Section 337c

(1) The distribution resolution shall be serviced on all persons, bodies and authorities that were to be summoned to the hearing to distribute the proceeds of sale and the persons whose claims were adjudicated upon at such hearing.

(2) In its distribution resolution, the court shall also decide about the claims which were denied at the distribution hearing as to their authenticity, amount, ranking or payment method, if such claims could be adjudicated without fact finding. Otherwise the court shall refer those who raised such objections to file, within thirty days of the delivery of the distribution resolution, a motion pursuant to Section 267 paragraph 2 and/or a motion to commence an administrative proceeding to adjudicate upon such objections.

(3) A resolution pursuant to Section 267 paragraph 2 or in the administrative proceeding shall be effective with respect to all creditors as well as the obligor.

Section 337d

If the court satisfied a motion pursuant to Section 267 paragraph 2 or if a motion in administrative proceedings was satisfied, the court shall order a new hearing to distribute the proceeds of sale. However, the court shall not summon to such hearing the parties whose claims were already satisfied.

Section 337e

(1) Following the coming of the distribution resolution into force and the full payment of the highest bid, the court shall send the ordered amounts to the beneficiaries, with exception of claims that are subject of the ongoing hearing on the denial of a registered claim.

(2) Following the coming of an order on the denial of a registered claim into force and according to the results of such hearing, the court shall either pay the withheld amounts according to the distribution resolution or determine an additional hearing on the distribution of the proceeds of sale.

Sale of a share in common property

Section 338

(1) The provisions on judgement execution by the sale of tangible and intangible property shall apply to the execution of a judgement by the sale of a share in common property with respect to an intangible or tangible asset. The court shall notify other co-owners of the sale order.

(2) A co-owner of common property may prevent the sale of such property if no later than by the beginning of an auction such co-owner deposits an estimated price of the share to be auctioned and such payment is made either in cash to the court or by cheque to the court's account. In such event, the court shall handle this amount as a result of sale.

Chapter Five CREATION OF A JUDICIAL LIEN ON INTANGIBLE PROPERTY

Section 338a

(1) A judicial lien on intangible property shall be established by an order to execute a judgment. The creation of a judicial lien shall be registered in the registry of intangible property according to special regulations.

(2) A judgement may also be executed in respect of claims attached by a judicial lien by means of the sale of the intangible property directly against a later acquirer of such property.

Section 338b

(1) The execution of a judgement by the creation of a judicial lien may only be ordered if it was proven that the intangible property is owned by the obligor.

(2) In respect of the ranking of a judicial lien on intangible property, the time when the court received a motion to establish a judicial lien shall be decisive. If several motions were received at the same time, the liens shall enjoy the same ranking.

(3) If an earlier contractual lien was created in respect of an enforced claim, the ranking of the judicial lien shall be governed by the ranking of such contractual lien.

Chapter Six SATISFACTION OF RIGHTS TO NON-MONEY PERFORMANCE

Motion

Section 339

(1) These provisions shall apply to the execution of judgements imposing an obligation other than the payment of a money amount.

(2) If the beneficiary filed a motion to execute a judgment including the costs adjudicated to him by the judgement as well as the costs of judgement execution, the beneficiary shall specify in his motion to execute the judgement a method by which his claim to the costs is to be satisfied.

Eviction and vacation

Section 340

(1) If the judgement proposed to be executed imposes upon the obligor the obligation to vacate an apartment for which substitute housing is not needed, the court shall order the execution of the judgment and following the coming into force of this resolution, the judgment shall be executed.

(2) If the judgement proposed to be executed imposes upon the obligor the obligation to vacate an apartment for which a substitute apartment or substitute housing has to be ensured, the court shall order the execution of such judgement adding that it shall additionally decide upon the accomplishment of the execution of the judgement. The accomplishment of judgement execution shall be ordered when the obligor proves to the court that a substitute apartment provided for the obligor complies with the requirements of the judgement executed.

Section 341

(1) The judgement execution shall be accomplished by moving the obligor and all persons living with him on the basis of his right to a substitute apartment or a room provided as substitute housing. The administrator carrying out the eviction shall be accompanied by a suitable person, a representative of the municipal authority, if possible.

(2) At least five days in advance, the presiding judge shall notify the obligor of when the eviction will take place. The presiding judge shall also notify the competent municipal authority of this.

(3) The provisions of Sections 343 and 344 shall apply similarly.

Section 342

(1) Should the judgement proposed to be executed impose upon the obligor to vacate a real estate or a room for which a substitute does not have to be provided, the judgement execution shall be accomplished by the presiding judge taking a measure in order to remove the things belonging to the obligor and his family members as well as other things belonging to somebody else, which are with the obligor's consent placed in or on the facility being vacated.

(2) The presiding judge shall take measures to compel the obligor and all other persons staying there on the basis of the obligor's right to leave the facility being vacated.

(3) (3) At least five days in advance, the presiding judge shall notify the obligor of when the eviction and vacation will take place. The presiding judge shall also notify the competent municipal authority of this.

Section 343

(1) The things removed from the facility being vacated shall be handed over to the obligor or any person of legal age of the obligor's family.

(2) If there is no one present in the course of vacation who could accept the things or if such person rejects to accept the things, a list of things shall be produced and the things shall be deposited with a municipal authority. The presiding judge shall notify the obligor of the fact that his things are in custody.

Section 344

(1) If the obligor fails to collect his things from the municipal authority within six months of the day on which they were put into custody, such things shall be sold upon the municipality's motion in accordance with the provisions on the sale of tangible property.

(2) The proceeds of sale, less the costs of custody and the costs of sale, shall be paid by the court to the obligor.

Removal of a thing

Section 345

(1) If the judgement proposed to be executed imposes upon the obligor to hand over or deliver a thing to the beneficiary, the presiding judge shall ensure that the judgement is executed by the removal of the thing with everything that belongs to such thing and hand over such thing to the beneficiary.

(2) When the use and enjoyment of a removed thing requires a deed, such deed shall also be withdrawn from the obligor and handed over to the beneficiary along with the thing removed from the obligor.

(3) The judgement execution order shall be serviced on the obligor by the administrator upon the removal of the thing. The court shall notify in advance the beneficiary of the time of execution. The thing shall not be removed in the absence of the beneficiary or his representative. The administrator carrying out the removal shall be accompanied by a suitable person, a representative of the municipal authority, if possible.

(4) If the purpose of judgement execution requires so, the person carrying out this act of execution may search the obligor and the apartment and other rooms of the obligor where the thing to be handed over or delivered to the beneficiary is reasonably assumed to be placed; for this purpose, the beneficiary shall be entitled to seek to gain access to the obligor's apartment or any other room of the obligor.

Section 346

If the thing to be removed from the obligor is held by somebody else, the court shall call upon such person to hand over the thing to the beneficiary. If the thing was not handed over voluntarily, upon the beneficiary's motion the provisions on the execution of a judgement by appropriation order shall apply, as appropriate.

Section 347

(1) If the removal of a thing specified in the judgement execution order fails to be performed and if a thing of the same kind and quality can be procured otherwise, the presiding judge shall call upon the beneficiary to acquire such thing at the cost and risk of the obligor.

(2) The court may impose upon the obligor to pay the costs to the beneficiary in advance. This judgement will be then executed upon the beneficiary's motion by applying any method referred to in Chapters One to Four of this Part.

Partition of a common thing

Section 348

(1) If the judgement executed imposes the sale of a common tangible or intangible thing and the distribution of the proceeds among the co-owners, the sale shall be executed pursuant to the provisions governing the sale of tangible or intangible property.

(2) The proceeds of sale of a common tangible or intangible property shall be paid by the court to all former co-owners according to their respective stakes. The provisions of Section 337 shall apply appropriately in respect of intangible property.

(3) In the case of failure to sell a common tangible or intangible property, the presiding judges shall discontinue the execution of the judgement.

Section 349

(1) If the judgement executed imposes the partition of a common tangible or intangible thing by means other than a sale, when ordering the execution of the judgement the presiding judge shall determine how the execution is to be accomplished. The process of the accomplishment of judgement execution shall be accompanied by a suitable person, a representative of the municipal authority, if possible.

(2) If necessary, notably when the precise specification and/or delimitation of plot boundaries is required, the presiding judge shall engage an expert.

Provision of works and performance

Section 350

(1) If the judgement executed imposes upon the obligor the requirement to do some work for the beneficiary that can also be done by somebody else instead of the obligor, the court shall allow the beneficiary to have such work done by somebody else or to do it himself at the cost of the obligor.

(2) The court may impose upon the obligor the obligation to pay the costs to the beneficiary in advance. The execution of this decision shall then be carried out upon the beneficiary's motion by applying any of the methods specified for the satisfaction of money claims.

Section 351

(1) If the judgement executed imposes other obligation, the court shall impose a fine upon the obligor for any violation of such obligation. The amount of a fine shall be graduated by the court up to the total sum of SKK 100 000. Fines shall revert to the state.

(2) The payment of fines shall not relieve the obligor from liability for damages.

(3) If the obligor by breaching an obligation imposed upon him causes changes in the conditions assumed by the judgement executed, the court shall give its consent to the beneficiary to ensure reinstatement at the cost of the obligor. The judgement on the payment of the above-mentioned costs shall be executed upon the motion of the beneficiary by applying any of the methods specified for the satisfaction of money claims. The court may take appropriate measures in order to facilitate for the beneficiary the restoration of the previous conditions.

PART SEVEN

OTHER ACTIVITIES OF THE COURT

The heading is repealed as from 1.1.1992.

Section 352

(1) In respect of a criminal or other judicial procedure the court shall admit cash, deeds and other tangible things into custody. Cash and other valuables belonging to persons in respect of whom the court oversees the administration of property, advance payments and other payments directly related to court proceedings shall be deposited with the court.

(2) The court shall issue a custody receipt to the person depositing the values.

The heading repealed as from 1.10.1991.

Section 353

Repealed as from 1.10.1991.

The heading repealed as from 1.10.1991.

Section 354

Repealed as from 1.10.1991.

PART EIGHT

FINAL PROVISIONS

Interim provisions

Section 355

Unless stipulated otherwise below, this Code shall also apply to proceedings commenced prior to the coming of this Code into effect. The legal effects of acts that occurred in proceedings before the coming of this Code into effect, shall remain.

Section 356

(1) The time-limits that have not expired upon the date on which this Code came into effect shall be governed by the provisions of this Code.

(2) However, if the existing law prescribed a longer period, it shall expire later as prescribed.

(3) The time-limit for the filing of a complaint against a violation of law shall not expire sooner than six months after the coming of this Code into effect.

Section 357

Payment orders issued before the date on which this Code came into effect shall be governed by the existing regulations.

Section 358

Cases in respect of rent and lease commenced before the coming of this Code into effect shall be completed pursuant to the existing regulations.

Section 359

If, after the entry of this Code into effect, the court has jurisdiction to adjudicate upon orders for eviction and vacation issued by national councils, the court shall adjudicate in compliance with the existing regulations.

Section 360

(1) If before the taking effect of this Code proceeding started before a court having substantive competence for the time being, the court shall continue in such proceedings and any further procedure shall be governed by the existing regulations.

(2) Similar procedures shall apply in respect of cases within the competence of state notary's offices, with exception of judicial custody.

Section 361

(1) If the court refers any pending procedure in respect of judicial custody the competent state notary's office and notifies the parties and the depositary that future proceedings shall be held by the state notary's office, which will also decide about the delivery of the subject of custody.

(2) If the depositary fails to be notified to this effect, the court shall hold the proceedings pursuant the existing regulations.

Section 362

(1) Cases for wardship and guardianship involving the property of a child shall be transferred from the national councils to the courts upon the date on which this Code came into effect.

(2) National councils shall promptly transfer the records in respect of cases referred to in paragraph 1 to the competent district court.

Section 363

(1) The court shall adjudicate upon the applications to confer upon a minor older than 16, mentally handicapped persons or persons with mental insufficiencies capacity to marry, which have not been validly decided upon by the national council before the date on which this Code came into effect.

(2) National councils shall promptly transfer the applications referred to in paragraph 1 to the competent district court.

Section 364

As soon as new legislation governing proceedings in respect of detention in a reformatory comes into effect, the court shall discontinue such proceedings; before the effectiveness of such legislation the court shall adjudicate upon detention in a reformatory pursuant to the existing provisions.

Section 365

Execution titles created before the coming into effect of this Code shall serve as the basis for the execution of a judgement under this law although this law does not consider them the source of judgement execution.

Section 366

An execution order awarded before the coming into effect of this Code shall have the effects of the order to execute a judgement. This law shall apply to the further course of proceedings, unless stipulated otherwise.

Section 367

(1) Distrain upon a money claim and salary carried out before the coming into effect of this law shall have the effects of the order to execute a judgement by the attachment of earnings and/or appropriation order, which was served on the wage payor and/or the obligor's debtor.

(2) The wage payor making deductions from the obligor's wage on the basis of the execution of wage ordered before the date on which this law came into effect may after such date follow new provisions in respect of deductions. As soon as the court serves the resolution on the wage payor calling upon him to follow the provisions of this law in respect of further attachment of earnings, the wage payor shall comply with it.

Section 368

(1) If an execution by means of the vacation of an apartment was adjudicated before the coming into effect of this law, the

execution shall be completed pursuant to the existing regulations.

(2) If the order of a court issued before the coming into effect of this law imposes an obligation to evict an apartment for which a substitute has to be provided, it shall be enforceable after the valid provision of a substitute apartment and/or substitute housing, as the case may be.

Section 369

Executions ordered in respect of intangible and tangible property shall be completed pursuant to the existing regulations.

Section 370

Any execution liquidation ordered before the taking effect of this Code shall be completed pursuant to the existing regulations.

Section 371

(1) When executing a judgement, claims secured by a pledge shall be satisfied according the ranking acquired before other claims are satisfied even if they were not adjudicated by a judgment or settlement that can be the basis for the execution of judgment under this law.

(2) When executing a judgement by means of the sale of intangible property, the guidelines issued pursuant to Section 337 paragraph 2 shall be served on the known creditors of claims secured with a pledge as well as those of claims to easements. 2. Such claims shall be satisfied along with the claims in favour of which the limitation of the transfer of intangible property (Section 337 paragraph 2) was registered with a state notary's office. Claims to taxes and fees, provided they have a security right over the immovables, shall be given priority in satisfaction.

Section 372

Where the law stipulates that the pledgee may file a petition requesting the sale of the pledged property, the provisions on the execution of a judgement by the sale of tangible property shall apply appropriately.

Section 372a

(1) Cases heard by the Supreme Court of the Czech and Slovak Federal Republic, which are not adjudicated till the coming into effect of this law, shall be transferred to and completed by the Supreme Court of the Slovak Republic in the case of proceedings in respect of

a) a remedy if the court which adjudicated in first instance is in the Slovak Republic or if a court having local competence to hear the case in first instance is in the Slovak Republic.

b) the determination of a court having local competence, if the court which submitted the case to the Supreme Court of the Czech and Slovak Federal Republic pursuant to Section 105 paragraph 2 is based in the Slovak Republic; other cases if the petitioner has his residence or registered office in the Slovak Republic,

c) adjudication in a jurisdiction dispute under Section 8a paragraph 2 and adjudication in respect of appropriation order pursuant to Section 12 paragraph 3 if the person applying for adjudication has its registered office in the Slovak Republic,

d) an action against an administrative decision if the administrative authority of the Slovak Republic has competence to decide in this respect.

(2) Proceedings on the merits commenced before a court of the Slovak Republic before the coming into effect of this law, shall be completed in the court where it begun.

Section 372b

(1) Pending probate proceedings commenced pursuant to the existing regulations shall be considered proceedings under this law. If such proceedings regard property discovered after the adjudication on inheritance became valid, they shall be considered proceedings under Section 175x paragraph 1.

(2) The authorisation of a notary to act as judicial commissioner (Section 38) issued before the coming into effect of this law shall also be authorisation to issue the probate certificate.

Section 372c

The time-limit to file an extraordinary appeal on points of law shall begin to lapse upon the date of the coming into effect of this law. Judgements that entered into force as of the effectiveness of this law may be contested by means of extraordinary appeal on points of law.

Section 372d

If before the effectiveness of this law a proceeding commenced at a court having substantive competence under the existing regulations, the court shall carry on with such proceedings.

Section 372e

The legal effects of acts, which occurred before the effectiveness of this law, shall remain.

Section 372f

Proceedings under Section 9 paragraph 4 commenced before the effectiveness of this law shall be completed pursuant to the existing regulations.

Enabling provisions

Section 373

By its decree, the Ministry of Justice shall provide for the execution of judgement by the attachment of remuneration of persons servicing a term of imprisonment or custody as well as persons kept in youth homes.

Section 374

(1) The Ministry of Justice is hereby authorised to issue by means of a generally binding regulation the administrative rules for district and regional courts, which will provide details in

respect of the handling of civil cases, organisation of work and the tasks of workers with respect to the justice system and administration, including the procedures to be applied by notaries in the course of probate proceedings, the procedures to be applied by courts in respect of judgement execution, office works in courts including agenda of courts.

The administrative rules may set forth, inter alia,

a) which acts entrusted to the presiding judge may be performed by trainee judges or court secretaries and which acts in the course of probate proceedings may be committed by the notary to his staff;

b) in which cases court staff are authorised to verify and certify the authenticity of signature on deeds and the correctness of signing thereof,

c) when hearings before court can be carried out in the absence of recording clerks and how the contents of hearings are to be recorded in such events,

d) which necessary costs are reimbursed to parties to proceedings and persons attending proceedings.

(2) The presiding judge to whom the case is assigned according to the action plan may reserve the disposal of certain cases by a trainee judge or court secretary in general or on a case-by-case basis.

(3) If an appeal is lodge against a decision issued by a judge trainee or court secretary, the presiding judge may fully satisfy it. His decision shall be considered a judgement of the court of first instance and may be contested by means of an appeal.

Section 374a

(1) In its decree, the Ministry of Justice shall specify the remuneration of notaries as court commissioners and the remuneration of administrators of property of the deceased and the method of designation.

(2) In its decree, the Ministry of Justice of the Slovak Republic shall provide regulate the proceedings in respect of the appointment, dismissal and remuneration of liquidators.

Repealing provisions

Section 375

The following are hereby repealed:

1. Act No. 142/1950 Coll. on civil judicial procedure (The Code of Civil Judicial Procedure) as amended;
2. Act No. 68/1952 Coll. modifying and amending the Code of Civil Judicial Procedure;
3. Section 6 paragraph 2 of Act No. 84/1952 Coll. on the money industry;
4. Section 7 of Act No. 85/1952 Coll. on the insurance industry,
5. Sections 57 to 60 of Act No. 115/1953 Coll. on copyright,
6. Statutory Measure of the Board of the National Assembly No. 57/1955 Coll. on the accelerated collection of outstanding claims in respect of payments for the necessities of life for minor children;
7. Statutory Measure of the Board of the National Assembly No. 63/1955 Coll. on judicial execution by compulsory debiting;

8. Act No. 46/1959 Coll. on changes in the jurisdiction of courts and modifications and amendments to certain provisions in the sector of judiciary and state notary's offices;

9. Government Ordinance No. 175/1950 Coll. on confirmations required for exemption from court fees and advance payments and the designation of representative;

10. Government Ordinance No. 176/1950 Coll. on the method and scope of execution against co-operative and other legal persons;

11. Government Ordinance No. 177/1950 Coll. on the assessment of immovable things;

12. Minister of Justice Regulation No. 178/1950 Coll. laying down the definition of a lower tier of administration in organisational terms in respect of the determination of the competence of courts;

13. Minister of Justice Regulation No. 180/1950 Coll. on the execution of money claims and salary;

14. Minister of Justice Regulation No. 95/1952 Coll. issuing the administration rules for courts;

15. Minister of Justice Regulation No. 12/1953 Coll. on the scope and admissibility requirements in respect of the execution of claims to the delivery of agricultural products to the state;

16. Minister of Justice Regulation No. 356/1952 Ú.l. (No. 409/1952) listing legal persons enjoying protection in respect of execution and the competent supervisory bodies;

17. Minister of Justice Regulation No. 149/1958 Ú.l. on the scope of admissibility of the execution of remuneration for work of persons servicing a term of imprisonment or custody, persons kept in youth homes as amended by Minister of Justice Regulation No. 34/1961 Coll.

18. Minister of Justice Regulation No. 41/1960 Coll. on the registered offices and jurisdiction of people's courts and the registered offices and jurisdiction of regional courts.

Section 376

Effectiveness of the law

This law shall come into effect as of 1 April 1964.

Act No. 36/1967 Coll. came into effect as of 1 July 1967.

Act No. 158/1969 Coll. came into effect as of 1 January 1970.

Act No. 49/1973 Coll. came into effect as of 1 July 1973.

Act No. 20/1975 Coll. came into effect as of 1 July 1975.

Act No. 133/1982 Coll. came into effect as of 1 April 1983.

Act No. 180/1990 Coll. shall come into effect as of 1 July 1990.

Act No. 328/1991 Coll. came into effect as of 1 October 1991.

Act No. 519/1991 Coll. came into effect as of 1 January 1992.

Act No. 263/1992 Coll. and Act No. 5/1993 Coll. came into effect as of 1 January 1993.

Act No. 46/1994 Coll. came into effect as of 1 April 1994.

Act No. 190/1995 Coll. came into effect as of 14 September 1995.

Act No. 232/1995 Coll. came into effect as of 1 December 1995.

Act No. 233/1995 Coll. came into effect as of 1 December 1995.

Act No. 22/1996 Coll. came into effect as of 1 February 1996.

Act No. 58/1996 Coll. came into effect as of 1 March 1996.

Judgement No. 281/1996 Coll. came into effect as of 4 October 1996.

Act No. 211/1997 Coll. came into effect as of 30 July 1997.

Judgement No. 359/1997 Coll. came into effect as of 20 December 1997.

Acts No. 124/1998 Coll. and No. 144/1998 Coll. came into effect as of 1 June 1998.

Act No. 187/1998 Coll. came into effect as of 18 June 1998.

Act No. 169/1998 Coll. came into effect as of 1 July 1998.

Act No. 225/1998 Coll. came into effect as of 23 July 1998.

Act No. 233/1998 Coll. came into effect as of 28 July 1998.

Judgement No. 318/1998 Coll. came into effect as of 23 October 1998.

Act No. 331/1998 Coll. came into effect as of 5 November 1998.

Act No. 235/1998 Coll. came into effect as of 1 January 1999.

Act No. 46/1999 Coll. came into effect as of 19 March 1999.

Judgement No. 66/1999 Coll. came into effect as of 3 April 1999.

Judgement No. 166/1999 Coll. came into effect as of 14 July 1999.

Judgement No. 185/1999 Coll. came into effect as of 24 July 1999.

Act No. 223/1999 Coll. came into effect as of 4 September 1999.

Act No. 303/2001 Coll. came into effect as of 27 July 2001.

Act No. 501/2001 Coll. came into effect as of 1 January 2002.

Novotný, signature in writing
Fierlinger, signature in writing
Lenárt, signature in writing

Article 1

(Introduced by Act No. 158/1969 Coll.)

1. Where local people's courts commence property cases, which were not adjudicated on the date of the effectiveness of this law, such cases shall be referred without a motion to the court within whose jurisdiction the local people's court was located; the cases already adjudicated by local people's courts shall be governed by the existing regulations on appeal, however, the district court shall decide on the claims.
2. The admissibility of re-trials and complaints against a breach of law in respect of valid arbitration rulings shall be considered like judgements of courts.
3. The existing Supreme Court shall have jurisdiction that belongs to the Supreme Courts of the Republic and the Supreme Court of the Czechoslovak Socialist Republic until such courts are established. The existing Supreme Court shall try and decide cases before the panel composed in accordance with the requirements set for the court whose function it fulfils.
4. Where civil procedure regulations refer to the Supreme Court, this shall mean the Supreme Court of the Czechoslovak Socialist Republic, the Supreme Court of the Czech Socialist Republic or the Supreme Court of the Slovak Socialist Republic according to the nature of the case; where the prosecutor general is referred to, this shall mean the prosecutor general of the Czech Socialist Republic or the prosecutor general of the Slovak Socialist Republic according to the nature of the case.
5. As long as the existing Supreme Courts have the competence of the Supreme Courts of the Republic and of the Supreme Court of the Czechoslovak Socialist Republic, its president may file a complaint against a violation of law in respect of cases validly completed before the effectiveness of this law.
6. The provision of Section 365 shall similarly apply to the decisions of local people's courts and arbitration rulings approved by them and the rulings of industrial arbitration authorities and pre-trial settlements approved by them, which were published before the effectiveness of this law.

Article 2

(Introduced by Act No. 49/1973 Coll.)

1. The proceedings in respect of the conciliation of spouses commenced before the effectiveness of this law shall not proceed.
2. Where in the divorce proceedings the court has adjudicated the compensation of costs of the proceedings to a party, the court shall also adjudicate the compensation of costs of the proceedings of conciliation of spouses incurred before the effectiveness of this law.
3. Any appeal against a resolution approving settlement shall be decided upon in accordance with the existing regulations where the court decided by the contested judgement before the coming of this law into effect.
4. The provision of Section 284 paragraph 3 as amended by Article I shall not apply to matters in respect of which separate judgement execution was ordered to enforce and collect increased maintenance and support before the coming of this law into effect.
5. Otherwise this Code shall also apply to proceedings commenced before it came into effect. The legal effects of acts, which occurred before the effectiveness of this law, shall remain.

Article 3

(Introduced by Act No. 133/1982 Coll.)

1. Costs of the proceedings to which a party is entitled under the second sentence of Section 142 paragraph 1 shall be reimbursed by the state where such costs incurred before the coming of this Code into effect, provided that the judgement in respect of the case was given when this Code has been effective.
2. The presiding judge may issue an order to pay under Section 172 paragraph 1 if a petition to commence the proceedings was received before the coming of this Code into effect.
3. Where a resolution on the order to execute a judgement by attachment of earnings was issued before the coming into effect of the Government of the Czechoslovak Socialist Republic issued under Sections 278 and 279 paragraph 3, the wage payor shall continue to make deductions pursuant to the existing regulations for a period of six months after the coming of new legislation into effect; when this period elapses the wage payor shall make attachment of earnings pursuant to new legislation.

4. Otherwise this Code shall also apply to proceedings commenced before it came into effect. The legal effects of acts, which occurred before the effectiveness of this law, shall remain.

Article 4

(Introduced by Act No. 519/1991 Coll.)

Interim and final provisions

1. a) Matters that would under Article I Section 9 paragraph 2 fall in first instance within the substantive competence and jurisdiction of the regional courts, but the respective proceedings have commenced before an district court before the coming of this Code into effect, shall be concluded by the courts having substantive competence currently; the appellate court in respect of such cases shall be the regional court and the court of appellate review shall be the Supreme Court of the Republic.

b) Complaints against a breach of law against the valid decisions of courts or state notary's offices filed before the taking effect of this Code shall be heard pursuant to the existing regulations.

c) Where before the taking effect of this Code moves have been made to prosecution authorities or the Ministries of Justice of the Republics to lodge complaints against a violation of law, the authorities competent under the existing regulations may lodge a complaint against a violation of law within one year after the taking effect of this Code; such complaints shall be heard and decided by the courts competent to handle such cases under the regulations valid before the coming of this Code into effect.

d) In respect of matters where the judgements of the court of appeal came into force within one month before the coming of this Code into effect, the parties may lodge an appeal on points of law within one month after the coming of this Code into effect, provided that the requirements of Sections 237 to 239 are met and complied with.

e) motions for re-trials filed before the taking effect of this Code on grounds referred to in the existing Section 228 paragraph 1 c) and d) shall be heard pursuant to the existing regulations.

f) Where a prosecutor has intervened into proceedings under Section 35 paragraph 1 his participation shall lapse upon the date on which this Code will come into effect, unless it involves a case referred to in the provision of sub-paragraph i).

g) In respect of proceedings commenced upon the prosecutor's motion, his participation shall also lapse upon the date on which this Code will come into effect. The court shall call upon the party designated as the petitioner to express whether he wishes to proceed the proceedings. Where such party's response within the prescribed time-limit did not indicate his wish to proceed, the court shall cancel any potential decisions and adjudicates that no party is entitled to the reimbursement of the costs of the proceedings.

h) Proceedings in respect of prosecutor's motions under Section 457 paragraphs 2 and 3 of the Civil Code shall be discontinued by the court upon the date of the taking effect of this Code and cancel any possible decisions; the court shall adjudicate that the parties are not entitled to the reimbursement of the costs of the proceedings.

i) By 31 December 1995, the prosecutor general may lodge a complaint against a violation of law under the existing regulations in respect of matters that he may intervene (Section 35 paragraph 1 of this Code) within three months of the coming of the judgement into force; such complaints shall be heard and decided by the courts competent to handle them under the regulations valid till the effectiveness of this Code; these regulations shall also apply to proceedings in respect of a complaint.

2. a) Where economic disputes have commenced before economic arbitration authorities prior to the coming of this Code into effect, such disputes shall be concluded under this law the regional courts dealing with commercial matters, which have local competence according to the registered office of the arbitration authority before which the proceedings commenced.

b) Proceedings in respect of appeals against the decisions of economic arbitration authorities commenced and not concluded before the taking effect of this Code shall be concluded by the Supreme Courts of the Republics pursuant to this law.

c) Where objections against arbitration orders to pay have been raised in due time pursuant to the existing regulations but after the coming of this Code into effect, such objections shall be transferred and referred to the regional court competent pursuant to sub-paragraph a).

d) Where prior to the taking effect of this Code economic disputes have been commenced before arbitrators under Section 32 of Act No 121/1962 Coll. on economic arbitration as amended by Act No 106/1990 Coll., the arbitrators shall transfer and refer them for further proceedings to the regional court dealing with commercial matters, which would have been competent under the general provisions of the Code of the Civil Judicial Procedure upon the commencement of such dispute.

e) Petitions to review the decisions of economic arbitration authorities, with exception of appellate proceedings, lodged before the coming of this Code into effect, shall be heard and decided by the Supreme Court of the Czech and Slovak Federal Republic as complaints against a violation of law in respect of the judgements of courts, pursuant to the existing regulations of the Code of Civil Judicial Procedure.

f) In respect of matters where the judgement of an appellate body of economic arbitration came into force within one month before the coming of this Code into effect, the parties may lodge an appeal on points of law within one month after the coming of this Code into effect, provided that the requirements of Sections 237 to 239 are met and complied with.

g) Where petitions for re-trials have not been decided before the coming of this Code into effect, such petitions shall be transferred and referred to the regional court competent pursuant to sub-paragraph a).

h) Where the decisions of economic arbitration authorities came into force, even after the taking effect of this Code a petition for re-trial may be lodged in their respect within the time-limits referred to in Section 40 paragraph 2 of the Economic Arbitration Law; such petition shall be lodged with the regional court competent pursuant to sub-paragraph a).

i) Where petitions for re-trial concluded by the ruling of arbitrator under Section 32 of the Economic Arbitration Law have not been decided before the coming of this Code into effect, they shall be transferred and referred to the regional court that would have local competence under the general provisions of the Code of Civil Judicial Procedure upon the commencement of such dispute.

j) A petition for re-trial in respect of the rulings of arbitrators under Section 32 of the Economic Arbitration Law may be lodged within the time-limits referred to in Section 40 paragraph 2 of the Economic Arbitration Law even after the coming of this Code into effect, such petitions shall be lodged with the regional court that would have had local competence under the general provisions of the Code of Civil Judicial Procedure upon the commencement of such dispute.

3. a) Within one month of the coming of this Code into effect, the medical treatment institutions shall provide the court in whose jurisdiction the facility is located with the lists of all persons admitted for treatment without their consent and persons who gave their consent to treatment in such institution but whose free movement or interaction with the outer world is restricted, provided such persons are detained in the institution on the date when this Code will come into effect. The provision of such list shall be replaced by a notice pursuant to Section 191a. The list shall indicate the ill persons in respect of whom a decision pursuant to Section 24 paragraph 4 of Act No.20/1966 Coll. on human health care and whether such decision was confirmed by the court in the review procedure.

b) In respect of all such detained persons, with exception of those persons in respect of whom decisions were issued under Section 24 of the Human Health Care Law and confirmed by the court, the court shall commence proceedings pursuant to Section 191b; a decision under Section 191b paragraph 4 shall be issued within 3 months after the receipt of the notice under sub-paragraph a) by the court.

c) Where the period of one year has elapsed since the relevant decision of the court, in the later stages of proceedings the court shall follow Section 191d in respect of the ill persons for whom a decision was issued under Section 24 of the Human Health Care Law and confirmed by the court. A decision about the admissibility of further detention shall be announced within 6 months of the issuance of the resolution under Section 191b.

4. a) Complaints against the decisions of administrative authorities under Chapter Two of Part Five may only be heard in respect of those administrative decisions, which following the exhaustion of admissible remedies, came into force on the date of the coming of this Code into effect.

b) However, restrictions under sub-paragraph a) shall not apply if under the existing regulations the review of the decision of administrative authorities by the court may be requested provided such decision had been reviewed in the administrative proceedings of appeal. Where such proceedings were held before the coming of this Code into effect, the commenced proceedings shall proceed pursuant to Sections 247 to 250k; representation by an attorney or commercial lawyer is not needed in such cases.

5. Repealed.

6. Valid judgements imposing the vacation of an apartment announced before the taking effect of this Code where the obligation to vacate the apartment is tied to the provision of an alternative apartment of alternative housing shall be considered in the execution proceedings as judgements imposing vacation following the provision of an alternative apartment. However, at the court having competence to execute the judgement against the obligor the beneficiary may seek ascertainment indicating that the obligor is only entitled to alternative housing or no alternative apartment at all. <0}

7. The following shall remain enforceable

a) the rulings of economic arbitration authorities and the rulings of arbitrators under Section 32 of the Economic Arbitration Law, unless the rights referred to in them have extinguished pursuant to Section 40 paragraph 1 of the Economic Arbitration Law; the enforceability of such rulings shall be confirmed by the court having competence in respect of hearings under sub-paragraph 2.a);

b) the decisions of arbitration committees for industrial disputes and settlements approved by such committees; their enforceability shall be confirmed by the district court within whose jurisdiction the arbitration committee is based;

c) settlements approved by a trade union conciliation authority pursuant to Section 128 of Act No. 84/1972 Coll. on discoveries, inventions, improvements and industrial patterns; their enforceability shall be confirmed by the district court within whose jurisdiction the conciliation authority is based.

8. a) In respect of handling petitions under Section 764 paragraph 2, Section 765 paragraph 4, Section 766 paragraph 1 and Section 768 paragraph 3 of the Commercial Code, the court shall apply and follow the provisions of Section 200e.

b) Any pending bankruptcy and composition proceedings where the bankrupt (debtor) is a natural or legal person registered in the Company Register, shall be transferred to the regional court having competence in respect of commercial matters.

9. a) Where generally binding legal regulations issued before the taking effect of this Code set forth that certain matters are adjudicated by economic arbitration authorities, this shall mean courts.

b) 527/1990 Coll. on discoveries, inventions, improvements and industrial patterns, which lay down that disputes are decided by the court or arbitration, with exception of matters decided upon by the Office for Inventions.

10. a) State notary's offices shall return the judgment execution records to the court authorising them to sell an immovable thing pursuant to Section 335; where a state notary's office sold the thing before the coming of this Code into effect, it shall transfer to the court, which authorised it in this respect, an amount, less the costs of sale. The court shall then proceed to execute the judgement pursuant to Section 335 and the following sections; the court shall serve the resolution on the order to execute the

judgement on the persons referred to in Section 335 paragraph 4 at least additionally, if service was not effected earlier, and instruct the obligor pursuant to Section 335 paragraph 3.

b) Probate proceedings in respect of persons who deceased before the coming of this Code into effect, shall be governed the existing regulations.

11. The Government of the Czech and Slovak Federal Republic is hereby authorised to regulate by its ordinance money amounts in the Czechoslovak currency referred to in Section 9 paragraph 3a), Section 53 paragraph 1, Section 89a, Section 172 paragraph 1, Section 273 paragraph 1, Section 322 paragraph 2 sub-paragraph d) and Section 351 paragraph 1, taking into consideration the changing pricing conditions..

12. The Ministers of Justice of the Czech and Slovak Republics are hereby authorised to regulate by their respective generally binding legal regulations the requirements in respect of the Company Register and its administration.

Article 5

(Introduced by Act No. 263/1992 Coll.)

1. Upon the taking effect of this Code the district court in whose jurisdiction a state notary's office operated shall accept the records of probate proceedings, paper redemption and custody pending as of that date and conclude such proceedings.

2. Without prejudice to the use of Section 38, the court shall apply the existing regulations to probate proceedings in respect of persons who deceased before the coming of this Code into effect.

3. The court shall conclude proceedings in respect of paper redemption and custody commenced before the taking effect of this Code pursuant to the existing regulations.

4. The time-limit prescribed for lodging an appeal in respect of proceedings referred to in item 1 shall remain where such appeal is addressed to the state notary's office whose decision is subject of such appeal.

5. Upon the coming of this Code into effect, the district court in whose jurisdiction the state notary's office operated shall accept into custody all things in respect of which the state notary's office held proceedings as well as things placed in custody with relation to probate proceedings and things placed in custody pursuant to Section 103a of Act No. 95/1963 Coll. on state notary's offices and proceedings before the state notary's office (the Notary Rules) as amended.

6. In respect of probate proceedings, the court shall also examine the records of wills maintained by the state notary's office, which were handed over to the court in order to determine whether the will produced by the state notary's office in the format of notary record is registered in such records and with which court it is deposited.

Article 6

(Introduced by Act No.46/1994 Coll.)

1. Petitions received by the court before the taking effect of this Code shall be handled by the court having substantive competence pursuant to the existing regulations.

2. The register court in whose jurisdiction a legal person is registered shall decide without a motion on the winding-up and liquidation of companies, co-operatives and co-operative companies not complying with the duties laid down by Sections 764, 765 and 766 of the Commercial Code as well as the appointment and removal of liquidators and liquidator's fees in such proceedings.