Act CXXX of 2016
on the Code of Civil Procedure

The National Assembly,

with a view to establishing a regulatory framework that is based on the Hungarian traditions of civil procedure and the achievements of European legal development, as well as on the procedural responsibility of the parties and the active case management of the court, and one that ensures the necessary conditions for the concentration of proceedings,

led by the idea of justice being administered in the service of citizens and in accordance with the requirements of public good and common sense,

with a view to resolving civil law disputes following the principle of fair trial and to enforcing substantive rights effectively, and

to implement Article 25 (2) *a)* of the Fundamental Law, adopts the following Act:

PART ONE

FUNDAMENTAL PROVISIONS

CHAPTER I

SCOPE AND FUNDAMENTAL PRINCIPLES

1. Scope of the Act

Section 1 *[Scope of the Act]*

(1) This Act shall apply to court procedures, if taking the judicial path is allowed by law and no Act requires the application of other rules.

(2) The court shall adjudicate legal disputes falling within the scope of this Act upon request to that effect.

2. Fundamental principles

Section 2 *[Principle of free disposition]*

(1) The parties may freely dispose of the claims they raise in the proceedings.

(2) Unless otherwise provided by an Act, the court shall be bound by the requests and juridical acts submitted and made by the parties.

Section 3 *[Principle of concentration of proceedings]*

The court and the parties shall strive to make available at the appropriate time all facts and evidence necessary to deliver the judgment, so that the legal dispute can be adjudicated, if possible, during a single hearing.

Section 4 *[The parties' obligation to facilitate the proceedings and speak the truth]*

(1) The parties shall be obliged to enable the proceedings to be conducted and completed in a concentrated manner.

(2) Unless otherwise provided by an Act, the parties shall bear the burden of presenting the relevant facts of the case and the supporting evidence.

(3) The parties shall be obliged to make all statements of fact and other statements truthfully.

(4) If a party makes, through his own fault, a statement regarding any relevant fact of the case that proves to be untrue, the court shall oblige the party at fault to pay a fine and shall apply other legal consequences as specified in this Act.

Section 5 *[Principle of good faith]*

(1) The parties and other persons participating in the procedure shall be obliged to act in good faith when exercising and fulfilling their procedural rights and obligations.

(2) If the behaviour of a party or another person participating in the procedure is inconsistent with the requirement of good faith, the court shall oblige that party or person to pay a fine and shall apply other legal consequences as specified in this Act.

Section 6 *[The court's duty to manage the case]*

With a view to ensuring the concentration of proceedings, the court shall, in the manner and using the means specified in this Act, contribute to enabling the parties to perform their procedural obligations.

PART TWO

GENERAL PROVISIONS

CHAPTER II

INTERPRETATIVE PROVISIONS

Section 7 *[Interpretative provisions]*

(1) For the purposes of this Act:

1. *complaint based on substantive law* means invoking a provision of substantive law that excludes, terminates or prevents the enforceability of the right to be enforced through the action, including any counter-claim or set-off;

2. *identification data concerning entities other than natural persons* means the seat, the service address (if other than the seat), the registering authority and the registration number, the tax number and the name and service address of the statutory or organisational representative proceeding in the action;

3. *identification data concerning natural persons* means the domicile (or place of residence in the absence of a domicile), the service address (if other than the domicile or place of residence), the place and date of birth, the mother's name, and, if the person does not have procedural capacity to act, the name and service address of the statutory representative;

4. *amendment of the statement of defence* means that a party, in comparison to the statements of fact, statements of law and legal arguments made or presented earlier concerning his statement of defence, including any statement of defence made against a counter-claim or set-off,

a) invokes a different or additional fact,

b) invokes a different or additional complaint based on substantive law or legal argument, or

c) withdraws his statement acknowledging or not contesting, in whole or in part, another statement of fact, statement of law or request, including the subsequent contestation of a statement of fact, statement of law or request that had been regarded as uncontested or unopposed;

5. *consumer* means a consumer as defined in Act V of 2013 on the Civil Code (hereinafter "Ptk.");

6. *economic operator* means a company, European company, grouping, European economic interest grouping, European grouping for territorial cooperation, cooperative, housing cooperative, European cooperative society, water management company, forest management company, Hungarian branch of an enterprise having its seat abroad, state-owned enterprise, other state-owned economic organ, enterprise of certain legal persons, jointly owned enterprise, court bailiff firm, notary office, law office, patent firm, voluntary mutual insurance fund, private pension fund, individual firm, private entrepreneur and, in the context of its civil

relationships related to its economic activities, the State, the local government, a budgetary organ or another legal person required by law to apply the rules pertaining to the economic activities of budgetary organs, an association, a statutory professional body or a foundation;

7. *relative* means a relative as defined in the Ptk.;

8. *legal basis* means a provision of substantive law, which specifies the facts giving rise to the subjective right directly and allows a claim to be raised on the basis thereof;

9. *action concerning the formation and lawful operation of a legal person* means

a) an action for setting aside an order of a company registration court granting an application for company registration or registration of changes,

b) an action for establishing the invalidity of the formation of a company,

c) an action for establishing the invalidity of a modification of an instrument of incorporation,

d) an action for the judicial review of a decision adopted by a legal person,

e) an action for excluding a member of a company or cooperative,

f) an action concerning any acquisition of control in a company,

g) an action for establishing the unlimited liability of a member or shareholder having limited liability for the debts of the company,

h) an action brought against an organisation not qualifying as a company by the body supervising or controlling the legality of the operations of the organisation;

10. *extension of the action* means that a plaintiff joins an action brought by another person, or another defendant becomes involved in the action, provided that joining or becoming involved is not due to legal succession;

11. *right enforced by an action* means a subjective right, the enforcement of which is secured by a provision of substantive legislation;

12. *amendment of the action* means that a party, in comparison to the statements of fact, statements of law, legal arguments and requests made or presented earlier concerning his claim, including any counter-claim or set-off,

a) invokes a different or additional fact,

b) raises or invokes a different or additional legal argument or right to be enforced, or

c) modifies the amount or content of his requests or any part thereof, or submits any other request;

13. *media service provider* means a media service provider as defined in the Act on the freedom of the press and the fundamental rules on media content;

14. *media content provider* means a media content provider as defined in the Act on the freedom of the press and the fundamental rules on media content;

15. *entity other than a natural person* means a legal person or an organisation without legal personality having the capacity to be a party on the basis of a legal provision;

16. *preparatory document* means a written statement of defence, reply document, rejoinder, preparatory procedural document, statement of counter-claim, or set-off document;

17. *personal status* means the set of factors defining the personal nature, and personal and family relations of a person;

18. *property dispute* means an action in which the enforced claim is based on the property rights of a party, or its value can be expressed as a sum of money;

19. *undertaking* means an undertaking as defined in the Ptk.

(2) For the purposes of this Act, an organisational representative in accordance with the Ptk. shall also qualify as a statutory representative.

CHAPTER III

COURTS; DISQUALIFICATION

3. Proceeding courts

Section 8 *[The proceeding court]*

(1) The following courts shall proceed in the first instance:

a) the district courts, and

b) the regional courts.

(2) The following courts shall proceed in the second instance:

a) the regional courts if the case was heard by a district court,

b) the regional court of appeal if the case was heard by a regional court, and

c) the Curia if the case was heard by a regional court of appeal.

(3) The Curia shall proceed as court of review.

(4) The provisions laid down in this Act concerning district courts shall also apply to the Budapest district courts.

4. Composition of courts

Section 9 *[Composition of the court]*

(1) Unless otherwise provided by an Act, a court of first instance shall consist of a single professional judge (hereinafter "sole judge").

(2) In cases specified by an Act, the court of first instance shall proceed in a panel consisting of one professional judge as panel chair and two lay judges.

(3) Lay judges shall be involved in the proceedings if their participation is required by an Act in connection with the adjudication of a claim enforced in a single action or joined actions, or of a counter-claim or set-off.

(4) The court of second instance shall proceed in a panel of three professional judges.

(5) The Curia shall proceed in a panel of three professional judges in the course of a review procedure. The Curia may order that a case be heard by a panel of five professional judges, if justified by the extraordinary complexity or special social significance of the case.

Section 10 *[Rights and obligations of members of the court]*

(1) A sole judge may take all measures and adopt all decisions that are conferred on the court or the chair by an Act.

(2) In matters falling within the material jurisdiction of a court panel, the chair may outside the hearing take all measures and adopt, except for judgments, all decisions that are conferred on the court by an Act. In the course of the hearing, the chair shall only be allowed to take the measures and adopt the decisions that are explicitly conferred on the chair by an Act.

(3) Professional judges and lay judges shall have the same rights and obligations during the proceedings. The provisions of Acts concerning judges shall apply to both professional and lay judges.

5. Junior judges and administrative court officers

Section 11 *[Junior judges and administrative court officers]*

(1) In matters falling within the material jurisdiction of a court of first instance, a junior judge may proceed outside the hearing instead of the sole judge or the chair, with the exception specified in paragraph (4).

(2) A junior judge shall be entitled to conduct the evidentiary procedure in the capacity of the requested court. In such an event, the provisions laid down in this Act concerning court proceedings shall apply to the procedure of the junior judge.

(3) In the cases specified in paragraphs (1) and (2), the junior judge shall have independent signatory rights, unless otherwise provided by an Act. A junior judge may take all measures and adopt, except for judgments, all decisions that are conferred on the court or the chair by an Act.

(4) A junior judge may not adopt a decision on provisional measures.

(5) In cases specified by law, an administrative court officer may proceed outside the hearing with independent signatory rights, and subject to the direction and supervision of a judge. In such an event, the provisions laid down in an Act concerning court proceedings shall also apply to the proceedings of the administrative court officer.

(6) The provisions on the disqualification of judges shall apply to the disqualification of junior judges and administrative court officers.

6. Disqualification of judges and courts

Section 12 *[Disqualification of a judge]*

The following persons shall be disqualified from administering the action and shall not be allowed to participate in it as a judge:

a) a party, a person entitled or subject to the same right or obligation as a party, a person who demands the subject matter of the action or any part thereof for himself, or a person whose rights or obligations may be affected by the outcome of the action,

b) a representative or supporter of a person mentioned in point *a)*, or a former representative or supporter who was involved in the case,

c) a relative of a person specified in points *a)* or *b)*,

d) a person who was ordered by the court to be interviewed as a witness in the action, who was officially appointed as an expert by the court during the action or who delivered an expert opinion concerning the action,

e) a person who conducted any mediation procedure concerning the action, or

f) a person who may not be expected to assess the matter objectively for any other reason.

Section 13 *[Disqualification of judges from procedural remedy proceedings]*

(1) A judge who participated in the adjudication of the matter at first instance shall also be disqualified from the adjudication of the matter at second instance.

(2) A judge shall also be disqualified from the adjudication of a retrial if he participated in the proceedings leading to the adoption of the decision subject to retrial.

(3) A judge shall also be disqualified from the adjudication of a review application if he participated in the proceedings leading to the adoption of the decision affected by the review application.

Section 14 *[Disqualification of a court]*

(1) A district court, regional court, or regional court of appeal shall be disqualified from the action if

a) it is a party to the action, it is entitled or is subject to the same right or obligation as a party, it demands the subject matter of the action or any part thereof for itself, or its rights or obligations may be affected by the outcome of the action, or

b) its president or vice-president is disqualified under section 12 *a)*, *b)* or *c)*.

(2) The grounds for disqualification specified in paragraph (1) shall also apply to those courts without legal personality where the general employer's rights over the judges are exercised by the president of the court affected by the action.

(3) The sole fact that

a) other proceedings between the party and the proceeding court are pending,

b) a request for the extension of the action could be rejected if the court involved in the matter at the first or second instance were to be involved in the action, or

c) the action is brought by virtue of law against a person acting within his administrative, judicial or prosecutorial powers, for an activity subject to the liability obligation of the employer, infringing personality rights, or causing damage, even if the person acting within his judicial powers acted for the proceeding court

shall not in itself serve as a ground for disqualification of the proceeding court.

Section 15 *[Notification of a request for disqualification]*

(1) A judge shall notify the president of the court without delay of any ground for disqualification against him, specifying that ground. If the judge intends to give notice of a ground referred to in section 12 *f)*, his statement shall be justified in writing.

(2) A notice of a ground for disqualification may also be given by a party. Such a notice may be given in any phase of the proceedings up until the adoption of a decision closing the proceedings; the reason referred to in section 12 *f)* may not be notified after commencing a hearing unless the notifying party substantiates that he became aware of the fact serving as ground for the notice after the commencement of the hearing, and that he acted without delay after becoming aware of that fact.

Section 16 *[Handling of requests for disqualification as an administrative matter]*

(1) The court shall seek to ensure *ex officio* that a disqualified judge or court is not involved in the proceedings.

(2) If there is a ground for disqualification, the president of the court shall initiate disqualification *ex officio*.

(3) If a judge gives notice of a ground for disqualification against himself or acknowledges a ground for disqualification notified by a party, the president of the court shall arrange for the appointment of another judge or panel. In such a situation, no separate decision on disqualification shall be required.

Section 17 *[Handling of requests for disqualification as a judicial matter]*

(1) If the issue of disqualification is not handled as an administrative matter, it shall be decided upon outside the hearing

a) if it concerns a sole judge, by another sole judge proceeding at the same instance at the same court,

b) if it concerns the chair or a member of a panel, by another panel proceeding at the same instance at the same court.

(2) If the same court does not have a judge or panel that is not affected by the ground for disqualification, or if the ground for disqualification applies to the entire court, the matter of disqualification shall be decided upon by the court of second instance, by the regional court of appeal regarding a ground concerning a regional court as court of second instance, or by the Curia regarding a ground concerning a regional court of appeal as court of second instance.

(3) If the notice was not given by the judge himself, his statement shall be obtained before adopting a decision.

(4) A complaint against the dismissal of a request for disqualification may only be filed as part of the appeal against the decision closing the proceedings.

Section 18 *[Other rules on disqualification]*

(1) A judge reporting a ground for disqualification against himself may not proceed in the action until the notice of disqualification is dealt with. In any other situation, the judge concerned may proceed, but may not participate in the adoption of a decision on the merits until the notice regarding a ground for disqualification specified in section 12 *a)* to *e)* is dealt with. This restriction shall not apply if the same party gives another notice against the judge in the same action after the dismissal of the request for disqualification.

(2) If a party gives a manifestly unfounded notice of disqualification, or repeatedly gives an unfounded notice of disqualification against the same judge during the same action, the court shall impose a fine upon that party in its decision to dismiss the request for disqualification.

(3) The provisions on the disqualification of judges shall also apply to the disqualification of keepers of the minutes.

(4) The issue of disqualification shall be decided upon by the court as a matter of priority.

Section 19 *[Disqualification in actions concerning an order for payment procedure]*

A person shall be disqualified from and may not be involved as judge in the adjudication of an action related to an order for payment procedure, if he was involved in the matter as a notary, a deputy notary acting on behalf of his employer notary, and the relatives of such persons.

CHAPTER IV

MATERIAL AND TERRITORIAL JURISDICTION OF COURTS

7. Material jurisdiction

Section 20 *[The material jurisdiction of courts]*

(1) Regional courts shall have material jurisdiction over those actions the adjudication of which is not conferred on district courts by an Act.

(2) Regional courts in their capacity as labour courts shall have material jurisdiction over labour law actions.

(3) District courts shall have material jurisdiction over

a) property disputes, if the value of the subject matter of the action does not exceed thirty million forints or the value of the claim based on a property right cannot be determined, with the exception of

aa) actions related to copyright, neighbouring rights and industrial property rights,

ab) actions brought for the payment of damages related to the exercise of official authority, and of grievance awards,

ac) actions brought in the public interest,

ad) actions concerning the formation and lawful operation of a legal person,

ae) disputes between legal persons and their current or former members, and disputes between current or former members arising from their membership relations,

b) actions related to personal status,

c) enforcement actions.

(4) If a co-litigant or the adjudication of the claim falls within the material jurisdiction of a regional court then the action shall fall within the material jurisdiction of that regional court, provided that the joinder of parties or the joinder of claims is allowed by an Act.

8. Value of the subject matter of the action

Section 21 *[Calculating the value of the subject matter of the action]*

(1) With the exception specified in paragraph (3), the value of the subject matter of the action shall be equal to the value of the claim or other right enforced in the action.

(2) The value of a claim or other right shall be equal to

a) the value of the consideration specified in the contract, if the action is for establishing the existence, non-existence, effectiveness, non-effectiveness, validity or invalidity of a contract,

b) the value of the agreed and yet to be performed consideration, if the action is for establishing or dissolving a contract,

c) the value of the disputed thing, part of the thing, or *in-rem* right, if the action concerns an *in rem* right,

d) the value of the secured claim or the value of the security, if the action is for securing a claim, whichever is lower,

e) the value of the claim or the value of the concealed assets, if the action is for establishing the non-effectiveness of a contract aimed at concealing assets, whichever is lower.

(3) Notwithstanding the provisions laid down in paragraphs (1) and (2), the value of the subject of the dispute shall be equal to

a) the value of the service to be provided during one year, if the action seeks the provision of service which is not overdue and the term of which cannot be specified in advance but is to be provided periodically,

b) the value of the consideration to be performed during one year, if the action is filed for any of the reasons specified in paragraph (2) *a)* and *b)*, where the consideration stipulated in the contract cannot be specified in advance and is to be performed periodically.

(4) For the purpose of calculating the value of the subject matter of the action, any claim for interest and other charges not enforced on their own shall be ignored. This provision shall also apply if a claim for interest is accompanied by any other claim for interest that is payable on the claim for interest.

(5) If multiple claims or rights are enforced by any of the parties in the same action, the value of such claims and rights shall be aggregated for the purpose of calculating the value of the subject matter of the action. The value of the subject matter of the action shall be equal to the value of the most valuable claim or right, if there is a *quasi* material joinder of claims.

Section 22 *[Determining the value of the subject matter of the action]*

(1) The value of the subject matter of the action shall be determined in forints.

(2) The value of the subject matter of the action shall be determined, and substantiated at the same time, by the plaintiff, in accordance with the provisions of section 21 as of the time of enforcement of the claim.

(3) If the value determined by the plaintiff is inconsistent with common knowledge or the official knowledge of the court, is otherwise unlikely or is disputed by the defendant, the value of the subject matter of the dispute shall be determined by the court.

9. Examination of material jurisdiction

Section 23 *[Taking the value of the subject matter of the action into account]*

(1) For the purpose of establishing the material jurisdiction of the court, the value of the subject matter of the action as of the time of filing the statement of claim shall be taken into account. The court shall also have material jurisdiction over the action if it would fall within the material jurisdiction of the court due to any change in the value of the subject matter of the action after the statement of claim was filed.

(2) If the value of the claim is increased, the material jurisdiction shall be established on the basis of the increased value; the material jurisdiction of the court shall not be affected by any decrease in the value.

Section 24 *[Taking the lack of material jurisdiction into account]*

(1) The lack of material jurisdiction shall be taken into account by the court *ex officio*. If material jurisdiction is dependent on the value of the subject matter of the action, the lack of material jurisdiction shall not be taken into account after the submission of the written statement of defence.

(2) If an administrative court establishes its material jurisdiction, this decision shall be binding for the court proceeding in a matter falling within the scope of this Act.

(3) The enforceability of a claim for compensation for damages caused by exercising public administrative powers shall be subject to the condition that the violation of law is established by the administrative court with final and binding effect, if the administrative judicial route is available.

10. Territorial jurisdiction

Section 25 *[General territorial jurisdiction]*

(1) The court for the place where the defendant resides shall have territorial jurisdiction over all actions that do not fall within the exclusive territorial jurisdiction of another court.

(2) In the absence of a domicile in Hungary, territorial jurisdiction shall depend on the defendant's place of residence in Hungary; if the place of residence of the defendant is unknown or is in another country, territorial jurisdiction shall depend on the last domicile in Hungary; if the last domicile in Hungary cannot be determined or the defendant has not had one, territorial jurisdiction shall depend on the plaintiff's domicile in Hungary; in the absence thereof, territorial jurisdiction shall depend on the plaintiff's place of residence in Hungary; if the plaintiff is an entity other than a natural person, territorial jurisdiction shall depend on its seat in Hungary.

(3) If the defendant's place of work is not the same as his domicile, the court, if so requested by the defendant in his written statement of defence at the latest, shall transfer the case for hearing and adjudication to the court for the place of work.

(4) In an action against an entity other than a natural person, beyond the seat of that entity, general territorial jurisdiction may also be established on the basis of the place of operation of the body or organisational unit that proceeded in the case which is the subject of the legal dispute and is authorised to represent the entity. In case of doubt, the place of administration shall be considered to be the seat. If the seat of an entity other than a natural person is located in Budapest, while its scope of operation covers Pest county, the court having territorial jurisdiction over the territory of Pest county shall proceed in the action.

(5) If an entity other than a natural person does not have a seat in Hungary, territorial jurisdiction shall depend on the seat or, applying the provisions laid down in paragraph (4), the place of operation of the plaintiff, provided that the action was brought by a plaintiff other than a natural person established in Hungary. If the plaintiff is a Hungarian natural person, territorial jurisdiction of a court may also be established on the basis of the plaintiff's domicile or, in the absence of such, his place of residence.

Section 26 *[Exclusive territorial jurisdiction]*

(1) Unless otherwise provided by an Act, a binding legal act of the European Union or an international convention, an action brought by an undertaking against a consumer for the enforcement of a claim arising from a contractual relationship shall fall within the exclusive territorial jurisdiction of the court of the domicile in Hungary of the defendant. In the absence of a domicile in Hungary, exclusive territorial jurisdiction shall depend on the defendant's place of residence in Hungary; if the place of residence of the defendant is unknown or it is in another country, such territorial jurisdiction shall depend on the last domicile in Hungary. If the last domicile in Hungary cannot be determined, territorial jurisdiction shall be established in accordance with the general rules.

(2) If, according to a provision of an Act related to liability insurance contracts, an injured person is entitled to enforce his claim for damages or grievance award against a third party other than the person causing the damage, the action brought against the third party shall fall within the exclusive territorial jurisdiction of the court for the place where the plaintiff has his domicile in Hungary or, in the absence of such, his place of residence in Hungary, or, if the plaintiff is an entity other than a natural person, where it has its seat in Hungary, unless otherwise provided by an Act, a binding legal act of the European Union or an international

convention. If the plaintiff does not have a domicile, place of residence or seat in Hungary, territorial jurisdiction shall be established in accordance with the general rules.

Section 27 *[Choice of court made by the parties]*

(1) In property disputes, unless otherwise provided by an Act, the parties may agree on the territorial jurisdiction of a court to assess their legal dispute or their future legal dispute that may arise from a specified legal relationship. The parties may conclude such an agreement

a) in writing,

b) orally, with written confirmation,

c) in a form that is consistent with the established business practices of the parties,

d) in the course of international trade, in a form that is consistent with commercial customs with which the parties were or should have been familiar, and which is commonly known and regularly applied by persons concluding such contracts in the given business sector.

(2) Unless otherwise provided by an Act or the parties, the chosen court shall have exclusive territorial jurisdiction.

(3) The agreement shall also be binding for any legal successors.

(4) No choice-of-court clause shall be stipulated if the case is assigned to the exclusive territorial jurisdiction of a court by an Act.

(5) A choice-of-court clause shall not prevent a consumer from enforcing his contractual claim against an undertaking before the court of his own domicile or, in the absence of such, the court of his own place of residence.

(6) In property disputes, the parties, for their legal dispute or a future legal dispute that may arise from a specified legal relationship, shall not agree to the territorial jurisdiction of

a) the Budapest-Capital Regional Court or the Budapest Environs Regional Court in matters that fall within the material jurisdiction of regional courts,

b) the Pest Central District Court in matters that fall within the material jurisdiction of district courts.

Section 28 *[Alternative territorial jurisdiction]*

(1) In the absence of exclusive territorial jurisdiction, the plaintiff may, at his own discretion and instead of the court having general territorial jurisdiction over the defendant, bring the action before the court of

a) the domicile of the person entitled to enforce the claim, if the action is for imposing a maintenance obligation on the basis of an Act,

b) the location of the immovable property, if the action is related to the ownership or possession of immovable property, or to an *in rem* right encumbering the immovable property,

c) the place of concluding the transaction or performing the service, if the action is for enforcing a contractual claim,

d) the domicile in Hungary or, in the absence thereof, the Hungarian place of residence of the plaintiff, if the action is for enforcing the contractual claim of a consumer against an undertaking,

e) the geographical location where the damage was caused or arose, if the action is for claiming compensation arising from non-contractual damage.

(2) In the absence of exclusive territorial jurisdiction, property disputes shall fall within the territorial jurisdiction of the court for the place where the defendant resides under circumstances indicating a degree of permanency.

(3) The territorial jurisdiction regulated in paragraph (2) may not be applied if the defendant does not have procedural capacity to act.

(4) A property action against a foreign entity other than a natural person may also be filed before the court for the place where the person in charge of the affairs of the foreign entity

other than a natural person resides, and the court of the seat of the Hungarian branch or commercial agency of the foreign entity other than a natural person shall also have territorial jurisdiction over such property actions.

Section 29 *[Territorial jurisdiction in the case of a joinder of parties]*

(1) An action against a secondary obligor together with the primary obligor may also be brought before a court having territorial jurisdiction on any grounds over the action against the primary obligor.

(2) If a person claims for himself the subject matter, or any part thereof, of an action pending between other persons, the court proceeding in that pending action shall have territorial jurisdiction over the action brought by that person against such persons to enforce his claim.

(3) In a case not falling within the scope of paragraphs (1) or (2), and unless the parties have agreed on territorial jurisdiction, the action may be brought against all defendants before a court competent with regard to any of the defendants, if the conditions for suing the parties jointly are met in accordance with the rules pertaining to the joinder of parties.

Section 30 *[Examination and scope of territorial jurisdiction]*

(1) For the purpose of establishing the territorial jurisdiction of a court, the time of submitting the statement of claim shall be taken into account. The court shall also have territorial jurisdiction over the action if it would fall within the territorial jurisdiction of that court due to any change after the submission of the statement of claim.

(2) The lack of territorial jurisdiction shall be taken into account by the court *ex officio*. If territorial jurisdiction is not exclusive, the lack of territorial jurisdiction shall not be taken into account after the written statement of defence is submitted.

(3) The court shall not examine the accuracy of the statements of fact presented for establishing territorial jurisdiction or the absence thereof, unless they are inconsistent with the common knowledge or the official knowledge of the court, or they are challenged by the opposing party.

11. Appointment of the proceeding court

Section 31 *[Cases of appointment; courts entitled to appoint the proceeding court]*

(1) If a final and binding decision gives rise to a conflict of material or territorial jurisdictions, or if the competent court cannot be determined or may not proceed due to disqualification, the proceeding court shall be appointed as a matter of priority.

(2) The matter of appointment shall be decided, applying the rules pertaining to material and territorial jurisdiction and with the exception specified in paragraph (3), by

a) the regional court, if the conflict arose between district courts within its area, and if another district court within its area may be appointed in the event of disqualifying a district court within its area,

b) the regional court of appeal in cases not falling under point *a)*, if the conflict arose between district courts or regional courts within its area, and if another district court or regional court within its area may be appointed in the event of disqualifying a district court or regional court within its area,

c) the Curia in cases not falling under points *a)* and *b)*.

(3) If a conflict of material jurisdictions arises between a court proceeding in a matter falling within the scope of this Act and an administrative court, the appointment of the proceeding court shall be subject to the rules applicable to administrative court procedures.

Section 32 *[Rules relating to the appointment procedure]*

(1) If the competent court cannot be determined, the party may submit a request for appointment to any court; otherwise, the court proceeding in the dispute shall submit a request for appointment *ex officio*.

(2) The court may also decide on the matter of appointment without obtaining the parties' opinion.

CHAPTER V

THE PARTIES AND OTHER PERSONS IN THE PROCEDURE

12. Procedural capacity

Section 33 *[Capacity to be a party]*

If a person may enjoy and be bound by rights and obligations under the rules of civil law, he may be party to a court action.

Section 34 *[Procedural capacity to act and statutory representation]*

(1) A person may participate as a party, personally or through an agent, in an action if

a) he has full capacity to act under the rules of civil law,

b) he is an adult with partially limited capacity to act, whose civil law capacity to act is not restricted regarding the subject matter of the action or the procedural acts to be performed in the course of the action, or

c) he may validly avail of the subject of the action under the rules of civil law.

(2) A party shall act through his statutory representative in the action if

a) the party does not have any procedural capacity to act,

b) the statutory representative was ordered for the party without limiting his capacity to act, unless the party acts personally or through an agent, or

c) the party is an entity other than a natural person.

Section 35 *[Examination of the capacity to be a party to and the capacity to act in the court procedure]*

(1) In case of any doubt, the court shall examine *ex officio* the parties' capacity to be parties to and act in the action, as well as the status of the statutory representative or supporter, at any phase of the proceedings. The court shall also examine *ex officio* and at any phase of the proceedings whether the specific authorisation of the statutory representative that may be required for the whole procedure or for certain acts in the court proceedings to be carried out has been certified.

(2) Certification shall not be required regarding the capacity to be a party to or act in the action, statutory representation, supporter status, or authorisation, if it is common knowledge or the court has official knowledge thereof.

13. Joinder of parties

Section 36 *[Compulsory joinder of parties]*

If the participation of certain persons specified by law in the action is compulsory, or if the subject matter of the action is a common right or obligation that may be decided upon as a unit only, the persons concerned shall participate in the action as parties. If this obligation to participate leads to the involvement of multiple plaintiffs or defendants in the action, a compulsory joinder of parties shall be established.

Section 37 *[Permissive joinder of parties]*

Multiple plaintiffs may bring an action together, and multiple defendants may be sued together if

a) the *res judicata* effect of the judgment adopted on the matter would apply to the co-litigants, even without their involvement in the action,

b) the claims in the action arise from the same legal relationship, or

c) the claims in the action arise from a similar factual and legal basis, and the territorial jurisdiction of the same court may be established with respect to all defendants, even without applying the provisions of section 29.

Section 38 *[The interdependence of co-litigants]*

(1) If a joinder of parties is established according to section 36 or 37 *a)*, any act taken in the court proceedings by a co-litigant, except for concluding a settlement, acknowledgement, or waiver of a right, by a co-litigant during the proceedings shall also be effective with regard to any other co-litigant who has missed a time limit or due date, or omitted to perform an act in the court proceedings without subsequently rectifying that omission.

(2) If, in the case of a joinder of parties according to section 36 or 37 *a)*, the acts or statements made in the court proceedings by the co-litigants are inconsistent with each other, such acts and statements shall be assessed by the court taking the other information related to the case into account as well.

(3) If a joinder of parties is established according to section 37 *b)* or *c)*, a co-litigant, who is also entitled under civil law to enforce a complaint raised by another co-litigant, shall have the legal standing specified in paragraphs (1) and (2) with regard to the acts in the court proceedings concerning such complaints.

Section 39 *[The independence of co-litigants]*

(1) If a joinder of parties is established in accordance with section 37 *b)* or *c)*, an act or omission by a co-litigant in the proceedings shall not affect the other co-litigants.

(2) If a joinder of parties is established in accordance with section 37 *b)* or *c)*, a summons for a specific due date and a decision on the merits shall also be communicated to the co-litigants who are not affected directly; in the event of separating the hearing, summons to co-litigants who are not directly affected may be omitted.

Section 40 *[Joining the claim]*

(1) If a joinder of defendants is established in accordance with section 36, any defendant who does not oppose the fulfilment of the claim may join the claim before the order closing the preparatory stage is adopted. If the court permits such joining the claim, the statement of joining the claim shall not be withdrawn after the order closing the preparatory stage is adopted.

(2) For the purpose of applying the provisions on costs and taking evidence, the defendant joining the claim shall be considered a party with identical interests with respect to the plaintiff, and a party with opposing interests with respect to any other defendant who has not joined the claim.

(3) If making the statement of joining the claim is incompatible with the requirement of exercising rights in good faith, the court shall dismiss the request to join the claim. If the defendant exercises his right to join the claim in bad faith after he was permitted to join the claim, the court shall ignore the respective acts of the defendant in the court proceedings or shall assess them by taking the other information related to the case into account as well. The reasons for its decision adopted on the basis of this paragraph shall be provided by the court in the judgment at the latest.

(4) An act taken in the court proceedings by a defendant who joined the claim shall not have any effect on a co-litigant who has missed a time limit or due date or omitted to perform an act in the court proceedings.

(5) If a defendant who joined the claim loses the dispute, he shall pay only those litigation costs that arose due to his own acts in the court proceedings.

14. Intervention in the action

Section 41 *[Voluntary intervention]*

(1) If a person has a legal interest in the outcome of a pending action between other persons, he may intervene in the action in order to facilitate the success of the party with identical interests.

(2) With the exception specified in paragraph (3), the intervention shall be notified to the court before the order closing the preparatory stage is adopted. A statement made after the expiry of this time limit shall be ineffective.

(3) If the *res judicata* effect of the judgment adopted in the case also applies by virtue of law to the legal relationship between the intervenor and the opposing party, and if the intervenor, without any fault on his part, becomes aware of his legal interest in the success of a party only after the order closing the preparatory stage is adopted, he may intervene in the action within thirty days of becoming aware, while substantiating the date of becoming so. In the situation specified in this paragraph, intervention shall only be possible before the closure of the hearing preceding the adoption of the first instance judgment.

Section 42 *[Notice of intervention]*

Intervention shall be notified to the court in writing, or orally during the hearing. The intervenor shall identify the party whose success he seeks to facilitate, and he shall also indicate the legal interest he has in the success of that party.

Section 43 [*Decision on the intervention; disqualification of the intervenor*]

(1) The parties shall be informed of the notice of intervention. Before adopting a decision, the court shall interview the parties and the intervenor regarding permission to intervene, if necessary.

(2) If it becomes apparent during the action that intervention should not have been permitted, or that the legal interest serving as the basis for intervention no longer exists for any reason, the court shall exclude the intervenor from the action after interviewing him and the parties.

(3) If the *res judicata* effect of the judgment adopted in the case also applies by virtue of law to the legal relationship between the intervenor and the opposing party, the intervenor may file a separate appeal against a decision dismissing his request for intervention or excluding him from the action; the intervenor may exercise his procedural rights until the decision on exclusion from the action is dealt with final and binding effect.

(4) If the time limits for appealing and making observations have expired for all parties, or if all parties filed their appeals and made their observations without any deficiencies, the appeal filed against the decision dismissing a request for intervention or excluding an intervenor from the action according to paragraph (3), as well as any other necessary litigation document, shall be forwarded by the court of first instance to the court of second instance within eight days, and the appeal shall be decided by the court of second instance within fifteen days of receipt.

Section 44 *[Certain procedural rules relating to intervention; the legal standing of an intervenor]*

(1) The intervenor may exercise his procedural rights after the decision approving the intervention is adopted.

(2) Decisions and documents that are to be communicated to the parties, as well as summons to a hearing, shall be communicated to the intervenor as well. If it becomes necessary to interview the intervenor, the intervenor shall be interviewed by the court in accordance with the rules relating to the personal interview of a party.

(3) If intervention is notified before the order closing the preparatory stage is adopted, the court shall not close the preparatory stage unless

a) a final and binding decision is adopted on the issue of intervention, and

b) the intervenor was given the possibility to make any statement that may be made at the preparatory stage, and the parties were given the possibility to react to such statements.

(4) If the intervention in accordance with section 41 (3) is carried out after the order closing the preparatory stage is adopted then supplementing the preparatory stage shall not be ordered; however, the intervenor may file a motion for evidence and may present evidence within fifteen days of the decision approving intervention being communicated. Any motion for evidence and evidence filed or presented after this time limit shall be ignored by the court.

(5) With the exception of settlement, acknowledgement or waiver of a right, an intervenor may perform any act that the party he supports is entitled to perform, but such acts shall not be effective unless the party omits to perform the same act or the acts of the intervenor are not inconsistent with the acts of the party. If the *res judicata* effect of the judgment adopted in the case also applies by virtue of law to the legal relationship between the intervenor and the opposing party, an act performed by the intervenor shall be effective even if it is inconsistent with the acts of the supported party; the impact of such inconsistent acts shall be assessed by the court taking the other information related to the case into account as well.

(6) If legal representation is mandatory during the procedure, the provisions laid down in this Act regarding mandatory legal representation shall also apply to the intervenor.

Section 45 *[The conditions and notice of impleading]*

(1) If a party seeks to enforce a claim against a third party in the event of being unsuccessful in the action, or if a party anticipates a claim to be raised against him by a third party in the same situation, he may implead the third party concerned. Impleading may also be exercised by the intervenor or the impleaded party.

(2) With the exception specified in paragraph (3), impleading shall be notified to the court

a) by the defendant within forty-five days of communicating the claim or within the time limit extended by the court for submitting a statement of defence,

b) by the plaintiff, within thirty days of the written statement of defence against the claim, the statement of counter-claim or the set-off against the claim being communicated to him,

c) by a person who joined or was added to the action after the onset of the legal effects of bringing the action, within thirty days of joining the action;

however, only before the order closing the preparatory stage is adopted.

(3) If an amendment of the action or an amendment of the statement of defence is submitted subsequently during the preparatory stage, impleading shall be notified within thirty days of communicating the amendment, but only before the order closing the preparatory stage is adopted.

(4) A statement of impleading made after the time limit specified in paragraphs (2) or (3) shall be ineffective.

(5) Impleading shall be notified to the court in writing, or orally during the hearing, indicating at the same time the reason for impleading. The impleading party shall inform the impleaded party of the impleading in writing, indicating the reason for impleading and briefly describing the status of the action. The fact and date of receipt of the communication by the impleaded party shall be confirmed by the impleading party by submitting a document when

giving notice of impleading. The impleading shall be communicated to the opposing party as well.

(6) If the impleaded party does not notify the court of the acceptance of impleading within thirty days of its certified communication, it shall be deemed that the impleaded party does not accept the impleading. Statements made after the expiry of this time limit shall be ineffective.

(7) If the notice of impleading given by a party is effective, the court may not close the preparatory stage until either the impleaded party notifies the court of his acceptance of the impleading within thirty days of its certified communication, or, failing this, this time limit expires without result.

Section 46 *[Other rules on impleading]*

(1) If the impleaded party accepts the impleading, he may join the impleading party as an intervenor; doing so shall be notified to the court in writing, or orally during the hearing. The rules relating to intervention shall apply to the permission to join the impleading party and to the legal standing of the impleaded party.

(2) The acceptance of impleading shall not imply that the impleaded party acknowledges his obligation toward the impleading party. The legal relationship between the impleading party and the impleaded party shall not be adjudicated in this action.

15. Changes in the person of the parties

Section 47 *[Legal succession in the action]*

(1) If, in the legal relationship that is the subject of the action, after the submission of the statement of claim, a party is replaced by a legal successor by virtue of law, the legal successor may join the action voluntarily as a party, or the legal successor of the defendant may be involved in the action by the opposing party.

(2) The legal successor of the plaintiff may only be involved in the action if the legal succession is due to the death of the plaintiff or its termination with succession.

(3) The consent of the plaintiff shall be required for the plaintiff's legal successor to join the action voluntarily, and the consent of both parties shall be required for the defendant's legal successor to join the action voluntarily. Such consent shall not be required if joining the action is due to the death or termination with succession of the legal predecessor, or if the legal succession in the action is based on a legal provision; however, the succession shall be substantiated.

Section 48 *[Rules on the succession procedure]*

(1) The request for the legal successor's joining or involvement in the action shall be notified to the court in writing, or orally during the hearing; this notice shall also be communicated to the parties and the legal successor involved.

(2) The court may interview a party before deciding on the matter of the legal predecessor's joining, involvement in, or dismissal from, the action, even if the consent of that party is not required.

(3) If a legal successor joins or is involved in the action for a reason other than the death or termination of his legal predecessor, the legal predecessor shall be dismissed from the action at his request and subject to the consent of the opposing party.

(4) If joining or involving in the action is in compliance with the provisions of this Act then it shall be permitted by the court, otherwise the request shall be rejected.

(5) The legal successor shall replace his legal predecessor that was dismissed from the action; the acts performed in the court proceedings and the court decisions adopted up until the dismissal of the legal predecessor shall also be effective against the legal successor.

(6) If the legal predecessor is not dismissed from the action, the legal successor shall participate in the action as co-litigant of his legal predecessor.

Section 49 *[Claims for the subject matter of the action]*

(1) If a third party claims the subject matter of the action in whole or in part for himself, either as a legal successor or under any other title, the defendant may initiate the addition of that third party claimant to the action prior to the order closing the preparatory stage being adopted.

(2) Initiating the addition of a third party claimant to the action shall be notified to the court in writing, or orally during the hearing, simultaneously with indicating the reason for initiating the addition.

(3) Simultaneously with notifying the court of initiating the addition, the defendant shall present a document confirming that the subject matter of the action was deposited with the court, and the right to reclaim shall be waived.

(4) The statement on initiating the addition shall be communicated to the claimant and the plaintiff, and the claimant shall be informed briefly of the status of the action. If the claimant does not make any statement to the court on joining the action within thirty days of the call of the court being communicated, it shall be deemed that the claimant does not wish to join the action. A statement made after the expiry of this time limit shall be ineffective.

(5) If the claimant states his intent to join the action within the time limit specified in paragraph (4), and the subject matter of the action was deposited with the court and the right to reclaim was waived by the defendant for the purpose of performance, the court shall permit the claimant to join and shall simultaneously dismiss the defendant from the action. The action shall be continued between the plaintiff and the claimant as the new defendant. If initiating the addition of a third party claimant to the action does not comply with the provisions of this Act, initiating the addition shall be rejected by the court.

Section 50 *[Designation of a predecessor]*

(1) If an action is brought against a defendant concerning a right exercised by him in the name of a third party, the defendant may initiate the addition of that third party to the action before the order closing the preparatory stage is adopted.

(2) In the event of initiating such an addition in accordance with paragraph (1), the provisions of section 49 (2) and (4) shall apply.

(3) If the third party acknowledges that the disputed right is exercised by the defendant in his name, and he states his intent to join the action within thirty days of the call of the court being communicated, the court shall permit him to join the action and shall dismiss the defendant from the action at his request and subject to the consent of the opposing party. The action shall be continued between the plaintiff and the third party taking the place of the defendant. If the initiation of adding the third party to the action does not comply with the provisions of this Act, initiating the addition shall be rejected by the court.

Section 51 *[Erroneous litigation]*

If the plaintiff brought the action against someone other than the person against whom the claim can be enforced, he may involve another person specified by him in the action as defendant before the order closing the preparatory stage is adopted. If the court permits such involvement it shall communicate the action to the person specified by the plaintiff as defendant, and shall dismiss the previous defendant from the action, provided that the court has material and territorial jurisdiction over the new defendant. If the request for involvement does not comply with the provisions of this Act, the request shall be rejected by the court.

Section 52 *[Joining the action as co-litigant in the position of the plaintiff]*

(1) If an action for enforcing the claim of a person is brought by another person or organisation authorised thereto by law (hereinafter jointly "person authorised to bring the action"), or by the prosecutor, the person shall become a party to the action if he joins the action.

(2) A person may join an action brought by another person as a co-litigant of the plaintiff

a) before the order closing the preparatory stage is adopted, if he would have been entitled to bring the action by virtue of law or under section 37 *a)* and *b)*,

b) before the hearing that precedes the delivery of the first instance judgment is closed, if he would have been entitled to bring the action under section 36.

(3) If the acts or statements made in the court proceedings by the co-litigants specified in paragraphs (1) and (2) are inconsistent with each other, except for cases of joining the action under section 37 *b)*, such acts and statements shall be assessed by the court, taking the other information related to the case into account as well.

Section 53 *[Involving further defendants in the action]*

With the exception of legal succession, the plaintiff may involve further defendants in the action

a) before the order closing the preparatory stage is adopted, if a joinder of parties according to section 37 *a)* and *b)* is created,

b) before the hearing that precedes the delivery of the first instance judgment is closed, if a joinder of parties according to section 36 is created.

Section 54 *[Permitting the extension of the action; rejecting a request for extension of the action]*

(1) If joining the action under section 52 (2) or involving in the action under section 53 complies with the provisions of this Act, the joining or involvement shall be permitted by the court, otherwise the request shall be rejected.

(2) The request for joining the action under section 52 (2) or for involvement in the action under section 53 shall be rejected by the court if

a) the change in person would result in a joinder of parties that is not permitted by an Act,

b) the notice of change in person is late, or

c) the person initiating the change in person, despite being called upon by the court to do so, fails to bring an action concerning the change in person that complies with the rules pertaining to the statement of claim.

Section 55 *[Application of a fine concerning the late initiation of a change in person]*

(1) If joining the action under section 52 (2) *b)* or involving in the action under section 53 *b)* takes place after the order closing the preparatory stage is adopted, the party joining the action or initiating the involving shall substantiate that he learned of the necessity of joining or involvement, or of the action, only after the order closing the preparatory stage was adopted, otherwise the court shall impose a fine on that party.

(2) In a case referred to in sections 49 to 51, 52 (2) *a)*, or 53 *a)*, if the preparatory hearing or the adoption of the order closing the preparatory stage needs to be postponed only due to the initiation of adding to, involving in or joining the action, and it can be established on the basis of the available information that postponement became necessary due to an unjustifiably late statement by the party, representative, or other person participating in the procedure who initiated the change in person, the court shall impose a fine upon the person concerned.

Section 56 *[Procedural remedy concerning a change in person]*

(1) In the cases referred to in sections 49 to 51, a separate appeal may be filed against the decision on joining the action and dismissal from the action.

(2) A separate appeal may be filed against a decision rejecting a request for joining, involving in, or dismissal from, the action according to sections 47, 48 and 54.

16. Participation of a supporter in the action

Section 57 *[The rights, obligations and role of a supporter in an action]*

(1) If a supporter or professional supporter (hereinafter "supporter") is appointed for a party by the guardianship authority, the supporter

a) may be present simultaneously with the party at all procedural acts during the action, including a hearing held with the exclusion of the public; however, his absence shall not be an obstacle to the performance of a procedural act or to the continuation of the act,

b) may, in the interest of facilitating a juridical act being made, consult with the party in a manner not disturbing the order of the hearing.

(2) The supporter may not make a juridical act in place of the party supported by him.

(3) The court shall inform the party and the supporter present of the provisions laid down in paragraphs (1) and (2).

(4) The supported party shall arrange for the presence of the supporter at a procedural act, and the court shall not take any measure in this respect.

(5) The decision of the guardianship authority or the certificate confirming the status of the supporter shall be presented to the court at the first procedural act in which the supporter participates together with the supported party.

17. Participation of a prosecutor in the court action

Section 58 *[The competent prosecutor and the prosecutor's proceeding in court actions without a legal representative]*

(1) A prosecutor shall be allowed to proceed before the court if he complies with, and is competent under, the provisions of the Act on the prosecution service.

(2) If legal representation is not mandatory, the rules pertaining to a party acting with a legal representative shall apply to the prosecutor in court actions that he is authorised by an Act to bring, or in court actions that may be brought against him, or in which he is authorised by an Act to take prosecutorial action.

Section 59 *[The prosecutor's general right to bring a court action and to take prosecutorial action]*

(1) While respecting the parties' right of disposal, the prosecutor may bring a court action if the obligee is not capable of defending his rights for any reason.

(2) The prosecutor shall not bring a court action for a right that can only be enforced by a person or organisation specified by law.

(3) If the prosecutor is entitled to the right to bring a court action under paragraph (1), but the circumstances serving as ground for his participation in the proceedings only arise in the course of the court action, the prosecutor may take prosecutorial action. If the statutory conditions for taking prosecutorial action are met, the court shall notify the prosecutor accordingly.

(4) During a court action or in the event of taking a prosecutorial action, the prosecutor shall be entitled to all rights that a party is entitled to, but he may not enter into a settlement or waive or acknowledge any right.

(5) If the acts or statements made in the court proceedings by the prosecutor and the obligee are inconsistent with each other, such acts and statements shall be assessed by the court, taking the other information related to the case into account as well.

(6) Taking prosecutorial action shall be mandatory in an action launched on the basis of a civil claim sent to the court in accordance with the Act on the Code of Criminal Procedure.

(7) If legal representation is mandatory during the proceedings, the participation of a prosecutor shall substitute for the legal representation of the obligee participating in the court action in person.

Section 60 *[The prosecutor's independent right to bring or join a court action under a separate legal provision]*

(1) In a court action which he is entitled to bring independently by virtue of law, or which may be brought against him, the prosecutor shall exercise the rights of a party.

(2) The prosecutor may join a court action brought by another person on the side of the plaintiff before the order closing the preparatory stage is adopted, if he would have been entitled to bring that court action independently.

(3) If the acts or statements made in the court proceedings by the party and the prosecutor are inconsistent with each other, such acts and statements shall be assessed by the court, taking the other information related to the case into account as well.

18. Participation of an interpreter and a translator in the action

Section 61 *[Interpreter and translator]*

(1) The court shall assign an interpreter, sign language interpreter (hereinafter jointly "interpreter") or translator, if doing so is necessary to enforce the rights specified in section 113 or under any language-related provision of this Act.

(2) Unless otherwise provided by law, the provisions laid down in this Act concerning officially appointed experts shall also apply to officially appointed interpreters and translators.

Section 62 *[Need for translation in an action]*

If translation is necessary, a simple translation may be used, unless otherwise provided by law, a binding legal act of the European Union or an international convention. If any doubt arises concerning the accuracy or completeness of the translated text, a certified translation shall be used.

CHAPTER VI

REPRESENTATION

19. Conflict of interests

Section 63 *[Disqualification from representation; representation in the event of conflict of interests]*

(1) A representative may not proceed in the action if the party with opposing interests is himself or another person represented by him.

(2) If there is a conflict of interests as specified in paragraph (1) between a party other than a natural person and its statutory representative being a party with opposing interests, a guardian *ad litem* shall be appointed to represent the party, unless otherwise provided by an Act. In such a situation, the fee for the guardian *ad litem* shall be advanced by the plaintiff.

20. Agents

Section 64 *[Agents; authorisation given to more than one person]*

(1) Unless otherwise provided by an Act regarding certain acts in the court proceedings, an agent authorised by the party or by his statutory representative may act as the representative of the party.

(2) If an authorisation is given to more than one person, any of the agents may represent the party, but only one agent may proceed regarding each individual act or statement in the court proceedings; any stipulation to the contrary shall be ineffective. Any inconsistency regarding the statements and acts made by the agents shall be assessed by the court as if the

inconsistency arose regarding the statements and acts made by the party himself. Disadvantages arising from such conflicting statements shall not serve as grounds for any legal remedy.

Section 65 *[Persons entitled to act as agent in an action]*

The following persons may act as agents in an action:

a) attorneys-at-law and law offices,

b) registered in-house legal counsels, within the scope of the Act on the professional activities of attorneys-at-law,

c) relatives of the party,

d) co-litigants and representatives of co-litigants of a party,

e) employees of administrative organs, other budgetary organs, economic operators or entities other than natural persons in actions related to the activities of their employer,

f) employees of local government organs in actions related to the functions and powers of the local government or its organ, as well as, in the same actions, officers specified in the organisational and operational regulations of the local government organ, including local government representatives, if the action considering its subject matter falls within the scope of matters specified in the regulations in which the officer is entitled to take action, and

g) persons authorised to do so by virtue of law.

Section 66 *[Persons disqualified from serving as agent]*

The following persons may not act as agent:

a) persons below the age of eighteen,

b) persons excluded from participating in public affairs by a final and binding court judgment,

c) persons placed under custodianship by a court with final and binding effect regarding matters including the subject matter of the action or the procedural acts.

Section 67 *[Form-related requirements for authorisations]*

(1) An authorisation shall be given in writing or shall be recorded in the minutes. With the exception specified in paragraph (3), the original authorisation of the agent, or a certified copy thereof, shall be annexed or attached to his first submission, or if that occurs first, to the documents of the case at the time when he appears in court for the first time.

(2) With the exceptions specified in paragraphs (3) and (4), the authorisation shall be contained in a public deed or a private deed of full probative value.

(3) The juridical act on granting the authorisation may not be registered validly in the client settings register (hereinafter "client settings register") set forth in Act CCXXII of 2015 on the general rules on electronic administration and trust services (hereinafter "Act on electronic administration"), unless the authorisation is accepted and the statement of acceptance is registered in the client settings register.

(4) A law may provide otherwise for the certification of an authorisation granted to an attorney-at-law or registered in-house legal counsel.

(5) The submission of a certified Hungarian translation of an authorisation granted in a foreign language shall not be required, unless it is considered necessary by the court.

Section 68 *[Scope of an authorisation; substitution of an agent; limitation of an authorisation]*

(1) An authorisation may be granted for the entire action or for individual acts in the court proceedings. The case or group of cases covered by the authorisation shall be specified clearly therein.

(2) An authorisation granted for the entire action shall include all statements and acts related to the action, including the filing of any counter-claim and any procedures concerning protective measures.

(3) Unless otherwise stipulated, an authorisation granted for the entire action shall include any judicial enforcement procedure and any action brought in the course of or in relation to such procedures, procedural remedy proceedings, and the receipt of the disputed sum of money or thing subject to the action, as well as the costs of litigation.

(4) Unless otherwise indicated in the authorisation, an authorised attorney-at-law or law office may authorise another attorney-at-law or law office to act as substitute.

(5) The limitation of the authorisation shall be effective to the extent it is indicated therein.

Section 69 *[Effect of an authorisation terminated or subsequently registered in the client settings register against the court and the opposing party]*

(1) The termination of an authorisation due to withdrawal, unilateral termination or the death or termination without succession of the party shall be effective towards the court and the opposing party as of the time the court is notified and the opposing party is informed of the termination, respectively.

(2) If an authorisation is entered into the client settings register or an authorisation entered into the client settings register is modified after the action commences, the corresponding juridical acts shall be effective towards the court and the opposing party as of the time the court is notified and the opposing party is informed of the termination, respectively.

Section 70 *[Examining the right of representation]*

At any phase of the procedure, the agent's right of representation shall be examined by the court *ex officio*.

Section 71 *[General authorisation]*

(1) A representative may be granted an authorisation that authorises him for litigation in general (hereinafter "general authorisation").

(2) A general authorisation and its termination for any reason shall be notified to the court for registration. A general authorisation registered by the court shall substitute for any specific authorisation granted for individual actions.

(3) The national and publicly certified register of general authorisations shall be operated by the President of the National Office for the Judiciary. Unless proven to the contrary, representation rights recorded in the register shall be presumed to persist, and data erased from the register shall be presumed not to stand.

(4) The provisions concerning authorisations shall also apply to general authorisations, with the derogations specified in this section.

21. Mandatory legal representation

Section 72 *[Mandatory legal representation; exceptions from mandatory legal representation]*

(1) Unless otherwise provided by an Act, legal representation shall be mandatory during the litigation procedure.

(2) Unless otherwise provided by an Act, legal representation shall not be mandatory in actions falling within the material jurisdiction of district courts, including appeals and retrial procedures, or for the party submitting a statement of defence in a review procedure related to an action falling within the material jurisdiction of district courts.

Section 73 *[Information on mandatory legal representation]*

(1) The court shall inform

a) the plaintiff in its order on the rejection of the statement of claim; if the plaintiff joins the action during the proceedings then at the time the plaintiff makes his first appearance, or if the plaintiff becomes involved in the action during the proceedings then at the time of communicating the involvement,

b) the defendant at the time of communicating the statement of claim; if the defendant joins the action during the proceedings then at the time the defendant makes his first appearance, or if the defendant becomes involved in the action during the proceedings or joins the action because his addition is initiated then at the time of communicating the initiation of his involvement or addition,

of the necessity of an authorisation for a legal representative, the possibility of permitting representation by a patron lawyer, and the legal consequences of acting without a legal representative.

(2) If a party acting without a legal representative who joined the action during the proceedings is informed by the court of the need for mandatory legal representation at the time of his first appearance, and performing an act or making a statement in the court proceedings, which may not be rectified later, by the party becomes necessary, the court shall set a time limit for the party to arrange for legal representation and, at the same time, to perform the respective act or make the respective statement in the court proceedings. If necessary, the hearing may be postponed, or it may be repeated to the necessary extent.

(3) If the court, in the course of the procedure in which legal representation is mandatory, proceeds in the case as a result of a transfer or appointment, and the statement of claim was originally submitted to a court where legal representation was not mandatory, the court shall set an appropriate time limit for the party acting without a legal representative to arrange for legal representation.

(4) If legal representation is mandatory in procedural remedy proceedings, the court, in a decision that may be challenged by a procedural remedy, shall inform the parties of the need to grant an authorisation to a legal representative, the possibility of permitting representation by a patron lawyer, and the legal consequences of acting without a legal representative.

Section 74 *[Legal consequences of the absence of legal representation in the event of mandatory legal representation]*

(1) If legal representation is mandatory at any stage of the litigation proceedings, an act or statement made in the court proceedings by a party acting without a legal representative shall be ineffective and shall be regarded as if the party had not performed the given act or made the given statement in the court proceedings, unless an Act prohibits performing that act in the court proceedings through an agent.

(2) If a party submitting a request for procedural remedy does not have a legal representative, even though he was informed by the court, in the decision that may be challenged through a procedural remedy, of the need to grant an authorisation to a legal representative, the request for procedural remedy shall be rejected by the court without issuing a notice to remedy deficiencies; a separate appeal may be filed against this order.

(3) If a plaintiff fails to arrange for a legal representative after the termination of his legal representation, even though he was called upon to do so, the court shall terminate the proceedings. If a defendant who submitted a counter-claim fails to arrange for a legal representative after the termination of his legal representation, even though he was called upon to do so, the court shall partially terminate the proceedings with respect to the part related to the counter-claim.

(4) The party's lack of legal representation shall not hinder the announcement and service of a decision. In such a situation, the decision shall be communicated to the party directly.

Section 75 *[Persons authorised to proceed in the case of mandatory legal representation]*

(1) For the purposes of section 72 (1), the following persons shall be deemed legal representatives:

a) attorneys-at-law and law offices,

b) registered in-house legal counsels, within the scope of the Act on the professional activities of attorneys-at-law,

c) judges and junior judges authorised to represent courts with legal personality,

d) prosecutors authorised to represent the Office of the Prosecutor General, and

e) other persons specified in an Act.

(2) If legal representation is mandatory,

a) a person who passed a professional examination in law may act in his own case without a legal representative,

b) a prosecutor may proceed without a legal representative in court actions that he is authorised by an Act to bring, or in court actions that may be brought against him, or in which he is authorised by an Act to take prosecutorial action,

unless otherwise provided by an Act; in such a situation, the person or prosecutor concerned shall qualify as acting with a legal representative.

(3) A junior attorney-at-law or a junior in-house legal counsel registered with the bar association (hereinafter "junior in-house legal counsel") may only inspect, request copies of, and copy, documents for and on behalf of the party subject to mandatory legal representation.

(4) If the provisions laid down in paragraph (2) *a)* are applied, the party who passed a professional examination in law shall present to the court or attach to his submission a document confirming the fact of having passed the professional examination in law, an equivalent document or an authentic copy thereof, at the time when he appears in court for the first time during the phase when legal representation is required. If a document confirming the fact of having passed the professional examination in law, an equivalent document or an authentic copy thereof is presented to the court, it shall be sufficient to record the event in the minutes without attaching the document itself to the documents of the case.

22. The legal standing of a guardian *ad litem*

Section 76 *[Instances of appointing a guardian ad litem]*

The court shall appoint a guardian *ad litem* for a party if

a) the party has no capacity to act and does not have a statutory representative,

b) the whereabouts of the party is unknown and he does not have a statutory representative or agent,

c) the party is an entity other than a natural person and does not have a statutory representative, or

d) it is required by an Act.

Section 77 *[The procedural rules of appointing a guardian ad litem]*

(1) Unless otherwise provided by an Act, a guardian *ad litem* shall be appointed by the court at the request of the opposing party.

(2) The court shall appoint an attorney-at-law or law office as the guardian *ad litem*.

(3) With the exceptions specified in paragraph (4), a guardian *ad litem* shall have the same legal standing as a person authorised to conduct the action.

(4) A guardian *ad litem*

a) may not receive any disputed sum of money or thing without the court's specific authorisation, and

b) may not settle, acknowledge or waive a right, unless he protects the party he represents from obvious harm by doing so.

(5) With the exception specified in paragraph (6), the scope of appointing a guardian *ad litem* shall cover

a) the entire action, including any procedural remedy proceedings, and

b) any judicial enforcement procedure, including any action brought in the course of or in relation to such a procedure.

(6) If the reason for appointing a guardian *ad litem* ceases to exist in the course of the proceedings, the court shall discharge the guardian *ad litem* from his appointment.

(7) The guardian *ad litem* shall be entitled to a consideration as specified by law. The fee for the guardian *ad litem* shall be determined by the court when discharging the guardian *ad litem* or, in the absence of a discharge, in the decision closing the proceedings at the latest. The guardian *ad litem* and the parties may file separate appeals against the decision that determines the guardian *ad litem*'s fee.

CHAPTER VII

Costs

23. Advance payment of costs

Section 78 *[Advance payment of costs by a party]*

(1) The court shall decide on the advance payment of any costs incurred by a person who is not a party to the action when the cost is incurred; the court shall oblige the party to pay the cost directly to the person concerned or, if expedient, to deposit the amount of the cost at the court.

(2) If it is likely that the costs incurred will reach a more significant sum, or if it is justified by other circumstances, the court may order the party to deposit the foreseeable coverage of such costs with the court, even before the costs are incurred.

(3) The court shall determine and release the amount of the costs from the deposited amount. If the deposited amount does not cover or exceeds the determined amount of the costs, the court, at the time of determining the amount of the costs, shall oblige the party to pay the difference, or shall order it to be repaid.

(4) The court shall order an amount to be deposited that is expected to cover the fee for any guardian *ad litem* and officially appointed expert, and the cost of serving documents in a foreign country in accordance with any binding legal act of the European Union or international convention.

Section 79 *[Persons obliged to pay costs in advance]*

(1) Unless otherwise provided by an Act, the costs of taking evidence shall be advanced by the party presenting the evidence. If the opposing party to the party presenting the evidence is not exempted from the advance payment of costs and agrees to do so voluntarily, the opposing party to the party presenting the evidence shall pay the cost, or a part thereof, in advance.

(2) Unless otherwise provided by law, a binding legal act of the European Union or an international treaty, the costs of engaging an officially appointed interpreter for any purpose other than taking evidence shall be advanced by the party for whom it was necessary to engage the interpreter.

(3) The costs of engaging an officially appointed translator for any purpose other than taking evidence shall be advanced by the plaintiff.

(4) The cost of serving a court document in another country for any reason other than taking evidence, as specified in a binding legal act of the European Union or international convention, shall be advanced by the plaintiff.

(5) The fee for a guardian *ad litem* appointed during the action shall be advanced by the party who requested the appointment of the guardian *ad litem*, or whose act in the court proceedings made the appointment necessary. Notwithstanding the above provision, the State

shall advance the fee for a guardian *ad litem* against whom the action is to be brought by virtue of law.

(6) Apart from any exception specified in this Act, a party shall not be obliged to advance any cost that may arise due to any action taken by the opposing party.

(7) The State shall advance the costs that may arise due to any action taken by a prosecutor, a person authorised to bring the action, a guardian *ad litem* appointed for the defendant or a guardian *ad litem* against whom the action is to be brought by virtue of law.

(8) The State shall advance any cost specified by law and any cost that no party is obliged to pay in advance by virtue of law, a binding legal act of the European Union, an international treaty, or due to legal aid.

24. Bearing the litigation costs

Section 80 *[The definition of litigation costs]*

Litigation costs shall include all costs necessarily incurred by a party in the course of or prior to the action, in causal relation to the enforcement of the right subject to the action, including any loss of earnings necessarily incurred due to appearing before the court.

Section 81 *[Charge]*

(1) A party may request the reimbursement of his litigation costs by charging them.

(2) In the course of charging, the party shall specify the amount and material circumstances of the requested cost item, as well as the disputed right to which the cost item is related; at the time of charging, the party shall also provide supporting documents, if necessary. A cost item that may be determined by the court in its decision closing the proceedings may be charged with reference to the legal provision specifying the amount of the given cost item.

(3) The charges and the document referred to in paragraph (2) may be submitted by the party before the closure of the hearing or, in the absence thereof, before the decision closing the proceedings is adopted. A hearing may not be postponed due to any charging or related certification alone, unless the party was unable to perform his obligation during the hearing without any fault on his part.

(4) The charges may be withdrawn by the party before the closure of the hearing or, in the absence thereof, before the decision closing the proceedings is adopted. After that withdrawal, the costs affected by the withdrawal may not be charged again.

(5) If a party acts with a legal representative, he may charge his litigation costs only by submitting a bill of costs as specified by law.

Section 82 *[Decision on bearing litigation costs]*

(1) Unless otherwise provided by an Act, the court shall decide *ex officio* on bearing charged litigation costs in the decision closing the proceedings. If the court rules on bearing litigation costs in a decision other than the decision closing the proceedings, a separate appeal may be filed against the part of the decision related to the litigation costs.

(2) The court shall determine the amount of the litigation costs and shall order the person obliged to reimburse the costs to pay them. If the parties are obliged to reimburse litigation costs to each other, the court shall order difference only to be paid.

(3) The amount of litigation costs shall be determined by the court on the basis of the charges and the documents attached thereto. A cost item not charged or exceeding the charged amount may not be taken into account for the benefit of the party.

Section 83 *[General rules concerning the bearing of litigation costs]*

(1) Unless otherwise provided by an Act, the litigation costs of the successful party shall be reimbursed by the losing party.

(2) In the event of the partial success of an action, the party shall reimburse the litigation costs incurred by the opposing party in proportion to his loss in the action. If the difference

between the ratio of succeeding and losing in the action and the difference between the amounts awarded to the party and his opposing party as litigation costs is not significant, no party shall be liable to reimburse litigation costs.

(3) The provisions laid down in paragraph (2) may not be applied where the action was brought for damages or any other claim, the amount of which is determined at the court's discretion, and, while the amount awarded by the court is less than the claimed amount, the claimed amount may not be considered as clearly excessive.

(4) If a party reduced the amount of his claim that can be adjudicated separately during the main hearing stage, he shall be deemed the losing party regarding the reduced part, unless the reduction took place either because the opposing party performed a part of the claim or because the party could not specify the amount of his claim before the preparatory stage closed without any fault on his part.

(5) Litigation costs, or any part thereof, not subject to any reimbursement obligation shall be borne by the party who incurred the respective cost.

Section 84 *[Bearing litigation costs in the event of settlement]*

If a settlement is concluded by the parties with the approval of the court, the party indicated in the agreement of the parties shall reimburse the litigation costs of the opposing party. In the absence of an agreement, the litigation costs incurred by the successful party specified in the settlement shall be reimbursed by the losing party specified in the settlement. In the event of succeeding in the action partially, according to the settlement, the provisions laid down in section 83 (2) and (3) shall apply. If the ratio of succeeding and losing in the action cannot be determined, neither party shall reimburse any litigation costs.

Section 85 *[Bearing litigation costs if the proceedings are terminated]*

(1) If the proceedings are terminated, the litigation costs of the defendant shall be reimbursed by the plaintiff, with the exception specified in paragraphs (2) to (4).

(2) If the proceedings are terminated due to abandoning the action, the litigation costs of the plaintiff shall be reimbursed by the defendant, provided that the action was abandoned because the defendant fulfilled the claim after the proceedings were launched.

(3) If the proceedings are terminated due to death or termination, neither party shall reimburse the litigation costs of the opposing party.

(4) If the proceedings are terminated at the joint request of the parties, the party agreed upon by the parties shall reimburse the litigation costs of the opposing party. In the absence of an agreement, the litigation costs of the defendant shall be reimbursed by the plaintiff. However, if the request was filed because the defendant acknowledged or fulfilled the right or claim enforced in the action after the proceedings were launched, the defendant shall reimburse the litigation costs of the plaintiff.

Section 86 *[Bearing litigation costs caused unnecessarily]*

(1) If a party acknowledges the right and claim enforced against him without submitting any defence at the preparatory stage and he did not give any ground for the action, his litigation costs shall be reimbursed by the opposing party.

(2) If a party performs any act in the court proceedings unsuccessfully or with unjustified delay, misses a time limit or due date, or unnecessarily causes any cost forming part of the litigation costs for the opposing party in the course of or prior to the action, he shall reimburse such costs regardless of the outcome of the action.

(3) If an agreement was reached in a mediation procedure but a party to the agreement brings an action concerning the legal dispute settled by the agreement, the litigation costs of the defendant shall be reimbursed by the plaintiff. The general rules on bearing litigation costs shall apply if the action is brought by the plaintiff for the enforcement of the agreement due to non-performance.

(4) If a party does not enter into a settlement in the action even though an agreement was reached in a mandatory mediation procedure and it is in accordance with the applicable law, the party shall reimburse the litigation costs incurred by the opposing party during the mediation procedure, regardless of the outcome of the action. If the agreement reached in the mandatory mediation procedure is not in accordance with the applicable law and the litigation proceedings are to be continued in the absence of an agreement, the party shall reimburse half of the litigation costs incurred by the opposing party during the mediation procedure, regardless of the outcome of the action.

(5) If mediation procedure is mandatory, the litigation costs of a party shall be reimbursed by the opposing party if the party can certify that he initiated the appointment of a mediator or he appeared at the first mediation meeting in person, but the appointment of a mediator or the commencement of the mediation procedure did not take place due to an omission on the side of the opposing party, for which he was at fault. The party on whose part the omission arose shall be required to substantiate the absence of his fault.

(6) The provisions laid down in paragraph (3) shall apply if either party brings an action regarding a consumer dispute that was already resolved by settlement as approved by a decision adopted by a conciliation body in a procedure regulated by an Act, unless the action was brought for attaching an enforcement clause to the decision due to the non-performance of the settlement agreement.

Section 87 *[Bearing litigation costs in the case of a joinder of parties]*

(1) The co-litigants specified in sections 36 and 37 *a)* shall reimburse the litigation costs jointly and severally.

(2) Other co-litigants shall bear the litigation costs in proportion to their interests in the action; if there is no significant difference between the interests of the co-litigants in the action they shall reimburse the litigation costs in equal proportion. If any litigation cost arose only because of an act taken in the court proceedings by one or some of the co-litigants, the other co-litigants shall not be obliged to reimburse it.

Section 88 *[Bearing litigation costs if the prosecutor or a person authorised to bring a court action brings a court action or takes an action in the proceedings]*

(1) From among the prosecutor, the person authorised to bring the action, and the beneficiary of the right enforced in the action, the litigation costs shall be reimbursed by the person who brought the action. If there was any inconsistency between the procedural acts taken by the person who brought the action and the beneficiary of the right enforced in the action, the respective share in the litigation costs shall be reimbursed by the person whose act gave rise to it.

(2) The State shall reimburse the litigation costs in the manner specified by law in place of a prosecutor or another person authorised to bring the action.

Section 89 *[Bearing litigation costs in an action brought against a guardian ad litem]*

If, by virtue of law, an action is to be brought against a guardian *ad litem*, the litigation costs shall be reimbursed by the State in a manner specified by law in place of the guardian *ad litem*.

Section 90 *[Bearing litigation costs in the event of intervention]*

(1) If the party supported by the intervenor succeeds in the action, the litigation costs of the intervenor shall be reimbursed by the losing party. The rules pertaining to the definition and charging of litigation costs shall apply to the intervenor.

(2) If the party supported by the intervenor loses in the action, the intervenor shall reimburse the litigation costs that arose on the side of the successful party due to the intervention.

(3) If the *res judicata* effect of a judgment delivered in an action affects the legal relationship between the intervenor and the opposing party by virtue of law, the litigation

costs of the opposing party shall be reimbursed jointly and severally by the intervenor and the party supported by him, if the party supported by the intervenor loses in the action.

(4) If the intervention is dismissed, the intervenor shall reimburse the litigation costs that arose due to the intervention on the side of the party opposing the intervention.

(5) The provisions laid down in sections 83 to 86 shall also apply in the cases referred to in this section; for the purposes of this section, the losing party shall be construed to also mean the party who is obliged to reimburse the litigation costs, and the successful party shall be construed to also mean the opposing party to the party who is obliged to reimburse the litigation costs.

Section 91 *[Bearing litigation costs if impleading in, or adding to, the action is unsuccessful]*

(1) If an impleaded party does not accept the impleading, or his joining the impleading party is dismissed, the impleading party shall reimburse the litigation costs incurred by the opposing party due to the impleading.

(2) The provisions laid down in paragraph (1) shall also apply if adding a third party to the action is unsuccessful.

Section 92 *[Bearing litigation costs in the event of a change in the parties]*

(1) In the event of a legal succession in the action, the legal predecessor and the legal successor shall reimburse the litigation costs jointly and severally, unless the legal predecessor was dismissed from the procedure.

(2) The provisions laid down in paragraph (1) shall also apply if a claim is raised regarding the subject matter of the action or if a predecessor is designated.

(3) If a defendant is dismissed from the action by the court because the plaintiff brought the action against someone other than the person against whom the right can be enforced, the litigation costs incurred by the dismissed defendant shall be reimbursed by the plaintiff.

Section 93 *[Bearing a separate part of the litigation costs]*

(1) While applying the provisions laid down in sections 83 to 92, the following parts of the litigation costs shall not be taken into account:

a) any part that is to be reimbursed under an Act by a witness, expert, or another person not participating in the action,

b) any part that is to be reimbursed by any party by virtue of an Act, regardless of the outcome of the action, and

c) any part that was incurred for any, otherwise avertable, reason arising in the judicial organisation's sphere of interest.

(2) The court may decide on the matter of bearing any litigation cost according to paragraph (1) immediately after it is charged. A separate appeal may be filed against the decision.

(3) Any litigation cost according to paragraph (1) *c)* shall be reimbursed by the State in a manner specified by law.

25. Legal aid

Section 94 *[Types of legal aid]*

(1) With a view to facilitating the enforcement of rights in an action, a party, including intervenors, may be eligible for the following legal aid:

a) cost exemption due to the subject matter of the action and cost exemption due to personal circumstances,

b) cost deferral due to the subject matter of the action and cost deferral due to personal circumstances,

c) fee exemption due to the subject matter of the action and fee exemption due to personal circumstances,

d) fee deferral due to the subject matter of the action,

e) reduced procedural fee,

f) exemption from advancing or paying the fee for a patron lawyer.

(2) Unless otherwise provided by law, a party, upon request and with regard to his income and assets, shall be granted cost exemption due to personal circumstances or cost deferral due to personal circumstances; a party shall be granted fee exemption due to personal circumstances *ex officio*, if justified by the person of the party. A party shall be eligible *ex officio* for a reduction of the litigation costs by the subject matter of the action, and for a procedural fee reduction with regard to specific procedural events.

(3) A party shall be eligible for the cost reduction specified in paragraph (1) *f)* in a manner specified by law, if he has representation by a patron lawyer approved by the legal assistance service.

Section 95 *[The content of cost exemption and the right to deferred payment of costs]*

(1) On the basis of cost exemption, a party shall be exempted from

a) paying the procedural fee in advance,

b) advancing the costs arising in the course of the action, unless otherwise provided by law,

c) paying any unpaid procedural fees and all costs advanced by the State, unless otherwise provided by law,

d) providing any security for litigation costs.

(2) On the basis of deferred payment of litigation costs, a party shall be exempted from

a) paying the procedural fee in advance, and

b) advancing the costs arising in the course of the action, unless otherwise provided by law.

(3) In the case of a partial right to have personal cost deferral, the party shall be eligible for the reduction specified in paragraph (2) with regard to

a) a determined part of the procedural fee and costs, or

b) the procedural fee and certain cost items.

(4) The cost exemption and the deferred payment of costs shall not include the fee for a guardian *ad litem*.

(5) Eligibility for cost exemption shall not relieve a party from paying any unpaid procedural fees and costs advanced by the State after any unnecessary act in the court proceedings.

(6) Eligibility for cost exemption shall not relieve a party from paying any procedural fee not paid during a judicial enforcement procedure or any cost advanced by an organ obliged to advance the cost.

Section 96 *[Content of procedural fee reduction]*

(1) In the case of exemption from procedural fees, a party shall be exempted from

a) paying the procedural fee in advance, and

b) paying any unpaid procedural fee, unless otherwise provided by law.

(2) Eligibility for exemption from procedural fees shall not relieve a party from paying any procedural fee not paid during a judicial enforcement procedure.

(3) In the case of deferred payment of procedural fees due to the subject matter of the action, a party shall be exempted from paying any procedural fee in advance.

(4) In the case of a procedural fee reduction, a party shall be exempted from paying a part of the procedural fee.

Section 97 *[Temporal scope of certain legal aid]*

(1) Unless otherwise provided by law, any cost exemption, right to deferred payment of litigation costs, exemption from procedural fees, and deferred payment of procedural fees due to the subject matter of the action shall apply as of the submission of the corresponding request, if requested, for the entire action and for any judicial enforcement procedure as well.

(2) Legal aid due to personal circumstances granted to a legal predecessor shall not apply to a legal successor party.

Section 98 *[Granting and withdrawing legal aid]*

The court shall decide on granting cost exemption due to personal circumstances or cost deferral due to personal circumstances, and on withdrawing any granted litigation cost reduction. A separate appeal may be filed against a decision dismissing a request for or withdrawing any granted litigation cost reduction.

Section 99 *[Deciding on litigation cost reduction due to the subject matter of the action]*

If a party claims to be eligible for any litigation cost reduction due to the subject matter of the action without grounds, the court shall establish the lack of eligibility in its decision. A separate appeal may be filed against the decision.

Section 100 *[Other rules pertaining to legal aid]*

The other provisions pertaining to cost exemption, deferred payment of costs, exemption from procedural fees, deferred payment of fees due to the subject matter of the action, reduced procedural fee and advancing and bearing a patron lawyer's fee shall be established by law.

26. Bearing unpaid procedural fees and costs advanced by the State

Section 101 *[Deciding on bearing unpaid procedural fees and costs advanced by the State]*

(1) With the exception specified in paragraph (2), the court shall *ex officio* oblige a party, in the decision closing the proceedings, to pay the State any unpaid procedural fees and any costs advanced by the State.

(2) If

a) the party is to be obliged to pay any unpaid procedural fees or any costs advanced by the State in the course of the proceedings,

b) the proceedings are terminated due to any stay, or

c) the procedural fee or cost advanced by the State arose after the decision closing the proceedings was adopted,

the court shall decide on the payment of the unpaid procedural fee or cost advanced by the State in a separate decision; a separate appeal may be filed against this decision.

(3) In the decision closing, or establishing the termination of, the proceedings, the court shall determine which party shall bear the fee for any patron lawyer, without determining the amount of the fee and by applying the rules pertaining to the payment of costs advanced by the State. The court of first instance shall notify the legal assistance service of the final and binding decision and communicate the following data, determined for each procedural stage, within eight days:

a) name of the parties,

b) subject matter of the action,

c) value of the subject matter of the action, if it can be determined,

d) ratio of success of the parties, and

e) name and identification data of the party obliged to pay the fee for the patron lawyer.

Section 102 *[Bearing unpaid procedural fees and costs advanced by the State]*

(1) In the absence of any legal aid granting exemption from payment, all unpaid procedural fees and costs advanced by the State shall be paid by a party, with the exceptions specified in

paragraphs (2) to (5), in the part or proportion to which he is obliged to reimburse the litigation costs under this Act. If neither party is obliged to reimburse the litigation costs under this Act, any unpaid procedural fees and costs advanced by the State shall be paid by the parties in equal proportions.

(2) If the proceedings are terminated due to a stay, any unpaid procedural fees and costs advanced by the State shall be paid by the plaintiff, unless he was granted legal aid providing exemption from payment.

(3) A prosecutor or other person authorised to bring the action shall not be obliged to pay any unpaid procedural fee or cost advanced by the State.

(4) If, by virtue of law, the action is to be brought against a guardian *ad litem*, the guardian *ad litem* shall not be obliged to pay any unpaid procedural fee or cost advanced by the State, and the party shall not be obliged to pay the fee advanced to the guardian *ad litem* by the State.

(5) The defendant shall not be obliged to pay any procedural fees or costs advanced by the State that are unpaid due to the actions of a guardian *ad litem* appointed to him.

(6) Costs specified by law, a binding legal act of the European Union, or international treaty, and costs and procedural fees not paid due to legal aid or under paragraphs (1) to (5) shall be borne by the State.

CHAPTER VIII

PROVISIONAL MEASURES

27. Provisional measures in the course of the action

Section 103 *[Request for provisional measures]*

(1) The court may, upon request, order a provisional measure

a) in order to prevent any change to the current situation, if it would be impossible to restore the original situation subsequently,

b) in order to ensure that it would not become impossible for the requesting party to exercise his rights subsequently,

c) in order to avert any imminent threat of detriment to the requesting party, or

d) in any other situation deserving special consideration.

(2) A provisional measure may impose an obligation to perform an act that the requesting party would be entitled to demand by exercising his rights he seeks to enforce in the action.

(3) With the exceptions specified in section 108, a request for provisional measures may not be submitted before submitting a statement of claim.

(4) In a request for provisional measures, the plaintiff shall

a) indicate the persistence of any of the conditions specified in paragraph (1) giving rise to the provisional measure being ordered,

b) present and substantiate the facts supporting the condition giving rise to the provisional measure being ordered, and

c) specify an explicit request regarding the nature of the provisional measure sought by the requesting party.

Section 104 *[Adjudicating a request for provisional measures]*

(1) The court shall make arrangements regarding a request for provisional measures if the statement of claim is suitable for the preparatory stage of the litigation. The court shall adjudicate the request for provisional measures as a matter of priority and shall make its arrangements without delay, but no later than within eight days.

(2) In the course of assessing a request for provisional measures, the court shall consider, with a view to a possible decision on the provision of security, whether ordering the measure

would cause greater disadvantages to the opposing party of the requesting party than not doing so would cause to the requesting party.

(3) The court shall allow the opposing party to respond to the request. The court shall obtain the statement of the parties regarding the request in the manner it finds most suitable.

(4) If the court finds it necessary for adjudicating the request, and especially in the event of deciding on the provision of security, it may order an interview of the parties. If a party misses the due date set for the interview, no application for excuse shall be accepted for missing the due date.

(5) No evidence shall be taken in the course of deciding on provisional measures, unless the merits of the request cannot be adjudicated without that evidence. The court may also take any necessary evidence during the preparatory stage.

Section 105 *[The scope of provisional measures]*

(1) The court shall decide on the request for provisional measures in an order, which may be subject to a separate appeal. The court may also amend its order upon request.

(2) An order on provisional measures is preliminarily enforceable. Unless otherwise ordered by the court, the period open for performance shall commence on the day after communicating the order in writing.

(3) The order shall remain effective until it is set aside by the court with an order adopted at the request of any party, after hearing the other party as well, or in its judgment or another decision closing the proceedings.

(4) If the court does not set aside its decision on provisional measures in its judgment or decision closing the proceedings, it shall become ineffective as of when the first instance judgment becomes final and binding.

(5) Provisional measures shall be set aside when the proceedings are terminated or when the proceedings are terminated due to a stay; such setting aside shall be established by the court in its order on terminating or establishing the termination of the proceedings.

(6) The effect of provisional measures shall not be subject to any interruption or suspension of the proceedings.

Section 106 *[Provision of security]*

(1) The court shall require the provision of security as a condition for applying provisional measures, if the opposing party of the requesting party can substantiate the disadvantages resulting from the requested measure that could serve as a ground for claiming damages or grievance award from the requesting party if he is the successful party. In the course of deciding on the provision of security, the court shall take into account the degree of probability of the facts serving as grounds for the request. No security may be requested in the event of slight disadvantage.

(2) The court shall order the provision of security if

a) it is requested by the opposing party of the requesting party, while substantiating the disadvantages corresponding to the requested security, or

b) it is offered by the requesting party and accepted by his opposing party.

(3) In the case specified in paragraph (2) *a)*, the security shall be an amount corresponding to the disadvantage substantiated by the opposing party of the requesting party; in the case specified in paragraph (2) *b)*, the security shall be an amount offered by the requesting party and accepted by his opposing party.

(4) If the requesting party offers a specific amount as security, the court shall obtain a specific statement on accepting the security from his opposing party as a matter of urgency. The acceptance of any security shall not be construed as admitting to any allegation regarding the grounds of ordering a provisional measure.

(5) Security shall be provided, among other means, by depositing money, securities, money substitutes or, in the case of a bank guaranty a declaration of guaranty with the court.

Section 107 *[Provisional measures subject to security]*

(1) If the court subjects the ordering of a provisional measure to the provision of security, it shall set a time limit for providing the security.

(2) The provision of the security shall be established by the court in an order. The provisional measure shall become preliminarily enforceable when this order is adopted.

(3) If the court dismisses the action brought by the requesting party, the judgment shall order the deposited security to be released to his opposing party. If the requesting party succeeds in the action, the court shall order the security to be returned.

(4) If the requesting party achieves partial success in the action, a decision shall be taken on releasing or returning the deposited security or, in addition to returning the statement on undertaking the bank guarantee, on exercising the right of withdrawal in proportion to the success achieved in the action.

(5) A decision on releasing the security shall not prevent the opposing party of the requesting party from subsequently bringing an action against him for any damages or grievance award in excess of the security. If the damages do not reach the amount of the security, the difference shall not be reclaimed.

28. Provisional measures prior to bringing an action

Section 108 *[Provisional measures prior to submitting the statement of claim]*

(1) A request for provisional measures may be submitted before submitting a statement of claim, if any of the conditions specified in section 103 (1) is met and the requesting party, with regard to the passing of time, substantiates the frustration of achieving the goal of ordering provisional measures, had the request been submitted after bringing the action.

(2) In addition to those specified in section 103 (4), the requesting party shall specify the following in his request for provisional measures:

a) data for identifying the court with material and territorial jurisdiction over the action to be brought, and

b) the right to be enforced in the action.

(3) The request for provisional measures shall be submitted to the court with material and territorial jurisdiction over the action. If more than one court has territorial jurisdiction over the action, the requesting party may file his request to any of those courts. The chosen court shall have exclusive territorial jurisdiction over the action.

(4) The general rules for litigation proceedings shall apply to issues regarding mandatory legal representation during the proceedings.

(5) The court shall deal with the request for provisional measures as a matter of priority.

Section 109 *[Scope of provisional measures]*

(1) The court shall set a time limit for bringing the action in its decision ordering the provisional measure; the time limit may not be longer than forty-five days after communicating the decision.

(2) If the requesting party does not submit a statement of claim within the time limit set by the court, and he does not certify the fact of having brought an action toward the court ordering the provisional measures within eight days after the expiry of the time limit, the provisional measures shall become ineffective as of the first day following the expiry of the time limit open for bringing the action. This shall be established in an order by the court that ordered the provisional measures.

(3) If the action is brought, the provisions laid down in section 105 shall apply to the effect of any provisional measure ordered prior to filing the statement of claim.

(4) If a statement of claim submitted in due time is rejected by the court, the provisional measures shall remain in effect until the expiry of the time limit for upholding the legal effects of submitting the statement of claim.

(5) The provisions laid down in sections 103 to 107 shall apply to proceedings related to provisional measures.

CHAPTER IX

OTHER GENERAL RULES

29. General obligation of courts to take measures and provide information

Section 110 *[Time limit and content of the general obligation to take measures]*

(1) Unless otherwise provided by an Act, the court shall take the necessary measures within thirty days after

a) the receipt of a submission filed with the court,

b) the expiry of a time limit for filing a submission, or

c) the occurrence of another event giving reason for a measure.

(2) Courts shall make it possible for the parties to become familiar with and respond to all requests, documents, and evidence submitted or filed with the court during the procedure.

(3) The court shall assess the requests and statements submitted or presented by the party according to their content and not by their designation

Section 111 *[Obligation to provide information]*

The court shall provide any party acting without a legal representative with the necessary information on his procedural rights and obligations, and the possibility for a supporter to participate in the action, if justified, and the possibility of allowing representation by a patron lawyer.

Section 112 *[Data not requiring certification]*

With the exception of data necessary to identify a party, the court may not request a party to certify data that are published by a relevant body under an obligation set forth in the Act on the right to informational self-determination and on the freedom of information, or which must be recorded in a publicly certified register established by law.

30. Language use in the proceedings

Section 113 *[Language use]*

(1) Court proceedings shall be conducted in the Hungarian language.

(2) Unless otherwise provided by an Act, a binding legal act of the European Union or an international convention, submissions addressed to the court shall be submitted in Hungarian, and submissions and decisions shall be sent by the court in Hungarian.

(3) In court proceedings, every person shall be entitled to orally use his mother tongue, or in cases provided for by international conventions, his mother tongue, regional or national minority language. In court proceedings, the members of every national minority living in Hungary and recognised by the Act on the rights of national minorities shall be entitled to use their national minority language in accordance with the international convention concerning the use of the regional or minority language.

(4) Hearing-impaired and deaf-blind persons shall be entitled to use sign language or another special communications system specified in an Act and known by the person concerned. At their request, hearing- and speech-impaired persons may submit written statements in place of an interview.

31. Submissions

Section 114 *[Form-related requirements for submissions]*

(1) On the submission, the proceeding court to which the submission is addressed, the full name, domicile or seat, and any known electronic mail address of each party and their representatives, as well as the subject matter of the action and the case number in pending cases, shall be indicated. If a party or his representative has a place of residence that is different from his domicile, or any other address that is suitable for summoning, it shall also be indicated on the submission.

(2) A submission shall be filed with the court in a number of copies corresponding to the number of parties to the action plus one; if multiple parties have a common representative, only one copy shall be submitted for those parties. A copy of any attachment to a submission shall be attached to each copy of the submission.

(3) If a party is represented by an attorney-at-law or registered in-house legal counsel and an Act allows for filing submissions in paper-based copies, the attorney-at-law or registered in-house legal counsel shall sign the first copy of the submission; in other situations, the first copy of the submission shall be prepared as a private deed of full probative value, as defined in this Act.

32. Remedy of deficiencies

Section 115 *[Ordering the remedy of deficiencies; rejection of a submission]*

(1) If a submission does not meet the provisions of this Act or is in need of any supplementation or rectification for any other reason, the court, unless otherwise provided in this Act, shall call upon the party to remedy the deficiencies within a short time limit, specifying the deficiencies and, if necessary, returning the submission. The court shall simultaneously warn the party that the submission will be rejected or considered with incomplete content if the deficiencies are not remedied or the submission is again filed with any deficiency.

(2) If a party obliged to pay any procedural fee is not entitled to legal aid that would exempt him from paying the procedural fee in advance, and the party has not paid the procedural fee or has paid it only in part, the court, unless otherwise provided in this Act, shall call upon the party to pay the procedural fee or any missing part thereof, warning him that the submission will be rejected by the court if the procedural fee is not paid in full.

(3) With a view to remedying any deficiency, the court may also summon a party to appear personally in court, if he lives in the same settlement and acts without a legal representative.

(4) If the specified deficiencies are remedied by the party within the specified time limit, the submission shall qualify as if it had been submitted correctly by the party initially.

(5) If the new submission is filed again by the party with any deficiency, despite the notice to remedy deficiencies according to paragraph (1), but this does not prevent the assessment of the merits of the submission, the court shall deal with the submission according to its incomplete content, unless otherwise provided by an Act.

(6) Unless otherwise provided by an Act, a submission shall be rejected by the court, if

a) a deficiency is not remedied by the party within the specified time limit, despite the notice to remedy deficiencies according to paragraph (1), or the submission is filed again with any deficiency, and the deficiency prevents the assessment of the submission, or

b) the procedural fee, or any missing part thereof, is not paid within the specified time limit, despite the notice to remedy deficiencies according to paragraph (2).

(7) A separate appeal may be filed

a) in the case described in paragraph (6) *a)*, if allowed by this Act,

b) against a decision rejecting a submission according to paragraph (6) *b)*.

Section 116 *[Proceedings regarding oral statements]*

If a statement made orally during a hearing does not meet the provisions of this Act, or needs supplementation or rectification for another reason, the provisions laid down in section 115 shall apply.

33. Separation, joining

Section 117 *[Separation and joining]*

(1) The court may order that individual claims enforced in the action, individual parts of divisible claims, or in general, individual disputed matters to be decided during the proceedings be heard separately, if it considers that doing so would be expedient for deciding the case.

(2) With a view to holding a joint hearing and making a joint decision, the court may order individual actions pending before the court to be joined, if

a) the subject matters of the actions are related, and

b) an order closing the preparatory stage has not been adopted in any of the proceedings.

(3) If the conditions specified in paragraph (2) *a)* and *b)* are met, actions between economic operators pending before different district courts may be joined. If the conditions specified in paragraph (2) *a)* and *b)* are met, a regional court may join an action pending before it and other proceedings pending before a district court within its area.

(4) At the joint request of the parties, the court shall join the actions if the conditions specified in this section are met. If the conditions specified in paragraph (2) *a)* and *b)* are met, actions pending before different district courts within the area of the same regional court may be joined if requested by the parties jointly. A separate appeal may be filed against an order dismissing the request. If the actions are joined by the court at the request of the parties, their joining cannot subsequently be disregarded.

(5) If the joining of actions was ordered by more than one district court, the first district court to order the joining shall proceed further in the case.

Section 118 *[Joining the action for the maintenance of a separated spouse to the matrimonial action]*

An action brought by a separated spouse for maintenance, or an action brought for the termination of maintenance granted to a separated spouse shall, at the request of either of the parties, be joined to a matrimonial action brought by a party, provided that an order closing the preparatory stage has not been adopted, if

a) an order closing the preparatory stage has not been adopted in the matrimonial action, and

b) the court deciding on the matrimonial action has material jurisdiction over the action concerning spousal maintenance as well.

34. Interruption of the proceedings

Section 119 *[Reasons for interruption; appointment of a guardian ad litem]*

(1) The proceedings shall be interrupted if

a) a party dies or is terminated, until a legal successor joins or becomes involved in the action, unless legal succession is impossible due to the nature of the legal relationship,

b) a party acting without an agent authorised to continue the proceedings loses his capacity to act, until the notification of a statutory representative,

c) the statutory representative of a party dies and the party represented by the statutory representative does not have an agent authorised to carry on with the proceedings, until the notification of a new statutory representative,

d) the right of representation of the statutory representative of a party is terminated without the represented party regaining his capacity to act, and the party represented by the statutory representative does not have an agent authorised to continue the proceedings, until the notification of a new statutory representative, or

e) an unavertable event obstructs the operation of the court, until the obstacle ceases.

(2) If the interruption of proceedings or the excessive period of such interruption harms the equitable interests of a party in a case described in paragraph (1) *b)* to *d)*, the court shall appoint a guardian *ad litem* for the party upon request or *ex officio*; the interruption of the proceedings shall be terminated by the appointment of a guardian *ad litem*.

(3) If the interruption of proceedings or the excessive period of such interruption harms the equitable interests of an officially appointed expert in a case described in paragraph (1) *a)* to *d)*, the court shall appoint a guardian *ad litem* for the party, at the request of the expert. By appointing a guardian *ad litem*, the interruption of proceedings shall be terminated with respect to the determination of the expert fee and the release of any fee covered by a deposit. A party shall not be obliged to pay the fee for a guardian *ad litem* in advance; such advance payment shall be subject to the provisions laid down in section 79 (8).

(4) With a view to terminating the proceedings, a party may request the proceedings to be continued even if a terminated party does not have a legal successor. The court shall appoint a guardian *ad litem* at the request of a party after the costs of the guardian *ad litem* are paid in advance; the interruption of the proceedings shall be terminated by appointing a guardian *ad litem*. In the interest of termination, the proceedings shall be continued against the guardian *ad litem*.

Section 120 *[The period and legal consequence of interruption; partial interruption]*

(1) The period of interruption of the proceedings shall commence when the reason for the interruption arises, and it shall last until the time specified in section 119 (1).

(2) The date of commencement and the end date of interruption shall be established by the court in an order. A separate appeal may be filed against the order establishing the interruption; the court may also amend this order within its own competence.

(3) All time limits shall be interrupted by the interruption of the proceedings. Time limits shall start again when the interruption is terminated. The legal consequences of continuing the proceedings with regard to the parties shall take place when the parties are notified of the termination of interruption.

(4) All arrangements and procedural acts made or performed by the court or the parties regarding the merits of the action during a period of interruption shall be ineffective, with the exception of court arrangements and procedural acts pertaining to the interruption and its termination.

(5) The court shall arrange, even during the period of interruption, for the release of any cost or fee covered by a deposit and awarded to any participant in a final and binding order.

(6) If there is a joinder of parties, and a reason for interruption arises in relation to a co-litigant after the order closing the preparatory stage is adopted, while the proceeding may be continued and a partial judgment may be delivered concerning the other co-litigants, the provisions on interruption shall be applied by the court only with regard to the co-litigant concerned.

35. Stay of the proceedings

Section 121 *[The reasons and period of the stay; termination of the proceedings]*

(1) The proceedings shall be stayed if

a) the parties notify the court of their agreement on the stay, as of the time the notification is received by the court,

b) all parties miss the main hearing, or none of the parties attending the main hearing wishes the case to be heard, and the party on whose part the omission arose did not ask for the hearing to be held in his absence in either case, starting from the time of the hearing,

c) a party is not available at his indicated address, and the other party does not provide another contact address despite being called upon to do so by the court, or he does not wish the case to be heard, starting from the time when the statement of the party is communicated to the court or, in the absence of such a statement, starting from the day following the expiry of the time limit specified by the court with no result,

d) the fee for a guardian *ad litem* should be paid in advance in a case described in section 63 (2), and it is not paid by a party despite being called upon to do so by the court, starting from the day following the expiry of the time limit specified by the court with no result,

e) the plaintiff does not pay in advance any translation cost or cost of service in another country, which is not related to taking evidence, despite being called upon to do so by the court, starting from the day following the expiry of the time limit specified by the court with no result,

f) service by a public notice or, according to this Act, by a bailiff would be necessary but it is not requested by either party, or if the conditions for both of these are met but neither is requested by a party, or a fee required for the proceedings is not paid by a party in advance, starting from the time when the party's statement is communicated to the court or, in the absence of a statement, from the day following the expiry of the time limit specified by the court with no result.

(2) The same proceedings between the same parties may be stayed under paragraph (1) *a)* up to three times before the proceedings are closed with final and binding effect.

(3) The proceedings shall be continued at the request of any of the parties. The period of stay shall start at the time specified in paragraph (1) and shall last until a request to continue the proceedings is received by the court. If the period of stay exceeds four months, the proceedings shall be terminated. No application for excuse shall be accepted for missing this time limit.

(4) In a situation described in paragraph (1) *c)* to *f)*, stayed proceedings may not be continued at the request of the party on whose part the omission arose, unless the omitted act, which is the reason for staying the proceedings, is rectified at the time of submitting his request; otherwise, the request for continuance shall be dismissed by the court.

(5) If proceedings are terminated due to a stay after the first instance judgment is delivered but before it becomes final and binding, the first instance judgment shall become ineffective.

(6) The date of commencement and the end date of a stay, the fact of terminating the proceedings and the fact of the first instance judgment becoming ineffective according to paragraph (5) shall be established by the court in an order. A separate appeal may be filed against the court's order dismissing a request for continuance; the court may also amend such an order within its own competence.

Section 122 *[Legal consequences of stay; partial stay]*

(1) All time limits shall be interrupted by the stay of the proceedings. The time limits shall start again when the stay terminates. The legal consequences of continuing the proceedings with regard to the parties shall occur when the parties are notified of the termination of stay.

(2) All arrangements and procedural acts made or performed by the court or the parties regarding the merits of the action during a period of stay shall be ineffective, with the exception of court arrangements and procedural acts pertaining to the stay, the continuation of the proceedings, and the establishment of the termination of the proceedings.

(3) The termination of proceedings shall not affect the effect of a final and binding partial judgment or interlocutory judgment delivered during the proceedings.

(4) If there is a joinder of parties, and a reason for a stay arises in relation to a co-litigant after the order closing the preparatory stage is adopted while the proceedings may be continued and a partial judgment may be delivered concerning the other co-litigants, the provisions on stay shall be applied by the court only with regard to the co-litigant concerned.

36. Suspension of the proceedings and the suspension of enforcement

Section 123 *[Suspension at the court's discretion]*

(1) If adjudicating an action is subject to the preliminary assessment of a matter falling within the material jurisdiction of a criminal court or administrative authority, after receipt of a written statement of defence or, in the absence thereof, a set-off, the court may suspend the proceedings

a) until the administrative authority proceedings are terminated with final and binding effect or with administrative finality;

b) until the criminal proceedings are terminated with final and binding effect or with administrative finality, or until the decision terminating the proceedings that may not be challenged is adopted by the prosecution service or investigating authority. If the other proceedings are not yet instituted, the court shall set a time limit of thirty days for instituting the other proceedings. If the time limit expires without result, the proceedings shall be continued.

(2) The court may also suspend proceedings after receipt of a written statement of defence or, in the absence thereof, a set-off, if adjudicating the case is subject to the preliminary assessment of a matter that is already the subject matter of an administrative court action, another civil law action, or another administrative or civil procedure falling within the material jurisdiction of the court.

Section 124 *[Suspension in the event of mandatory mediation]*

(1) If the court orders the parties to engage in a mandatory mediation procedure, it shall suspend the proceedings. In its order instructing the parties to engage in a mediation procedure and suspending the proceedings, the court shall request the parties to attach a copy of the order instructing them to engage in a mediation procedure either to the letter of request to be sent to the mediator, or to their request for judicial mediation. At the time of communicating its decision, the court shall inform any party acting without a legal representative of the rules of initiating a mandatory mediation procedure as determined in an Act.

(2) Proceedings suspended in order to initiate a mandatory mediation procedure shall be continued, if

a) any party certifies that the mediation procedure is completed,

b) any party certifies that he attended the first mediation meeting but the mediation procedure was not launched, or

c) two months passes after the communication of the decision instructing the parties to engage in a mediation procedure without the parties submitting either of the certificates indicated in points *a)* or *b)*.

(3) If it is expected that the launched mediation procedure cannot be completed within two months after the communication of the decision instructing the parties to engage in a

mediation procedure and the parties notify the court accordingly and jointly at least eight days before the expiry of the time limit, the proceedings may not be continued before the mediation procedure is completed. At the time of giving notice to the court, the parties shall also produce credible evidence that a mediation procedure is in progress.

Section 125 *[Suspension with respect to certain actions related to personal status]*

(1) If the outcome of an action is subject to the existence or validity of a marriage or the establishment of the family status of a child by the court, and an action is in progress to that effect, the proceedings shall be suspended until the other proceedings are decided with final and binding effect.

(2) The suspension of an action brought for the maintenance of a child according to paragraph (1) shall not prevent the court from granting maintenance payment to the child as a provisional measure. If necessary, the court may also decide to grant temporary maintenance *ex officio*.

(3) If the outcome of an action depends on the validity of a marriage, the proceedings shall be suspended even if the action for the invalidity of marriage has not been brought yet but one of the parties is entitled to bring that action. In such a situation, the court, beyond suspending the proceedings, shall set a time limit of thirty days to bring the action for the invalidity of marriage. If the time limit expires without result, the suspended proceedings shall be continued.

Section 126 *[Suspension due to initiating proceedings before the Court of Justice of the European Union, the Constitutional Court or the Curia]*

(1) The court shall suspend its proceedings if it decides to initiate

a) a preliminary ruling procedure before the Court of Justice of the European Union,

b) a procedure before the Constitutional Court regarding the establishment of any inconsistency between the Fundamental Law or an international treaty and a law, legal provision, public law regulatory instrument, or uniformity decision,

c) a procedure before the Curia regarding the review of any conflict of a local government decree with other laws.

(2) If a question of law arises in the proceedings with regard to which a procedure mentioned in paragraph (1) has already been initiated on the basis of identical facts in the course of another pending administrative court action, other civil law action or other administrative or civil procedure falling within the material jurisdiction of the court, the court, after receipt of the written statement of defence or, in its absence, set-off, may suspend these proceedings until the procedure initiated in the other proceedings is completed.

Section 127 *[Suspension with respect to the submission of a constitutional complaint or review application]*

(1) If the court delivered a partial judgment or an interlocutory judgment and a party filed a constitutional complaint, the court may suspend

a) the hearing of a claim or part of the statement of claim not adjudicated in the partial judgment, or

b) the hearing of the action regarding the amount or quantity claimed, if an interlocutory judgment was delivered,

if justified by the circumstances of the case.

(2) If the court delivered an interlocutory judgment and a party filed a review application concerning the interlocutory judgment, the court, upon receipt of a joint request by the parties, may suspend the hearing of the action with respect to the amount or quantity claimed.

Section 128 *[Period and legal consequences of suspension; partial suspension]*

(1) The suspension of the proceedings shall become effective as of the date when the decision on suspension becomes final and binding.

(2) The court shall adopt an order on continuing the proceedings within fifteen days of

a) receipt of a notice or, if the court is notified officially, upon becoming aware of a final and binding decision on the preliminary matter in a case described in sections 123 and 125,

b) receipt of a certificate as specified in section 124 (2) or the expiry of the time limit in a case described in section 124,

c) communication of the decision regarding the decision of the Court of Justice of the European Union, the Constitutional Court, or the Curia in a case described in sections 126 (1) and 127,

d) becoming aware of the completion of the proceedings of the Court of Justice of the European Union, the Constitutional Court, or the Curia in a case described in section 126 (2).

(3) The legal consequences of continuing the proceedings shall become effective against the parties when the order specified in paragraph (2) is communicated to the parties.

(4) If proceedings are suspended, all time limits shall be interrupted. The time limits shall start again when the proceedings are continued. All arrangements and procedural acts made or performed by the court or the parties regarding the merits of the action during a period of suspension shall be ineffective, with the exception of court arrangements and procedural acts pertaining to the suspension and the continuation of the proceedings.

(5) A separate appeal may be filed against an order suspending the proceedings, except for the cases described in sections 124 and 126 (1); the order may also be amended by the court within its own competence.

(6) If the circumstance serving as reason for suspending the proceedings relates only to a specific claim or a separable part of a claim, and the proceedings can be continued and a partial judgment may be adopted regarding the remaining claims or the separable part of the claim, the court, after adopting the order closing the preparatory stage, shall apply the provisions on suspension only to the respective claims or the separable part of the claim.

Section 129 *[Suspension of enforcement]*

If judicial enforcement is in progress, and the claim serving as subject matter of the enforcement proceedings or a legal relationship serving as ground for such a claim is the subject matter of the action, the court may suspend the enforcement proceedings until the action is concluded with final and binding effect. A separate appeal may be filed against the decision on suspension. The relevant provisions of the Act on judicial enforcement shall apply to the suspension of enforcement.

37. Initiating a procedure before the Court of Justice of the European Union, the Constitutional Court or the Curia

Section 130 *[Initiating a preliminary ruling procedure before the Court of Justice of the European Union]*

(1) The court may initiate a preliminary ruling procedure before the Court of Justice of the European Union upon request or *ex officio*, in accordance with the provisions laid down in the treaties on which the European Union is founded.

(2) The court shall decide on initiating a preliminary ruling procedure before the Court of Justice of the European Union in an order; the court may also amend this order within its competence. The court shall determine the question requiring the preliminary ruling of the Court of Justice of the European Union in an order and, to the extent necessary for answering the question, it shall present the facts of the case, the provisions of the relevant Hungarian laws, the provisions of the relevant European Union legislation, and all circumstances and reasons serving as grounds for initiating a preliminary ruling procedure. The order of the court shall be served on the Court of Justice of the European Union and, for information purposes, it shall be submitted simultaneously to the minister responsible for justice.

(3) If a request for initiating a preliminary ruling procedure is dismissed by the court, an order on dismissal shall be adopted; the court shall justify its decision in its judgment at the latest.

Section 131 *[Initiating a procedure before the Constitutional Court]*

(1) A court may initiate, *ex officio* or upon request, and in accordance with the Act on the Constitutional Court, a procedure before the Constitutional Court regarding the establishment of any inconsistency between the Fundamental Law or an international treaty and a law, legal provision, public law regulatory instrument, or uniformity decision.

(2) The court may be requested to proceed as described in paragraph (1) by a party who believes that a law to be applied in his case is in conflict with the Fundamental Law or an international treaty.

(3) The court shall decide on initiating a procedure before the Constitutional Court in an order; the court may also amend this order within its own competence.

(4) If a request for initiating a procedure before the Constitutional Court is dismissed by the court, an order on dismissal shall be adopted; the court shall give the reasons for its decision in its judgment at the latest.

Section 132 *[Initiating a procedure before the Curia regarding the review of conflict of a local government decree with other laws]*

(1) A court may initiate, *ex officio* or upon request, and in accordance with the rules laid down in the Code of Administrative Court Procedure, a procedure before the Curia regarding the review of a conflict of a local government decree with other laws.

(2) The court may be requested to proceed as described in paragraph (1) by a party who believes that a local government decree to be applied in his case is in breach of the law.

(3) The court shall decide on initiating a procedure before the Curia in an order; the court may also amend this order within its own competence.

(4) If a request for initiating a procedure before the Curia is dismissed by the court, an order on dismissal shall be adopted; the court shall give the reasons for its decision in its judgment at the latest.

38. Summons

Section 133 *[The content of a summons and the method of summoning]*

(1) A summons shall indicate the proceeding court and the case number, the name and the position of the parties in the procedure, the subject matter of the action, and the place and time of the scheduled hearing or interview.

(2) In the summons, the addressee shall be warned of the consequences of failure to appear, and he shall also be provided with the necessary information according to his procedural status. If the summoned person is a minor, the warning and information shall be provided in a wording and manner that is the most suitable for him, taking into account his age and degree of maturity. If the party or his statutory representative is summoned to appear in person, his agent shall be summoned as well.

(3) A summons may also be communicated during a hearing or, in urgent cases, in an expedited manner. This method of summoning a person shall be indicated in the documents of the case.

Section 134 *[Search for the person to be summoned]*

(1) In an action brought for the maintenance of a child, related to parental custody, for the establishment of parentage or on custodianship, the court may order the search for the defendant, the mother or the child, with a view to establishing the place of residence of the defendant, the mother or the child.

(2) With a view to implementing measures to establish the place of residence of a person, the order on the search of the defendant, the mother or the child shall be sent by the court to the police department that would be competent for conducting a warrant procedure if an arrest warrant were issued.

(3) If the reason for ordering the search for the defendant, the mother or the child ceases to exist, the court shall notify the competent police department by sending the corresponding order.

39. Service of documents

Section 135 *[The standard method of serving judicial documents; the irregularity of service when a party with opposing interests participates]*

(1) Unless otherwise provided by law, judicial documents shall be served on the addressee through a postal service provider and in accordance with the legal provisions related to the service of official documents. The addressee may also collect documents addressed to him from the court office after his identity has been verified.

(2) Service shall be deemed performed in an improper manner if it is made to a person other than the addressee entitled to receive the document, and the recipient is a party with opposing interests or his representative in the action.

Section 136 *[Service on an agent, a statutory representative, or an entity other than a natural person]*

(1) If a party has authorised an agent to litigate on his behalf, judicial documents shall be served on the agent instead of the party.

(2) If a statutory representative or another person specified in an Act is entitled to act for and on behalf of a natural person party, and the party does not have an agent to litigate on his behalf, the judicial documents shall be served on that person.

(3) If a party other than a natural person does not have an agent to litigate on his behalf, judicial documents shall be served at the seat of the party or, in the absence of a seat, on the statutory representative of the party. If service at the seat of a party other than a natural person is unsuccessful, service shall be attempted on the statutory representative as well. If the party other than a natural person is an organisation registered in a publicly certified register, and service both at its seat and on its statutory representative is unsuccessful, the court shall notify the authority operating the register of the failure of service on the party and the reason for that failure.

(4) The provisions laid down in paragraphs (1) to (3) shall not apply to summons issued by the court to order a party or his statutory representative to appear in person.

Section 137 *[Impossibility of serving judicial documents; presumed service of documents]*

(1) If a judicial document cannot be served on the addressee, apart from the instances of presumed service of the document, the parties concerned shall be notified accordingly.

(2) Judicial documents shall be deemed served on the day of the service attempt if the addressee refused acceptance. If the service was unsuccessful because the addressee did not accept the document, or it is returned to the court as “unclaimed” then, if service was attempted through a postal service provider, the document shall be deemed served on the fifth working day following the second attempt to serve the document.

(3) If the document to be served is a statement of claim or a decision on the merits closing the proceedings, the court shall, via standard mail, notify the addressee of the onset of the legal effects of presumed service within eight working days. In the notice, the court shall inform the addressee of the rules on complaints against the presumed service of documents and, if the document is a statement of claim, of the onset of the legal effects of bringing the action. If the electronic mailing address of the addressee was notified to the court, the notice

shall be sent to the electronic mailing address of the addressee as well. A notice sent via the post shall be accompanied by the judicial document regarding which the court has established that the legal effects of presumed service have arisen.

40. Service complaint

Section 138 *[Time limit of and grounds for submitting a complaint]*

(1) The addressee may file a complaint with the court the proceedings of which involved the service of the document on the grounds specified in paragraph (4) and within fifteen days of becoming aware

a) that the legal effects of presumed service have arisen, if the document is deemed served on the basis of presumed service,

b) of the service, if the document is deemed served for a reason other than presumed service.

(2) With the exceptions specified in paragraph (3) and section 140, no complaint may be filed beyond three months after the onset of the legal effects of presumed service or after the day of service. No application for excuse shall be accepted for missing this time limit.

(3) If the onset of the legal effects of presumed service or service is connected to the document that initiated the proceedings, a complaint may be filed in the course of the proceedings within fifteen days from the onset of the legal effects of presumed service or of becoming aware of the service, respectively.

(4) The complaint shall be upheld by the court if the addressee could not accept the judicial document because

a) it was served in violation of the laws pertaining to the service of official documents, or the service was irregular for any other reason, or

b) he was unable to accept the document for a reason not specified in point *a)* without any fault on his part.

(5) A complaint against presumed service on the ground specified in paragraph (4) *b)* may be filed by a natural person party, or by another interested person who is participating in the proceedings and is a natural person.

Section 139 *[The content and adjudication of a complaint]*

(1) The facts and circumstances confirming the irregular nature of service or, in the cases described in section 138 (4) *b)*, substantiating the ground invoked by the addressee shall be presented in the complaint. Complaints submitted late shall be rejected. A complaint shall be decided on by the court, the proceedings of which involved the service. The court may interview the addressee and the parties before deciding on the complaint.

(2) At the time of submitting the complaint, the party shall also perform the act that is deemed to have been omitted, if possible.

(3) A complaint submitted on the ground specified in section 138 (4) *b)* shall be adjudicated in an equitable manner.

(4) A complaint shall not have suspensory effect regarding the continuation of proceedings or enforcement. If the facts alleged in the complaint appear to be likely, the court may order the proceedings or the enforcement of the decision to be suspended *ex officio*, even without obtaining the opposing party's opinion. A decision regarding a complaint may be changed subsequently by the court upon request.

(5) A separate appeal may be filed against a decision rejecting or dismissing a complaint. Decisions upholding a complaint and decisions on the suspension of proceedings or a judicial enforcement procedure may be challenged in an appeal against the decision closing the proceedings, if the complaint should have been dismissed without an examination on the merits.

(6) If a complaint is upheld by the court, the legal consequences of service shall be ineffective and the service, as well as any measure or procedural act already taken or performed, shall be repeated to the necessary extent.

Section 140 *[Complaints in the course of judicial enforcement procedures]*

(1) If a decision deemed served becomes final and binding and the grounds specified in section 138 (4) exist, the addressee, during the judicial enforcement procedure and within fifteen days after becoming aware of the procedure for enforcing the decision, may file a complaint with the court that adopted the decision of first instance. If the judicial enforcement procedure has commenced, the complaint may only be filed in accordance with the provisions of this paragraph.

(2) A complaint shall be adjudicated within thirty days. In other respects, the provisions laid down in sections 138 and 139 shall apply to the submission and adjudication of complaints.

41. Service by the bailiff

Section 141 *[Service by the bailiff if serving certain judicial documents is impossible]*

(1) If service of a statement of claim or decision on the merits closing the proceedings attempted by a postal service provider at the specified address of an addressee having a domicile, place of residence or seat in Hungary is impossible then, apart from any presumed service and cases where service is not possible due to the death or termination of the addressee or the impossibility of service is for a reason other than an avertable circumstance arising in the sphere of interests of the court or the postal service provider, the service of the document shall be attempted, at the request of a party having an interest in the service, in accordance with the rules on the service of judicial documents by a bailiff, as laid down in the Act on judicial enforcement, with the derogations specified in this section.

(2) Requests for the service of a judicial document by a bailiff shall be submitted, by filling out the form specified in the law laying down the detailed procedural rules of service by bailiffs, to the court during the proceedings in which the unsuccessful service attempt was made.

(3) The bailiff's fee, as specified by law, shall be paid by the requesting party to the court in advance, and it shall be transferred by the court to the Hungarian Chamber of Court Bailiffs, with reference to the proceeding court and the case number. After becoming aware that the bailiff's fee has been deposited with the court in advance, the court, with a view to taking the necessary measures, shall send the request and the document to be served to the Hungarian Chamber of Court Bailiffs without delay and without issuing a notice to remedy deficiencies.

(4) The time limit to be calculated from the time of serving the judicial document shall be calculated from when the judicial document is served successfully by the bailiff and in accordance with the law.

(5) If the bailiff requested by the court with regard to the service makes a late or incomplete statement or does not respond, the court may impose a fine on him.

(6) If a document is to be served by a bailiff, the fact that the document was served in compliance with the rules may be challenged in accordance with the provisions on legal remedy of the Act on judicial enforcement.

42. Agent for service of process

Section 142 *[Designation of an agent for service of process; the legal consequences of omission to designate an agent]*

(1) If the plaintiff does not have a domicile, place of residence (for the purposes of this section, hereinafter jointly "domicile") or seat in Hungary, and he does not have an agent with a domicile or seat in Hungary to litigate on his behalf, he shall specify the name and address

of an agent for service of process at the time of filing the statement of claim. The agency contract concluded by and between the party and the agent for service of process, drawn up in a private deed of full probative value or in a public deed, shall be attached to the statement of claim.

(2) If the defendant does not have a domicile or seat in Hungary and he does not have an agent with a Hungarian domicile or seat to litigate on his behalf, the court, at the time of serving the statement of claim, shall request the defendant to designate an agent for service of process within an appropriate time limit set by the court. The defendant shall notify the name and address of an agent for service of process to the court within the specified time limit, and he shall submit the agency contract according to paragraph (1).

(3) If the plaintiff fails to perform his obligation set forth in paragraph (1), the court shall request the plaintiff to notify the name and address of an agent for service of process to the court and to submit the agency contract according to paragraph (1) within an appropriate time limit set by the court.

(4) If a party does not designate a new agent for service of process within the time limit specified in paragraph (2) or (3), or if any of the parties does not designate a new agent without delay and without being specifically called upon to do so after a notice of termination is given by the principal or the agent regarding the agency contract, or if a document cannot be served on the agent for service of process, no remedy of deficiencies shall be ordered and no specific notice shall be given to the party, the court shall order *ex officio* the document to be served by public notice. This provision shall not be applied regarding the service of a statement of claim to the defendant; the service of a statement of claim to a foreign country shall be subject to the rules on service to foreign countries.

(5) If a document is to be served by public notice for a reason specified in paragraph (4), the rules on service by public notice shall apply with the derogation that

a) the public notice shall not be sent for display to the mayor's office or joint local government office of the last known domicile of the party,

b) the last known domicile or, in the absence of a domicile, place of residence of the addressee shall be indicated in the public notice.

Section 143 *[Other procedural rules; the agent for service of process; exceptions from the application of the rules]*

(1) If a foreign party who is recorded in the company register does not have an agent with a Hungarian domicile or seat to litigate on his behalf pertaining to the operation of the company, the agent for service of process of the foreign party, as recorded in the company register, shall act as agent for service of process without a specific mandate. The provisions laid down in paragraph (4) shall apply to the acts of the agent for service of process and to the service of documents. The fact that a party has an agent for service of process who is recorded in the company register shall be taken into account by the court *ex officio*.

(2) If a foreign party has an agent who has a domicile or seat in Hungary to litigate on his behalf, the provisions laid down in paragraph (4) shall apply to the acts of the agent for service of process and the service regarding the summons obliging the party or his statutory representative to appear in person.

(3) An attorney-at-law, a law office, or another adult natural person or legal person with a domicile or seat in Hungary may be an agent for service of process.

(4) An agent for service of process shall be responsible for receiving documents that are to be served on the principal and created during the proceedings, and for transmitting such documents to the principal; the agent for service of process shall be liable for these acts toward the principal under the general rules of civil law. A document addressed to a party and

served on his agent for service of process in the proper manner shall be deemed served on the party on the fifteenth day after service.

(5) The court shall inform a foreign party of the rules pertaining to agents for service of process when the party is called upon to designate an agent for service of process.

(6) The provisions pertaining to agents for service of process shall not apply to the service of documents on a party with a domicile, place of residence or seat in a country where only certain methods of service, other than those specified in these provisions, may be followed according to an international treaty or a binding legal act of the European Union.

43. Service by public notice

Section 144 *[Cases and conditions of service by public notice, and the legal consequences of irregular service by public notice]*

(1) A document shall be served by public notice, if

a) the place of residence of the party is unknown, and the judicial document may not be served on the party by electronic means,

b) the place of residence of the party is in a country that does not provide legal assistance for service,

c) service is obstructed by any other unavertable obstacle, or

d) it is required by an Act.

(2) Service by public notice shall not be ordered by the court, apart from situations where it may be ordered *ex officio*, unless it is requested by a party and the reason for such service is substantiated. If service by public notice is ordered without the conditions specified in paragraph (1) being met, the service and any subsequent proceedings shall be invalid, unless it is at least tacitly approved by the person to whom the document was served by public notice. This legal consequence shall be established by the court *ex officio* before the decision closing the proceedings becomes final and binding, but after interviewing the parties, or otherwise on the basis of a procedural remedy.

(3) If the facts presented by a party in his request for service by public notice prove to be untrue, and the party knew or should have known of it if he had acted with due care, the party shall reimburse the costs incurred in relation to the ordered service by public notice, regardless of the outcome of the action, and he shall be subject to a fine as well.

Section 145 *[Method of service by public notice; other procedural rules]*

(1) The public notice shall be published on the central website (hereinafter "website") of the courts for fifteen days; it shall be displayed on the notice-board of the court for fifteen days, and shall be displayed on the notice-board of the mayor's office or joint local government office of the last known domicile in Hungary of the party. If the electronic mailing address of the party was notified to the court, the public notice shall be sent to the electronic mailing address of the party as well.

(2) The public notice shall contain

a) the date of publication on the website and on the notice-board of the court,

b) the name of the proceeding court,

c) the court case number,

d) the name and last known domicile in Hungary, or place of residence in the absence of a domicile, of the addressee, or seat for an entity other than a natural person,

e) the reason necessitating service by public notice, and

f) a reference to the legal consequence specified in paragraph (6), and the fact that the addressee may collect the document to be served at the administration office of the court.

(3) If the party resides in a country that does not provide legal assistance for service but can be reached via the post; and if service by public notice is in order on the basis of the rules

pertaining to agents for service of process and the party resides in a country that can be reached via the post, the public notice shall also be sent to the foreign address of the party via registered delivery.

(4) If the statement of claim is to be served on the defendant by public notice, the court shall appoint a guardian *ad litem* for the defendant, and the statement of claim shall be served on the guardian *ad litem* as well. If the conditions of service by public notice are met after the statement of claim is served on the defendant in compliance with the rules, no guardian *ad litem* shall be appointed for the defendant.

(5) The costs incurred in relation to the service by public notice, including the cost of appointing a guardian *ad litem* according to paragraph (4), shall be advanced by the person who requested the service by public notice.

(6) If a document is served by public notice, it shall be deemed served on the fifteenth day after its publication on the website, unless otherwise ordered by the court.

44. Time limits

Section 146 *[Calculation of time limits]*

(1) Time limits shall be calculated in hours, days, working days, months or years. A time limit may be set in hours, if it is specifically provided by law.

(2) A time limit set in hours shall be calculated in whole hours, and the starting hour shall not be calculated into the time limit. The starting hour shall be the hour during which the act or other circumstance serving as the reason for commencing the time limit is performed or occurs.

(3) If a time limit is set in days or working days, the starting day shall not be calculated into the time limit. The starting day shall be the day during which the act or other circumstance serving as the reason for commencing the time limit is performed or occurs.

(4) A time limit set in months or years shall expire on the day that corresponds to the starting day according to its numbering; if that day does not exist in the month of expiry, the time limit shall expire on the last day of that month.

(5) If the date of expiry of a time limit falls on a public holiday, the time limit shall expire on the next working day.

(6) A time limit set in days, working days, months, or years shall expire at the end of the last day; however, a time limit for filing a document with or performing an act before a court shall already expire at the end of the working hours. A time limit set in hours shall expire at the end of the last hour; if the last hour ends on a public holiday, or if a time limit for filing a document with or performing an act before a court expires after the end of working hours, the time limit shall expire on the next working day, one hour after the commencement of working hours.

Section 147 *[Extension of time limits]*

(1) The court may extend, for important reasons, the time limit it set on one occasion. The total length of a time limit and its extension shall not be longer than forty-five days, unless the preparation of an expert opinion requires a longer time limit.

(2) A time limit set by an Act may be extended only in the cases defined by an Act.

(3) The period of an extension granted by the court shall be calculated from the day following the expiry of the original time limit; if the time limit was set in hours, the extension shall be calculated from the expiry of the last hour.

(4) A request for extension shall be received by the court on the last day of the time limit at the latest or, if the time limit was set in hours, before the expiry of the time limit; the court may decide on a request for extension without obtaining the opinion of the opposing party or of the parties.

Section 148 *[Court vacation]*

(1) The period between 15 July and 20 August and the period between 24 December and 1 January in each year (hereinafter "court vacation") shall not be counted in a time limit set in hours, days, or working days. No hearing shall be set for a period when the court is on vacation.

(2) If a time limit set in months or years would expire during a period of court vacation, the time limit shall expire in the following month on the day the number of which corresponds to the date that the time limit commences; if that day also falls into a period of court vacation, the time limit shall expire on the first day following the court vacation. The provisions laid down in section 146 (5) and (6) shall apply in such cases as well.

(3) The provisions laid down in paragraphs (1) and (2) shall not be applied, if

a) an Act provides that proceedings or a procedural act is to be dealt with as a matter of priority,

b) it is jointly requested by the parties, or

c) it is prohibited by an Act.

(4) If paragraph (3) is applied, the party shall be warned specifically.

45. Omissions and excuses

Section 149 *[Omissions and the legal consequences of omissions]*

(1) Unless otherwise provided in this Act, if a party omits to perform an act in the court proceedings, he shall not be allowed to perform it effectively anymore, and any belated act in the court proceedings shall be ineffective. The court shall notify the party concerned of the ineffectiveness of a belated act in the court proceedings, unless this Act provides that the belated act in the court proceedings shall be rejected.

(2) The consequences of an omission shall arise *ipso jure* and without any prior warning, with the exceptions specified in this Act. If the consequences of an omission do not arise without prior warning or a request by the opposing party, the omitted act may be performed within the time period specified in the warning, or until a request is submitted; if the request is made during a hearing, the omitted act may be performed until a decision on the request is adopted.

(3) It shall not constitute an omission if a party is prevented from performing an act in the court proceedings by an unavertable obstacle.

(4) Unless otherwise provided in this Act, the consequences of missing a time limit set in days, working days, months, or years shall not be applied if the submission addressed to the court was posted as registered delivery to the address of the court on the last day of the time limit at the latest.

Section 150 *[The purpose of an excuse; disqualification of excuses]*

(1) If a party or his representative missed a due date or a time limit without any fault on his part, the consequences of this omission may be remedied by an excuse, with the exceptions specified in paragraph (2).

(2) No application for excuse shall be accepted if

a) it is prohibited by this Act,

b) the consequences of the omission may also be averted without an excuse, or if the omission does not result in any disadvantage that would be expressed in the court's decision,

c) the party misses the new due date set on the basis of the application for excuse.

Section 151 *[Time limit for submitting an application for excuse and the content of an application for excuse]*

(1) An application for excuse may be submitted within fifteen days following the missed due date or the last day of the missed time limit. If the party or his representative becomes

aware of the omission only later, or the obstacle ceases only later, the time limit for submitting an application for excuse shall commence on the day after becoming aware or after the obstacle ceases; however, no application for excuse may be submitted after the expiry of three months following the omission.

(2) The reason for the omission and the circumstances substantiating the absence of any fault regarding omission shall be presented in the application for excuse.

(3) If a time limit is missed, the omitted act shall be performed simultaneously with submitting the application for excuse.

Section 152 *[The impact of an application for excuse on the proceeding]*

An application for excuse shall have no suspensory effect regarding the continuation of proceedings or judicial enforcement. If the success of an application for excuse appears to be likely, the court may order the proceedings or the enforcement of the decision to be suspended *ex officio*, even without obtaining the opposing party's opinion. A decision on suspension may be changed by the court upon request.

Section 153 *[Adjudicating an application for excuse]*

(1) An application for excuse shall be decided by the court during the proceedings of which the omission occurred; if a time limit for filing an appeal is missed, the application for excuse shall be decided by the court of second instance.

(2) An application for excuse shall be rejected by the court if

a) excuse is prohibited by this Act,

b) the application for excuse is late, or

c) in the case of missing a time limit, the person submitting the application had not performed the omitted act at the time of submitting the application.

(3) The court may interview the parties before deciding on an application for excuse. If the parties are summoned, the due date shall also be set for the hearing of the case, if possible. Whether the preconditions for an application for excuse are met or not shall be decided in an equitable manner.

(4) If an application for excuse is accepted by the court, the act completed by the party on whose part the omission arose shall be considered as if it was performed within the missed time limit, and the hearing held on the missed due date shall be repeated to the necessary extent. Taking into account the outcome of the new hearing, a decision shall be adopted on upholding or setting aside, in whole or in part, the decision adopted on the basis of the missed hearing.

Section 154 *[Procedural remedy]*

(1) A separate appeal may be filed against a decision rejecting or dismissing an application for excuse or a decision dismissing a request for suspending the proceedings or the enforcement of a decision.

(2) A decision on accepting an application for excuse or a request to suspend the proceedings or enforce a decision may be challenged by an appeal against the decision closing the proceedings, if the application for excuse should have been rejected.

46. Interviewing the parties outside the hearing

Section 155 *[Call for a statement]*

If a statement by a party needs to be obtained and it may not be postponed until the court hearing, the court shall call upon the party to make the statement in writing. If the court finds it necessary, it may also summon the party acting without a legal representative to a personal interview.

47. Complaint against the irregularity of proceedings

Section 156 *[Complaint against a procedural irregularity]*

(1) A party may raise a complaint against the irregularity of the proceedings at any time during the proceeding. If, during the hearing, the complaint is raised by the party orally, it shall be recorded in the minutes.

(2) If upholding a complaint, the court shall perform the procedural act to which the complaint relates in the proper manner, or it shall repeat it if necessary. If a complaint is dismissed by the court, a corresponding decision shall be adopted; the court shall give the reasons for its decision, in its judgment at the latest.

48. Complaint against the protraction of the proceedings

Section 157 *[Reasons for submitting a complaint; the content and withdrawal of a complaint]*

(1) A party may submit a complaint to the court proceeding in the case, if

a) a time limit is set by an Act for the court to conduct the proceedings, to perform a procedural act, or to adopt a decision, and this time limit expired without result,

b) the court set a time limit for performing a procedural act, and this time limit expired without result, but the court did not apply the measures possible under this Act against the person on whose part the omission arose,

c) the court did not perform or arrange for the performance of a procedural act within a reasonable period that should be sufficient to perform that act.

(2) The complaint may be filed with the court proceeding in the case in writing, addressed to the court with material jurisdiction to adjudicate the complaint, and requesting the court with material jurisdiction to adjudicate the complaint to establish the omission, and to instruct the court on whose part the omission arose to perform the omitted procedural act or adopt a decision, in a situation described in paragraph (1) *a)* and *c)*, or to take a measure that is most suitable in the case, in a case described in paragraph (1) *b)*, within an appropriate time limit.

(3) The complaint may be withdrawn by the person who filed the complaint until a decision on its merits is adopted by the court. A complaint withdrawn may not be submitted again.

Section 158 *[Adjudicating a complaint]*

(1) The court proceeding in the case shall examine the submitted complaint within eight days after receipt by the court, and, if the complaint is found to be well-founded, it shall take the necessary measures to rectify the situation described in it. The court shall notify the person who submitted the complaint of the complaint having been resolved.

(2) If the proceeding court finds that the complaint is unfounded, it shall send the submission containing the complaint to the opposing party, who may submit his observations within eight days of service. After the expiry of this time limit, the court shall forward the documents, including any observations it may have received and its statement on the complaint to the court with material jurisdiction to adjudicate the complaint within eight days.

(3) A complaint filed due to an omission by a district court shall be adjudicated by a panel of three professional judges of the regional court; a complaint filed due to an omission by a regional court shall be adjudicated by a panel of three professional judges of the regional court of appeal; a complaint filed due to an omission by a regional court of appeal shall be adjudicated by a panel of three professional judges of the Curia; and a complaint filed due to an omission by the Curia shall be adjudicated by another panel of the Curia, outside the hearing, within fifteen days of forwarding the documents.

(4) If the court adjudicating it upholds the complaint, it shall, setting a time limit, call upon the court on whose part the omission arose, to take the measure necessary to continue the proceedings in the cases described in section 157 (1) *a)* and *c)*, or to take the most expedient

measure in the cases described in section 157 (1) *b)*. Except for the cases described in section 157 (1) *a)*, in its call the court adjudicating the complaint shall not instruct the proceeding court to perform a specific procedural act. If the complaint is unjustified, it shall be dismissed in a reasoned decision.

(5) If the person who submitted the complaint submits another unfounded complaint during the proceedings then, in the decision dismissing the complaint, he may be fined by the court adjudicating the complaint.

(6) The provisions pertaining to the forwarding and adjudication of an appeal against an order shall also apply to resolving complaints.

49. Recording the content of the proceedings

Section 159 *[Methods of making minutes; making a continuous recording of procedural acts]*

(1) The court shall make minutes of the court hearings, other interviews carried out outside the hearing and other events as specified by an Act.

(2) The chair shall determine the procedural acts for which a keeper of the minutes is used.

(3) If a keeper of the minutes is not used, the court, with a view to recording the content of the minutes and at the same time as performing a procedural act, shall make a sound recording summarising the content of the minutes and shall produce the minutes in writing by transcribing that sound recording subsequently, with the exception specified in paragraph (4).

(4) If it is requested so by any party before the commencement of a procedural act during the main hearing phase of the proceedings, the court shall order the minutes to be made by producing a continuous audio and video recording (hereinafter "continuous recording") of the hearing, if the necessary technical means are available. The court may also order *ex officio* a continuous recording to be made during the main hearing phase of the proceedings.

(5) If a continuous recording is made, this recording shall contain the material of the procedural act. A continuous recording certified in a manner specified by law shall be deemed minutes. If a continuous recording is made and the court uses a keeper of the minutes, a written extract of the minutes shall be produced at the time when the procedural act is performed. If a keeper of the minutes is not used, the court shall subsequently produce a written extract of the minutes on the basis of the recording.

(6) A continuous recording shall record all events that take place during a procedural act without interruption, with the exceptions specified in paragraph (7).

(7) The making of a continuous recording shall be interrupted for the period when the court adopts its decision on the merits of the case, and may be interrupted for the period of making any other decision. If the court interrupts a procedural act for an important reason for a short period, the continuous recording may also be interrupted for the same period.

(8) If a continuous recording is made, the parties shall be informed of the time and place they may watch or listen to the recording. The provisions pertaining to the inspection and making of copies of documents shall also apply to continuous recordings. Provisions of this Act prescribing that a circumstance or statement is to be recorded or indicated in the minutes shall be construed to also mean that its continuous recording is required.

Section 160 *[Requirements concerning the form and content of the minutes, written extracts of the minutes]*

(1) The following shall be recorded in the minutes:

a) the proceeding court and the court case number,

b) the names of the parties and their position in the procedure, and the subject matter of the action,

c) the place of the hearing, the scheduled and actual commencement and finishing time of the hearing, any postponement of the hearing, if the hearing is continuous or repeated, and if it is a preparatory hearing or a main hearing,

d) the names of the judges, and any keeper of the minutes or interpreter,

e) the name and position in the procedure of any party and representative present, and the name of any other person who is present and is participating in the action,

f) in the event that the announcement of the judgment is postponed, the fact of whether the court serves the parties present at the announcement with a written judgment immediately,

g) in the case of a closed hearing, a reference to this fact.

(2) The minutes shall contain the following:

a) the course and events of the proceedings, so that it can be established from the minutes whether or not the proceeding meets all form-related requirements specified in this Act, and if the exact wording of an expression or statement is important then it shall be recorded in the minutes verbatim,

b) substantive requests and statements made by the parties, including the statements of fact, statements of law, and motions for evidence made by the parties, as well as any extension of the action, amendment of action, counter-claim, set-off, deviations from a previous request or statement, and any failure or refusal to make a statement despite being called upon by the court to do so,

c) the action being abandoned, as well as acknowledgement, waiver of a right, and any settlement reached by the parties,

d) the presentation of a document, including the contents of the document that are relevant to the proceedings, and any witness testimony or expert opinion presented orally, and the result of an inspection,

e) the measures taken with regard to case management and maintenance of order,

f) the presentation of previous proceedings, the indication of documents presented, and

g) any order adopted by the court in the course of the procedural act, and the announcement of the judgment.

(3) If only written minutes are taken, the minutes shall only refer to any reading of a party's submission, expert opinion, or other litigation documents, and to the submission of an original document or a copy.

(4) If only written minutes are taken, and a party requests the recording of a statement made or circumstance occurred during the proceedings in the minutes, the request shall be granted, unless the court does not have any knowledge of the respective circumstance or statement occurring or being made.

(5) If a continuous recording is made, a written extract of the minutes shall be produced instead of minutes, and the extract shall contain:

a) the data specified in paragraph (1),

b) reference to a continuous recording being made,

c) the time of commencing the personal interview of a party, the interview of an intervenor, witness or expert, or the inspection,

d) the content of a settlement reached by the parties,

e) any order adopted by the court in the course of a procedural act.

(6) If the court holds a main hearing immediately after adopting the order closing the preparatory stage, the time of transitioning into the main hearing shall be recorded in the minutes. In the event of transition, the written extract of the minutes shall not be prepared; it shall be sufficient to record its content in the written minutes of the preparatory stage.

Section 161 *[The preparation, supplementation and rectification of the minutes]*

(1) The written minutes or the written extract of the minutes of the procedural act shall be prepared simultaneously or, if a recording was made without a keeper of the minutes, within eight working days, in writing. If the written minutes or the written extract of the minutes is prepared on the basis of a recording, the date of transcription shall be indicated and the parties shall be informed of the possible time and place for collecting the document. The transcribed minutes or the written extract of the minutes shall be served by the court within eight days after transcription, if the service of the minutes is required by an Act.

(2) If the written minutes or the written extract of the minutes is made at the same time as performing the procedural act, or if the written minutes are produced according to section 159 (3), the written minutes, the sound recording summarising their contents, or the written extract of the minutes may be supplemented or modified *ex officio*, or with the permission of the chair on the basis of observations made by the parties in the course of performing the procedural act. Any request by the parties to this end, if it is dismissed, shall be recorded in the written minutes or written extract of the minutes. Any wording that may become unnecessary due to a modification shall be deleted in a manner that ensures the legibility of the deleted wording.

(3) If the written minutes are made by way of a recording, the parties attending the procedural act may request that the written minutes are rectified or supplemented

a) within eight days of service if they are served with the minutes,

b) within fifteen days following the procedural act if they are not served with the minutes.

(4) If the written extract of the minutes is transcribed from a continuous recording, the provisions laid down in paragraph (3) shall apply, with the proviso that the court shall decide on the rectification or supplementation of the written extract of the minutes with regard to the content of the continuous recording.

(5) The written minutes, the written extract of minutes and any modification shall be signed by the sole judge or the panel chair and the keeper of the minutes. If the court proceeds in a panel, and the chair is prevented from signing, the written minutes or written extract of the minutes shall be signed by a member of the panel, indicating his status as a substitute in place of the chair.

(6) If the written minutes or the written extract of the minutes are produced on the basis of a recording, the court employee transcribing the recording or a specific part thereof (hereinafter "transcriber") shall proceed in place of the keeper of the minutes during the transcription, and he shall sign the document to confirm that the transcription was made in accordance with the recording. Continuous recordings shall be sealed by the court with an electronic seal.

50. The inspection of documents, making of copies, data processing

Section 162 *[Persons entitled to inspect documents; the scope of the right to inspect documents; the period and scope of processing personal data]*

(1) For themselves and without permission at any stage of the proceeding, the parties and their representatives, experts, and the prosecutor may inspect and make copies of or extracts from the documents of the case, with the exception of draft decisions and any dissenting opinion.

(2) An intervenor and his representative may inspect and make copies of or extracts from the documents of the case after a decision is adopted on approving the intervention.

(3) Other persons participating in the procedure but not mentioned in paragraphs (1) and (2) may inspect and make copies of or extracts from those documents of the case that relate to them.

(4) At the request of a court, the prosecution service, notary, court bailiff, investigating authority, or administrative authority, the court shall transmit or grant access to the documents of the case, or copies or extracts thereof, to the extent necessary for the performance of the requester's tasks specified by an Act.

(5) Apart from the persons and bodies mentioned in paragraphs (1) to (4), and except for the provision of information regulated in the Act on the legal status and remuneration of judges, information on the proceedings may only be provided to a person who has a legal interest in the completion or outcome of the proceedings. After the verification of the corresponding legal interest, the president of the proceeding court shall allow the documents to be inspected, copies or extracts to be made and the necessary information to be provided.

(6) The court shall process personal data disclosed with regard to the proceedings and with a view to deciding on the right enforced in the proceedings until the purpose of data processing is achieved, but no later than the discarding or archiving the documents of the case subject to the proceedings. Such personal data may be processed by the court after the conclusion of the proceedings with final and binding effect for the exclusive purposes of enforcing the final and binding decision, verifying the contents of the final and binding decision or any legal remedy pertaining to the final and binding decision, or performing any other task specified in an Act, and such data shall not be disclosed to another body or person unless they are authorised to process such personal data.

Section 163 *[Rules pertaining to confidentiality]*

(1) Notwithstanding the provisions laid down in section 162, no copy or extract shall be made of or from the minutes of a hearing from which the public was excluded with a view to preserving any classified data, or any other document containing classified data. In such an event, the inspection of documents shall be subject to the permission of the classifier, to be granted in accordance with the rules laid down in the Act on the protection of classified data, and to the conditions set by the president of the court.

(2) With regard to documents containing business secrets, professional secrets, or any other secret specified by an Act but not mentioned in paragraph (1), the parties, prosecutors, other persons participating in the procedure and their representatives may exercise their right to access and make copies of documents subject to the order and rules set by the proceeding judge and after making a written statement on undertaking the duty to preserve any such secret. If the person entitled to grant an exemption from confidentiality declares in due time and in accordance with section 322 (2) that he does not consent to the inspection of the document containing business secrets, professional secrets, or any other secret specified by an Act, no part of the document containing such secrets may be inspected, copied or made an extract from by any person other than the court, the keeper of the minutes or the transcriber.

(3) If the subject matter of the action is whether or not the content of a document qualifies as data of public interest, the document concerned shall not be inspected during the proceedings and, after the conclusion of the proceedings with final and binding effect, it may be inspected or copied only to the extent necessary to decide the action. This provision shall not apply to the court, the keeper of the minutes, the transcriber and to the person participating in the procedure who submitted the document.

(4) The inspection of the minutes mentioned in paragraph (1) and of a document containing any secret mentioned in paragraphs (1) to (3), the provision of information regarding the contents thereof and the copying of or making extracts from a document containing any secret mentioned in paragraphs (2) and (3) shall be permitted only to a person specified in an authorisation for inspection granted by the classifier or by a person entitled to grant an exemption from confidentiality.

(5) The provisions laid down in section 285 shall apply to the inspection and copying of documents.

Section 164 *[Releasing an anonymised copy of a document]*

(1) With the exception specified in paragraph (2), an anonymised copy of a judgment or an order adopted in the course of procedural remedy against the judgment and instructing the lower court to conduct new proceedings and adopt a new decision shall be provided to any person against a fee specified by law after three months following the final and binding conclusion of the proceedings. All data indicated in the decision enabling the identification of a natural person shall be erased in a manner ensuring that the established facts remain intact; otherwise, the individuals mentioned in the decision shall be designated according to their role in the proceedings.

(2) If a decision is not published in accordance with the provisions laid down in the Act on the organisation and administration of courts, no copy of the decision shall be provided, if

a) it contains a secret specified in section 163 (1) to (3),

b) it was adopted in an action related to personal status, or

c) it was adopted in an action in the course of which the public was excluded from the hearing, or any part thereof, by the court.

(3) Notwithstanding paragraph (2) a), an anonymised copy of a decision may be provided, if the qualification or the legality of the classification of the data is the subject matter of the action, and the court establishes that the data is not eligible for confidentiality.

(4) The following shall not be erased from the copy mentioned in paragraph (1):

a) the name and position, and other personal data pertaining to the public duty of a person performing governmental or local governmental tasks, or other public duties specified by law, if that person was participating in the proceedings in relation to the performance of his public duties, unless otherwise provided by an Act,

b) the name of the legal representative who acted as an agent,

c) the name of the representative of an association or foundation,

d) other data accessible on public interest grounds.

51. The recovery of lost (destroyed) documents

Section 165 *[Methods of recovery of documents; proceeding without recovery]*

(1) Arrangements for the recovery of lost or destroyed documents shall be made by the judge who proceeded in the case or by the chair. As part of such an arrangement, the full or partial recovery of the documents, the reproduction of written minutes or a written extract of the minutes from a recording shall be ordered; the persons who participated in the case shall be interviewed, and issued documents and copies of documents shall be obtained as necessary.

(2) If a decision adopted on the basis of documents that are lost or destroyed becomes final and binding, the recovery of documents pertaining to the concluded case may be omitted. In such an event, only an authentic or regular copy of the decision shall be obtained from the parties.

(3) The provisions laid down in paragraphs (1) and (2) shall also apply to preserving materials pertaining to the procedural act as a recording.

52. Fine

Section 166 *[Framework rules for imposing a fine]*

(1) The amount of a fine imposed under this Act shall not exceed one million forints, and a fine imposed on a minor shall not exceed three hundred thousand forints, with the proviso that a fine shall not be imposed on a minor below the age of fourteen.

(2) The amount of a fine imposed shall not exceed the value of the subject matter of the action. If the value of the subject matter of the action does not exceed fifty thousand forints, the amount of a fine imposed shall not exceed one hundred thousand forints.

(3) A fine imposed shall not be converted into imprisonment. The collection and use of a fine shall be subject to the same laws that apply to fines imposed by courts in criminal matters.

(4) A separate appeal may be filed against the order imposing the fine. If there are important reasons, the court may also amend such an order within its own competence.

PART THREE

FIRST INSTANCE PROCEEDINGS

CHAPTER X

ATTEMPT AT SETTLEMENT BEFORE BRINGING AN ACTION

53. Attempt at settlement related to or in the absence of a mediation procedure

Section 167 *[Attempt at settlement related to a mediation procedure]*

(1) If the parties enter into an agreement in the course of a mediation procedure, any party, before bringing an action, may request the court with material and territorial jurisdiction over the action to issue a summons to an attempt at settlement with a view to having the agreement approved as a settlement. If the summons to the attempt of settlement is requested by the parties to the agreement jointly, the proceedings may be conducted by any court with material jurisdiction. The name, domicile or seat, and other known identification data of the parties, and the facts serving as grounds for establishing the material and territorial jurisdiction of the court shall be indicated in the request. The agreement shall be attached to the request.

(2) Legal representation shall not be mandatory during the proceedings.

(3) The court shall set a due date for the attempt at settlement for a date not later than thirty days or, in the case of a joint request not later than fifteen days, following the receipt of the request, and shall summon the requesting and requested party or, in the case of a joint request, the requesters for the due date; the request shall be served on the requested party simultaneously.

(4) The agreement concluded by the parties shall be recorded in the minutes by the court. The provisions laid down in this Act regarding settlements shall apply to the approval of the agreement. A junior judge shall not adopt decisions regarding the approval of settlements.

(5) If a settlement is not reached at the due date set, the court shall close and declare the proceedings to be unsuccessful. If the requesting party does not appear in court, the court, at the request of the opposing party present, shall oblige him to reimburse all costs caused.

Section 168 *[Attempt at settlement in the absence of a mediation procedure]*

(1) A party, before bringing an action, may request the court with material and territorial jurisdiction over the action to issue a summons to an attempt at settlement, even if the parties did not reach an agreement earlier in the course of a mediation procedure. The provisions laid down in section 167 shall apply to the proceedings, with the derogations set forth in paragraphs (2) to (5).

(2) The subject matter of the legal dispute and the content of the planned settlement shall be presented in the request.

(3) The provisions laid down in this Act regarding mandatory legal representation shall be applied to the proceedings.

(4) If a settlement is not reached on the due date set, the court shall inform the parties of the possibility of engaging in a mediation procedure. If all parties declare that they engage in a

mediation procedure, the proceedings shall be stayed at their joint request; the provisions laid down in this Act regarding the stay of the proceedings shall apply to the stay, with the derogation set forth in paragraph (5).

(5) The proceedings stayed under paragraph (4) shall not be continued, unless a party requesting continuation in due time attaches the agreement reached by the parties in the course of the mediation procedure to his request; in any other case, the request for continuation shall be dismissed by the court, and the proceedings shall stay without any interruption. On the basis of a request for continuation made in compliance with the rules, the court shall set a new due date for an attempt at settlement for a date not exceeding thirty days after receipt of the request for continuation.

CHAPTER XI

BRINGING AN ACTION

54. The statement of claim

Section 169 *[Bringing the action]*

(1) The proceedings shall be initiated by the plaintiff against the defendant by filing a statement of claim.

(2) A civil claim sent to a court under the Act on the Code of Criminal Procedure shall be assessed as a statement of claim, and shall be considered as if it was originally filed with the court to which it was sent.

Section 170 *[The statement of claim]*

(1) The introductory part of a statement of claim shall indicate

a) the name of the proceeding court,

b) the names of the parties and their position in the procedure, identification data of the plaintiff, known identification data of the defendant, including his domicile or seat at least, and

c) the name, seat, phone number, and electronic mail address of the plaintiff's legal representative, as well as the name of the legal representative designated to receive official documents, if multiple legal representatives participate.

(2) The substantive part of a statement of claim shall indicate

a) an explicit claim requesting the court's decision,

b) the right to be enforced, by specifying the legal basis,

c) the right to be enforced and the facts supporting the claim,

d) legal arguments demonstrating the relationship between the right to be enforced, the statement of fact and the claim, and

e) available evidence and motions for evidence in support of each statement of fact, in the manner specified in this Act.

(3) The closing part of a statement of claim shall indicate:

a) the value of the subject matter of the action, and the facts and legal provisions taken into account to determine that value,

b) the facts and legal provisions establishing the material and territorial jurisdiction of the court, as well as its jurisdiction if an international element is involved in the case,

c) the amount paid as a procedural fee and the method of payment or, if no procedural fee was paid, a request for legal aid or, in the event of being exempted from paying procedural fees by virtue of law, the facts and legal provisions underlying exemption,

d) the facts and legal provisions establishing the capacity of a party other than a natural person to be a party, as well as the power of representation in the proceedings of the person identified as the statutory representative of a party and of an agent, and

e) the evidence supporting the facts presented in the closing part.

(4) If there is a joinder of claims, the requirements specified in paragraph (2) shall be met for each claim, and the relationship between such claims and the requested order of adjudication shall be stated, if the claims are in a contingent relationship.

(5) The statement of claim may also include a reasoned request to the defendant

a) to provide the information required to state a fact in a privileged case of inability to allege, or

b) to submit a piece of evidence in a privileged case of inability to prove.

Section 171 *[Attachments to a statement of claim]*

(1) The following shall be attached to a statement of claim:

a) an authorisation, unless it is recorded in the client settings register according to this Act, or a general authorisation is recorded in the national and publicly certified register of general authorisations,

b) the evidence identified in the substantive part of the statement of claim,

c) the evidence identified in the closing part of the statement of claim, and the documents required by law in the case of applying for legal aid or if the litigation costs are reduced by law.

(2) At least a simple Hungarian language translation shall be attached to any document written in a foreign language.

Section 172 *[The types of claims]*

(1) A statement of claim seeking the imposition of an obligation shall only be filed in order to enforce an overdue claim.

(2) In an action for maintenance payment, annuity or other periodic service, a statement of claim seeking the imposition of an obligation may also be filed if the claim is not overdue. In an action for returning any residential or other premises or immovable property, the claim may be filed also before the due date of the obligation to return the property, unless it is to be performed at a specific time.

(3) A claim for declaring the existence or non-existence of a right or legal relationship may be filed, if the declaration sought is necessary to protect the rights of the plaintiff against the defendant and imposing an obligation may not be sought due to the nature of the legal relationship, the immaturity of the obligation or for any other reason. The court shall examine *ex officio* whether these conditions prescribed by law are met.

(4) A claim for changing, i.e. creating, terminating or modifying the legal status or legal relationship of the parties, may be filed if doing so is explicitly permitted by law.

Section 173 *[Joinder of claims]*

(1) Multiple actions (actual material joinder of claims) may be brought if the actions arise from the same or, considering their factual and legal basis, related legal relationships, and none of the actions is subject to the exclusive territorial jurisdiction of another court. An action brought in a matter falling within the scope of this Act may not be linked to an action or motion falling within the material jurisdiction of a court that proceeds in administrative court actions or other administrative court proceedings.

(2) Multiple actions in a contingent or alternative relationship (hereinafter "*quasi* material joinder of claims") may be brought if

a) the actions arise from the same legal relationship,

b) none of the actions is subject to the material jurisdiction or exclusive territorial jurisdiction of another court, and

c) all actions are brought against all defendants, if there is more than one defendant.

(3) Multiple actions in a contingent or alternative relationship regarding the person of a party (*quasi* personal joinder of claims) cannot be brought.

(4) With regard to a *quasi* material joinder of claims, the legal effects of filing a statement of claim shall arise with respect to all actions.

Section 174 *[Transfer]*

(1) If it can be established from the statement of claim that the action falls within the material or territorial jurisdiction of another court, the court shall order the statement of claim to be transferred to that court. Transfer may also take place if the legal dispute falls within the material jurisdiction of a court proceeding in administrative court actions or other administrative court procedures.

(2) The court shall attach the statement of claim to the order on transfer sent to the defendant, unless it has already been sent to him earlier. If the defendant does not have the capacity to be a party, the order on transfer shall not be served on him.

(3) A separate appeal may be filed against an order on transfer. The court may also amend its order within its own competence. The statement of claim shall not be transmitted to the new court before the order becomes final and binding.

(4) The statement of claim shall not be transferred to a court that has established the absence of its own material or territorial jurisdiction with final and binding effect.

(5) The court shall decide on the transfer as a matter of priority.

Section 175 *[The legal consequences of transfer]*

(1) A transferred statement of claim shall be considered as if it was originally filed with the court to which it was transferred.

(2) Acts performed in the court proceedings by the parties and provisions issued by the court before a transfer shall be ineffective, unless

a) they are related to the transfer,

b) they were performed or issued before the amendment or extension of the action that serves as a ground for the transfer, or

c) all acts are approved by the parties and all provisions are upheld in their effect by the new court.

Section 176 *[Rejection]*

(1) The court shall reject the statement of claim without issuing a notice to remedy deficiencies if

a) the jurisdiction of Hungarian courts is, under an Act, a binding legal act of the European Union or an international convention, excluded, or a foreign court has exclusive jurisdiction,

b) another authority, including courts proceeding in criminal or infraction cases, has material jurisdiction over the claim, or it can be enforced in non-contentious civil court proceedings,

c) before the action other authority proceedings or other proceedings specified in an Act, or proceedings specified in section 24 (3) need to be conducted,

d) the legal effects of bringing an action have already arisen in another action between the parties for the enforcement of the same right arising from the same factual basis, or the subject matter thereof has already been adjudicated with final and binding effect,

e) a party does not have the capacity to be a party,

f) the claim may not be enforced in court for a reason other than the statute of limitations,

g) the action was brought by a person not authorised to do so by law,

h) the action was brought by virtue of law against a person acting within administrative, judicial, or prosecutorial powers due to a violation of personality rights or causing damage falling within the employer's scope of liability,

i) the plaintiff misses a time limit specified by law for bringing the action,

j) it does not contain the mandatory content elements or does not meet the form-related requirements under section 170 or an Act, or the plaintiff did not attach a mandatory attachment required under section 171 or an Act,

k) the plaintiff did not pay the procedural fee according to the value of the subject matter of the action indicated in the statement of claim, or to the itemised procedural fee specified by law, and did not submit a request for legal aid, or a reference to legal aid based on a law,

l) it was filed by the plaintiff without a legal representative, even though legal representation is mandatory.

(2) The court shall reject the statement of claim if the plaintiff, despite having been called upon to remedy deficiencies, did not

a) arrange for a party's statutory representative who had not been involved,

b) arrange for involving those persons in the action against whom the action may be brought by law, or the involvement of whom is mandatory,

c) file a statement of claim in accordance with the provisions laid down in this Act, if the statement of claim includes a joinder of claims or joinder of parties that is not permitted by an Act,

d) arrange for legal representation in the case specified in section 73 (3),

e) remedy the deficiencies of a statement of claim that meets the requirements specified in paragraph (1) *j)*, but is affected by other deficiencies, or

f) pay any procedural fee that may be needed in addition to the procedural fee already paid according to the value of the subject matter of the action as specified in paragraph (1) *k)*, due to the court determining the value of the subject matter of the action in a manner at variance with that of the plaintiff.

(3) A statement of claim shall also be rejected if the grounds specified in paragraph (1) or (2) affect only a part of the statement of claim.

(4) If a final and binding judgment has already been delivered on the subject matter of the action on the basis of a claim filed by a party, a prosecutor or another person authorised to bring the action, the provisions laid down in paragraph (1) *d)* shall apply to any statement of claim submitted regarding the same right arising from the same facts, provided that the judgment was served on the person whose claim the action intended to enforce and it became final and binding regarding that person as well.

(5) If the statement of claim could be rejected based on paragraph (1) *j)* to *l)* regarding a civil claim sent to the court on the basis of the Act on the Code of Criminal Procedure, the court shall first call upon the plaintiff to remedy the deficiencies; if the call remains unsuccessful, the provisions laid down in paragraph (1) *j)* to *l)* shall apply.

Section 177 *[Service of an order on rejection]*

(1) The court shall serve the order rejecting the statement of claim on the plaintiff, and it shall notify the defendant of the measure taken. The plaintiff may file a separate appeal against the order; the appeal shall not be sent to the defendant for observations.

(2) If a party does not have the capacity to be a party, or his statutory representative was not involved, the order mentioned in paragraph (1) shall be served on, or the notice shall be sent to, the person and address specified in the statement of claim.

(3) If the order on rejection cannot be served on the plaintiff for a reason that might serve as a ground for service by public notice, the court shall order *ex officio* the order to be served by public notice. Service by public notice shall not be applied if a notice to the defendant according to paragraph (1) is subject to the same reason.

Section 178 *[Upholding the legal effects of submitting a statement of claim]*

(1) The legal effects of filing a statement of claim shall remain in effect even if the statement of claim is rejected, provided that, apart from any attachment that was already

attached in an adequate manner and with reference to the history of the case, the plaintiff submits the statement of claim again and in a regular manner within thirty days after the order on rejection becomes final and binding, or he enforces his claim in another regular manner. No application for excuse shall be accepted for missing the time limit.

(2) If the plaintiff files the statement of claim again before the order on rejection becomes final and binding, it shall be deemed as the withdrawal of any appeal filed against the order on rejection, or as the waiver of his right to file an appeal against the order; any statement by the plaintiff to the contrary shall be ineffective.

55. The communication of the claim

Section 179 *[The communication of the claim]*

(1) If a statement of claim is suitable for litigation, the court shall call upon the defendant at the time of serving the statement of claim to submit a written statement of defence within forty-five days after the service of the statement of claim.

(2) At the time of communicating the claim, the court shall make the necessary arrangements regarding the preparation of the hearing.

(3) At the time of communicating the claim, the court shall inform the defendant of the rules on mandatory legal representation, if such information was not provided earlier.

(4) The court shall also serve the statement of claim on all persons whose claim the action was intended to enforce by a prosecutor or another person authorised to bring the action; the impossibility of serving the statement of claim on any such person shall not be an obstacle to the proceedings.

(5) Upon a reasoned request by the defendant, as an exceptional measure the court may extend the time limit for submitting a written statement of defence by up to forty-five days.

Section 180 *[The onset of the legal effects of bringing an action]*

(1) The legal effects of bringing an action shall arise when the statement of claim is communicated.

(2) If the action ends without the court's final and binding decision on the merits, the legal effects of filing the statement of claim and bringing the action shall vanish, unless otherwise provided by an Act.

(3) If there is a *quasi* material joinder of claims, the provisions laid down in paragraphs (1) and (2) shall apply to all claims.

56. Court injunction

Section 181 *[The consequences of omission to submit a written statement of defence]*

(1) If the defendant omits to submit a written statement of defence, and does not submit a set-off document, or it is rejected by the court, the court shall issue a court injunction, *ex officio* and outside the hearing, against the defendant according to the statement of claim communicated to him, unless the proceedings can be terminated.

(2) The issue of a court injunction shall not be hindered if the written statement of defence submitted by the defendant contains only a general statement contesting the claims, without presenting any formal defence or defence on the merits.

(3) If the written statement of defence submitted by the defendant contains only a formal defence, the provisions laid down in section 203 (2) shall apply if no defence on the merits has been submitted.

Section 182 *[Statement of opposition to a court injunction]*

(1) Any party may file with the court issuing it a written statement of opposition to the court injunction within fifteen days of service. It shall not be considered a challenge against the court injunction if a party acknowledges the entire claimed amount and requests only a

payment moratorium, payment in instalments or the rectification of the court injunction. If a statement of opposition challenges the litigation costs, any unpaid procedural fee or any cost advanced by the State only, it shall be decided by the court by adopting an order outside the hearing; a separate appeal may be filed against such an order.

(2) At the time of filing a statement of opposition, a written response or a set-off document shall also be submitted. In the event of failing to do so, if the statement of opposition is late, or in a case described in section 181 (2), the statement of opposition shall be rejected by the court. The court shall do the same if a set-off document only is submitted with a statement of opposition, and it is rejected by the court. The party who filed the statement of opposition may file a separate appeal against the order rejecting, on the basis of this paragraph or section 115 (6) *a)*, the statement of opposition. If a statement of opposition is filed, a counterclaim shall not be filed at the same time.

(3) If a statement of opposition is filed in accordance with paragraphs (1) and (2), the court injunction shall become ineffective and the court shall conduct the proceedings according to the rules on preparing the proceedings. The party who filed the statement of opposition shall not be entitled to charge the procedural fee payable for the statement of opposition.

(4) The court injunction, or any part thereof not challenged by a statement of opposition, or where the statement of opposition thereto was rejected by the court with final and binding effect, shall become final and binding on the day following the expiry of the time limit open for filing a statement of opposition.

(5) If a court injunction is issued against a party to whom the statement of claim was to be served on the basis of

a) Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000, or

b) Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed in the Hague on 15 November 1965 and promulgated by Act XXXVI of 2005,

the application for excuse may be submitted within one year of the date of issuing the court injunction, if the time limit open for challenging it was missed; at the time of submitting an application for excuse, a written response or a set-off document shall also be submitted.

CHAPTER XII

PREPARATORY STAGE

57. General provisions on the preparatory stage

Section 183 *[The preparatory stage]*

(1) During the preparatory stage, the parties, with the facilitation of the court, shall lay down the boundaries of the legal dispute by making statements, denials, admissions, or acknowledgements regarding the facts and rights presented in the preparatory document or during the preparatory hearing, making relevant requests, filing motions for evidence as necessary to establish a fact, making statements regarding the assessment of evidence and motions for evidence, and presenting means of evidence (hereinafter jointly "preparatory statement").

(2) If there is a *quasi* material joinder of claims, the preparation shall apply to all claims simultaneously.

(3) At the preparatory stage, the court shall only take evidence in those cases specified by an Act.

(4) Within the limits of this Act and before the order closing the preparatory stage is adopted, a party may change his preparatory statements without the consent of the opposing party.

(5) The court shall impose a fine upon the party if he makes or changes a preparatory statement, even though he had the opportunity to do so earlier in the preparatory document or hearing during the preparatory stage.

(6) If a party does not submit a preparatory statement or submits an incomplete preparatory statement despite the case management of the court, the preparatory statements made by the party shall be assessed by the court with the incomplete content and on the basis of the available litigation documents.

Section 184 *[Privileged case of inability to allege]*

(1) The party shall be deemed to be in a privileged case of inability to allege if

a) he substantiates that the information necessary to prove a specific fact is held exclusively by the opposing party,

b) he certifies that he took the necessary measures to obtain and keep such information,

c) the party with opposing interests does not provide the information despite being called upon to do so by the court, and

d) the party with opposing interests does not substantiate the opposite to those provided in points *a)* and *b)*.

(2) In a privileged case of inability to allege, the statement of fact concerned may be accepted by the court as the truth if it does not have any doubt regarding its veracity.

Section 185 *[Amending the action or the statement of defence during the preparatory stage]*

(1) The action may be amended at the preparatory stage if the amended action arises from the same legal relationship as the previous action or related to that legal relationship on factual and legal grounds.

(2) The statement containing the amendment of the action shall be made with a content that meets the requirements of the statement of claim.

(3) The court shall reject the statement containing the amendment of the action if the action submitted therein would give rise to the statement of claim being rejected under this Act; the rules pertaining to the rejection of the statement of claim shall apply to the issue of a notice to remedy deficiencies. The court shall dismiss the statement containing the amendment of the action if the conditions specified in paragraph (1) are not met. The court shall specify the reasons for its decision adopted under this paragraph.

(4) The legal effects of filing a statement of claim or bringing an action before the amendment of the action shall cease when the order closing the preparatory stage is adopted.

(5) A statement containing the amendment of the statement of defence shall be made with the content required by the rules pertaining to written statements of defence.

Section 186 *[Other acts in the court proceedings falling beyond the preparatory stage]*

During the preparatory stage the court and the parties while preparing for the action, shall proceed in accordance with the provisions of this Act with respect to any other act in the court proceedings that may fall beyond the scope of the preparatory stage.

58. Preparation before the preparatory hearing

Section 187 *[Determining the method of preparation]*

After the submission of a written statement of defence against the claim, and depending on the circumstances of the case, the court shall

a) order further preparations to be made in writing before scheduling a preparatory hearing,

b) schedule a preparatory hearing, or

c) proceed without ordering further preparations to be made in writing or scheduling a preparatory hearing.

Section 188 *[Ordering further preparation in writing]*

If the court orders further preparations to be made in writing, the written statement of defence shall be served on the plaintiff, and the plaintiff shall be called upon to submit a reply document within an appropriate time limit.

Section 189 *[Setting the date for the preparatory hearing, the summons]*

(1) The court shall set a date for a preparatory hearing and summon the parties, if

a) further written preparations were ordered and the plaintiff submitted his reply document, or, in the absence of a reply document, the time limit for submitting a reply document expired, or

b) no further written preparations were ordered, and there is no reason for omitting the preparatory hearing.

(2) Unless otherwise provided in this Act, the date for a preparatory hearing shall be set in a manner ensuring that the summons are served on the parties at least fifteen days before the date of the hearing (hereinafter "summons period"). In an urgent situation, the court may set a shorter summons period.

(3) If the court did not order further written preparations before setting a date for the preparatory hearing, the written statement of defence of the defendant shall be served on the plaintiff along with the summons.

(4) If the court ordered further written preparations before setting a date for the preparatory hearing, and the plaintiff submitted his reply document, the reply document shall be served on the defendant along with the summons, and the court may call upon the defendant to submit a rejoinder while setting an appropriate time limit.

(5) The due date of the preparatory hearing shall be set by the court in a manner allowing for the service of the document to be submitted to the other parties before the set due date, if possible.

(6) Each party shall make arrangements to be able to make a statement, personally or through a representative, on factual and evidence-related matters during the preparatory hearing. The court shall inform the parties of this and the provisions laid down in sections 191 (4) and 192 (2) in the summons.

59. The preparatory hearing

Section 190 *[The consequences of missing the preparatory hearing]*

(1) The court shall terminate the proceedings *ex officio* if

a) all parties missed the hearing, or

b) any of the parties missed the hearing, and the party present did not request a preparatory hearing to be held.

(2) If a preparatory hearing is held at the request of the party present,

a) it shall be deemed that the party on whose part the omission arose does not dispute any statement of fact or statement of law, nor evidence, made or presented by the party present prior to or during the hearing, and does not object to his request or motion being granted, unless a statement to the contrary was made earlier,

b) it shall be deemed that the party on whose part the omission arose does not wish or is not able to make any other preparatory statement to support his action or statement of defence,

c) any statement made by the party present at the hearing, and any document attached or to be served at the hearing shall be deemed communicated to the party on whose part the omission arose, and

d) the preparatory stage may be closed, unless the preparatory hearing is to be postponed for a reason specified in this Act.

Section 191 *[Proceeding of a preparatory hearing]*

(1) At the beginning of the preparatory hearing, the court shall summarise all statements that are significant with respect to the legal dispute. The parties may make observations regarding the summary.

(2) If the defendant requested in his statement of defence that the proceedings should be terminated but the court has not made a decision yet, the court shall hold a hearing first and decide on this matter. In addition to discussing the request for termination, the court may also order the preparations to be continued regarding the defence on the merits, unless the proceedings can be terminated due to an omission or a joint request by the parties, or the plaintiff abandoning the action. The court may also dismiss the request for termination of the procedure in its decision closing the proceedings.

(3) To the necessary extent, the court shall call upon and allow the parties to present their preparatory statements.

(4) In addition to the legal representative of the party, the party, his statutory representative and his agent who is not a legal representative may make effective statements regarding a statement of fact as well as evidence and motions for evidence.

Section 192 *[The postponement of the preparatory hearing]*

(1) The court shall postpone the preparatory hearing if

a) a party missed the hearing, and the opposing party amended at the hearing the type of his claim or counter-claim, or his statement of law, or increased the amount of his claim, counter-claim or claim to be enforced by set-off,

b) a party amended his statement mentioned in point *a)* during the hearing in a manner that necessitates appropriate time being granted to the opposing party present at the hearing to submit his statement of defence or any modification thereto, or another statement,

c) a party, without any fault on his part, cannot make his preparatory statement in full at the hearing, or

d) closing the preparatory stage is prevented by another obstacle specified in this Act.

(2) The preparatory hearing shall not be postponed under paragraph (1) *b)* and *c)* on the sole ground that the representative of a party cannot make a statement because the absent party or his other representative has the necessary information.

(3) The court shall specify the reason for postponement in its order on postponing the preparatory hearing, and shall set the due date of the continued preparatory hearing immediately by applying the provisions laid down in section 189 (5), and shall summon the parties for that hearing, and, depending on the outcome of the preparations made during the hearing, it shall call upon the party to submit his preparatory document within an appropriate time limit.

Section 193 *[Continued preparatory hearings]*

The provisions pertaining to the consequences of missing the preparatory hearing, and to the proceeding and postponement of the preparatory hearing shall apply to the continued preparatory hearing.

60. Closing the preparatory stage in the course of the preparatory hearing

Section 194 *[Closing the preparatory stage]*

(1) If the parties made their preparatory statements and there are no grounds for postponing the preparatory hearing, the preparatory hearing shall be closed by the court with an order; the court shall be bound by such an order.

(2) Before closing the preparatory stage, the court shall warn the parties thereof and shall allow the parties to make further statements.

Section 195 *[Attempt to reach a settlement during the preparatory hearing and in a mediation procedure]*

After adopting the order closing the preparatory stage, the court shall attempt to reach a settlement between the parties, if it appears possible. The court shall provide information on the possibility of entering into a mediation procedure, including the method and advantages of doing so, the possibility of laying down an agreement in a court settlement, and the rules pertaining to a stay.

Section 196 *[Transition into the main hearing]*

If the parties do not reach a settlement and the proceedings are not stayed under section 195, the court shall immediately hold or, if doing so is not allowed by the circumstances of the case, set a date for the main hearing and summon the parties to the main hearing.

61. Proceeding without a preparatory hearing

Section 197 *[Notice on proceeding without a preparatory hearing]*

(1) If the court finds that the parties determined the boundaries of the legal dispute with their statements made in their statement of claim and written statement of defence, it shall inform the parties that it intends to close the preparatory stage without any further written preparation or a preparatory hearing, and it shall

a) serve the written statement of defence on the plaintiff,

b) warn the parties of the consequences of closing the preparatory stage, and

c) inform the parties that it shall hold the preparatory hearing if requested by any of them in writing and within fifteen days.

(2) The court shall schedule and summon the parties to the preparatory hearing, if requested by any of them in due time.

Section 198 *[Closing the preparatory stage without a preparatory hearing]*

If the parties did not request a preparatory hearing within the time limit, the court shall close the preparatory stage with an order adopted outside the hearing, and shall set a date for and summon the parties to the main hearing. The court shall be bound by its order closing the preparatory stage.

62. Preparatory documents

Section 199 *[The written statement of defence]*

(1) The following shall be indicated in the introductory part of the statement of defence:

a) the name of the proceeding court and the court case number,

b) the names, domiciles or seats and positions of the parties in the procedure, and any identification data of the defendant not indicated in the statement of claim,

c) the name, seat, phone number, and electronic mail address of the legal representative of the defendant, as well as the name of the legal representative designated to receive official documents, if multiple legal representatives are involved.

(2) The statement of defence on the merits, if the party intends to use one for defence in the action, shall indicate

a) for formal defence:

aa) any reason serving as a ground for the termination of the procedure, as well as the legal provisions and facts establishing that ground,

ab) available evidence and motions for evidence in support of each fact, in the manner specified in this Act,

b) for defence on the merits:

ba) all complaints based on substantive law, except for set-off, by reference to a legal basis, the facts supporting such complaints, and legal arguments establishing the relationship between such complaints and facts,

bb) any disputed part of the claim,

bc) statements challenging the facts, evidence and motions for evidence indicated in the statement of claim, and the facts establishing the defence,

bd) legal arguments refuting the alleged relationship between the right enforced with the action, the statement of fact and the claim, and

be) available evidence supporting the facts serving as grounds for the defence, including any complaint based on substantive law, and any motion for evidence in the manner specified in this Act.

(3) The closing part of the statement of defence shall indicate

a) a statement or made means of evidence submitted in response to a request made with reference to any privileged case of inability to allege or to prove by the opposing party, or, in their absence, the reason for not complying with the request,

b) facts and supporting evidence establishing the statutory representative's right of representation, if he is other than the person specified by the opposing party, and the agent's right of representation proceeding on behalf of the party.

(4) If there is a joinder of claims, the obligation set forth in paragraph (2) *b)* shall be performed with regard to each claim.

(5) The statement of defence may also include a reasoned request to the opposing party

a) to provide the information required to state a fact in a privileged case of inability to allege, or

b) to submit a means of evidence in a privileged case of inability to prove.

(6) If the party acknowledges the right and claim enforced against him, his corresponding statement shall be provided in place of the items required under paragraphs (2) to (5).

Section 200 *[Attachments to a written statement of defence]*

The following shall be attached to the statement of defence:

a) attachments to the statement of defence of the type specified in section 171, and

b) the evidence requested by the opposing party, in the event of fulfilling such a request.

Section 201 *[Reply document, rejoinder]*

(1) In the reply document, the following shall be indicated in accordance with the notice of the court:

a) a statement regarding the extent of and reasons for disputing any statement of fact or law, request, or statement on evidence or motion for evidence made in the statement of defence,

b) a statement made or means of evidence submitted in response to a request made with reference to any privileged case of inability to allege or to prove by the opposing party, or, in their absence, the reason for not complying with the request, and

c) a statement regarding the request made by the court as part of its case management.

(2) In the reply document, the party may also make a preparatory statement beyond the scope of paragraph (1) without being specifically called upon to do so, and he may also make a request to the opposing party in accordance with section 199 (5).

(3) If a party intends to amend his action with regard to the statement of defence, a statement on the amendment of the action shall also be included in the reply document.

(4) Available evidence referred to in the reply document, or specified in the request according to the statement of defence shall be attached to the reply document.

(5) The provisions on reply documents shall apply to any rejoinder, with the proviso that the statement of defence shall be construed to mean the reply document, and the amendment of the action shall be construed to mean the amendment of the statement of defence.

Section 202 *[Preparatory document]*

The preparatory document shall include the preparatory statement that the party was requested by the court to submit as a preparatory document.

Section 203 *[The submission and service of a preparatory document]*

(1) The party may submit the preparatory document, including any preparatory document listed in Subtitle 63, if he was requested by the court or is allowed by an Act to do so. Unless otherwise provided in this Act, a document submitted in violation of this provision shall be ineffective.

(2) If a party fails to include a preparatory statement specified in this Act or requested by the court in the preparatory document, it shall be construed, until a statement is made by the party, that

a) the party does not dispute the respective statement of fact, statement of law, or evidence of the opposing party, and does not object to the respective request or motion of the opposing party being granted, unless he earlier made a statement to the contrary, and

b) the party does not wish to, or cannot, submit a statement of fact, statement of law, request, evidence, or motion for evidence regarding the respective preparatory statement to support his action or statement of defence.

(3) If a party is requested by the court to submit a preparatory document for the first time, he shall be warned of the consequences of submitting the document with incomplete content and of the omission to submit it.

(4) Multiple preparatory documents, whether of identical or different types, shall be submitted in separate submissions.

(5) A preparatory document submitted after setting the date for the preparatory hearing shall be served by the court on the parties; if service is not possible before the due date of the preparatory hearing, the document shall be handed over to the parties at the hearing.

63. Further documents and rules of the preparatory stage related to counter-claims and set-offs

Section 204 *[Counter-claim]*

(1) The defendant may file a counter-claim against the plaintiff for the enforcement of a right arising from the same legal relationship as the right to be enforced by the action by submitting a statement of counter-claim in writing. A statement of counter-claim shall be submitted within forty-five days after the communication of the claim or the time limit for submitting a statement of defence, as extended by the court, but at the same time as submitting a written statement of defence or set-off document at the latest. A counter-claim may be submitted for the enforcement of a right arising from another legal relationship if deciding on the action regarding the claim is subject to the adjudication of the counter-claim, or deciding on the counter-claim is subject to the adjudication of the action.

(2) A counter-claim falling within the material jurisdiction of district courts shall not be filed with a regional court, with the exception of counter-claims filed in property disputes regarding property claims. A counter-claim which, taking into account the total amount of the claim, would fall into the material jurisdiction of regional courts shall not be submitted to a district court, unless the claim enforced through the counter-claim is suitable for set-off, and the district court has material jurisdiction over the claimed amount that exceeds the sum claimed by the plaintiff.

(3) In property actions, the proceeding court shall have territorial jurisdiction over the counter-claim, even in the absence of any other reason for territorial jurisdiction, unless another court has exclusive territorial jurisdiction over the counter-claim.

(4) A counter-claim shall not be filed regarding a claim that has already been set off by the defendant against the claim of the plaintiff in other proceedings.

(5) Unless otherwise provided in this Act, the provisions pertaining to actions shall apply to counter-claims.

Section 205 *[The statement of counter-claim]*

The rules pertaining to the statement of claim shall apply to the content elements of and attachments to the statement of counter-claim.

Section 206 *[Rejection of the statement of counter-claim]*

(1) The court shall reject the statement of counter-claim if

a) it was presented by the defendant in violation of the provisions of this Act,

b) a ground for rejecting the statement of claim as specified in section 176 (1) and (2) exists, or

c) no counter-claim may be submitted according to an Act.

(2) The statement of counter-claim shall not be rejected or transferred in part. A separate appeal may be filed against the order on the rejection of the statement of counter-claim.

(3) If a statement of counter-claim is rejected, the legal effects of submitting a statement of counter-claim shall prevail if the statement of counter-claim, except for any attachment already filed in a suitable manner, is filed by the defendant again in a regular manner within eight days after the order on rejection becomes final and binding. No application for excuse shall be accepted for missing this time limit. The provisions of section 178 (2) shall apply to the new statement of counter-claim submitted before the order on rejection becomes final and binding.

(4) If a statement of counter-claim is submitted repeatedly in violation of this Act, it shall be rejected by the court; the court shall state its reasons for adopting such an order.

Section 207 *[Written statement of defence against a counter-claim]*

The provisions pertaining to the written statement of defence against a statement of claim shall apply to the content elements of and attachments to a written statement of defence against a counter-claim.

Section 208 *[The consequences of omission to submit a statement of defence against the counter-claim]*

If the plaintiff omits to submit a written statement of defence, set-off document or set-off statement against the counter-claim, or it is rejected by the court, the court shall issue a court injunction *ex officio,* obliging the plaintiff in accordance with the content of the counter-claim communicated to him, unless the proceedings can be terminated. The provisions laid down in section 181 (2) and (3) and the provisions of section 182 shall also apply with regard to the counter-claims.

Section 209 *[Set-off]*

(1) The defendant may set off his counter-claim against the claim of the plaintiff in a set-off document submitted in writing within forty-five days of communicating the claim or within a time limit as extended by the court for submitting a statement of defence. If the defendant also submitted a written response or statement of counter-claim, the set-off document shall be submitted at the time of submitting the other document at the latest.

(2) A counter-claim shall not be set off against the claim, if

a) it would fall within the exclusive jurisdiction or, with the exception of property claims, material jurisdiction or exclusive territorial jurisdiction of another court, if it were to be adjudicated as an action,

b) the defendant has already brought another action for its enforcement and the legal effects of bringing the action have already arisen or the claim has been dismissed with final and binding effect in that action, or

c) it was already submitted by the defendant against the plaintiff for set-off in another action, or it has been adjudicated with final and binding effect regarding the existence of the counter-claim.

(3) Multiple set-offs, that are in a contingent or alternative relationship with each other, shall not be submitted.

(4) The plaintiff shall not be entitled to set-off against a claim that the defendant seeks to set off (hereinafter "counter-set-off"), unless the plaintiff communicated his set-off statement to the defendant before the defendant submitted his request for set-off.

(5) The provisions of paragraphs (1) to (4) shall apply to any set-off and counter-set-off that may be pleaded by the plaintiff against the counter-claim.

(6) After the expiry of the time limit specified in paragraph (1), set-off, including counter-set-off, may be pleaded in writing, or orally during a hearing, if the grounds for exclusion specified in paragraphs (2) to (4) do not exist, and

a) the opposing party acknowledges the set-off,

b) the claim to be set off expired after the expiry of the time limit set for requesting the set-off, or

c) the claim to be set off is based on a final and binding judgment delivered in another action brought by the party.

(7) The set-off shall be pleaded within thirty days after the expiry of the counter-claim, if paragraph (6) *b)* applies, or the date when the judgment becomes final and binding, if paragraph (6) *c)* applies, but at latest before the hearing preceding the delivery of the first instance judgment is closed; no application for excuse shall be accepted for missing this time limit.

(8) If a party pleads set-off orally during a hearing, it shall be presented with the content required by the provisions pertaining to the set-off document.

(9) Unless otherwise provided in this Act, the provisions pertaining to the action shall apply to the set-off.

Section 210 *[The set-off document]*

(1) The provisions pertaining to the content of and attachments to a statement of claim shall apply to the set-off document, with the proviso that the part on the merits shall indicate as of when, to what extent and how the counter-claim would terminate the claim.

(2) If the counter-claim was not set off by the party before the proceedings, the calculation referred to in paragraph (1) shall be made as of the date of submitting the set-off to the court.

Section 211 *[Rejection of a set-off document or statement]*

The court shall reject the set-off document or statement in any of the cases specified in section 206 (1) *a)* and *b)*. In other respects, the provisions laid down in section 206 (2) to (4) shall apply to rejection.

Section 212 *[Written statement of defence against the set-off]*

The provisions pertaining to the written statement of defence against an action shall apply to the content elements of and attachments to a written statement of defence against set-off. If the party does not submit a written statement of defence against the set-off, the provisions laid down in section 203 (2) shall apply.

Section 213 *[Additional rules of the preparatory stage with respect to counter-claims and set-off]*

(1) If a statement of counter-claim or set-off document is suitable for litigation, it shall be served by the court on the plaintiff, together with the written statement of defence or, in its

absence, independently according to section 187 *a)* or *b)* on the preparatory stage, and the court shall call upon the plaintiff to submit a written statement of defence against the counter-claim or set-off within an appropriate time limit.

(2) If further written preparations are ordered, the court shall schedule the preparatory hearing after the plaintiff has submitted his written statement of defence or, in its absence, after the expiry of the time limit for submitting a written statement of defence, and the defendant may be called upon in the summons to submit a reply document to the written statement of defence.

(3) If the defendant submits a written statement of defence against the action, the preparatory stage shall be continued according to section 187 *a)* or *b)*, even if further measures need to be taken to make the statement of counter-claim or the set-off document suitable for litigation.

(4) The statement of counter-claim or the set-off document subsequently made suitable for litigation shall be served by the court outside the hearing or during the hearing, depending on the progression of the preparatory stage, and the party shall be called upon to submit in writing or present during the hearing, with the content required for the written statement of defence, a statement of defence against the counter-claim or set-off within an appropriate time limit. The court shall postpone the preparatory hearing if an appropriate time limit needs to be allowed for submitting the statement of defence.

(5) The provisions laid down in paragraph (4) shall also apply if the party submitted a set-off or counter-set-off in accordance with section 209 (6).

CHAPTER XIII

MAIN HEARING STAGE

64. General provisions on the main hearing stage

Section 214 *[The content of the main hearing stage and the preparatory statements that may be made during it]*

(1) During the main hearing stage, the court shall take evidence and decide on the action within the boundaries of the legal dispute determined during the preparatory stage.

(2) Except in those cases specified in this Act, preparatory statements shall not be made or changed by the party during the main hearing stage.

65. Amendment of the action or the statement of defence; subsequent taking of evidence

Section 215 *[Conditions regarding the permissibility of amending the action]*

(1) Unless otherwise provided by an Act, a claim, counter-claim or set-off may be amended (for the purposes of this Chapter, hereinafter jointly “amendment of the action") after the order closing the preparatory stage is adopted and before the hearing preceding the first instance judgment being delivered is closed, if

a) with regard to modifying a statement of fact, the party refers to a fact that

aa) became known to the party or took place without any fault on the side of the party and after the order closing the preparatory stage is adopted, or

ab) became significant to the adjudication of the action, or in light of a fact that became known or took place without any fault on the side of the party and after the order closing the preparatory stage has been adopted,

b) with regard to modifying a statement of law or request, it is justified by the fact that was modified according to point *a)* and is in a direct causal relationship with the amended statement of law or request, or

c) the amendment of the action is justified by and is in a causal relationship with the case management of the court after the order closing the preparatory stage is adopted,

and the amended action originates from the same legal relationship, and the court also has material and territorial jurisdiction over the amended action.

(2) A statement of fact shall not be modified on the ground of a fact that occurred after the order closing the preparatory stage is adopted, if the right originating from that fact could have been enforced under section 172 (2).

(3) If material jurisdiction depends on the value of the subject matter of the action, the condition specified in paragraph (1) and related to material jurisdiction shall not prevent the amendment of the action, and the lack of material jurisdiction shall not be taken into account.

Section 216 *[Conditions regarding the permissibility of amending the statement of defence]*

Unless otherwise provided by an Act, a statement of defence against a claim, counter-claim or set-off may be amended (for the purposes of this Chapter, hereinafter jointly "amendment of the statement of defence") after the order closing the preparatory stage is adopted and before the hearing preceding the first instance judgment being delivered is closed, if

a) with regard to modifying a statement of fact, the party refers to a fact, that

aa) became known to the party or took place without any fault on the side of the party and after the order closing the preparatory stage has been adopted, or

ab) became significant to the adjudication of the action or in light of a fact that became known or took place without any fault on the side of the party and after the order closing the preparatory stage has been adopted,

b) with regard to modifying a statement of law, it is justified by a fact that was modified according to point *a)* and is in a direct causal relationship with the amended statement of law, or

c) with regard to changing an acknowledgement, it is justified by a fact that was modified according to point *a)* and renders the acknowledgement clearly unreasonable, or

d) the amendment of the statement of defence is justified by and is in a direct causal relationship with the case management of the court after the order closing the preparatory stage has been adopted.

Section 217 *[Request for the amendment of the action or the statement of defence]*

(1) A request for permitting the amendment of the action or statement of defence may be submitted in writing within fifteen days of becoming aware of the fact giving reason for the amendment. No application for excuse shall be accepted for missing this time limit.

(2) The following shall be indicated in the request for the amendment of the action or statement of defence:

a) the conditions for permitting the amendment, and the facts supporting the conditions being met,

b) the amended part of the action or statement of defence in accordance with the rules pertaining to the content elements of the statement of claim, statement of counter-claim, set-off document (for the purposes of this Chapter, hereinafter jointly "statement of claim"), or written statement of defence, and

c) the time and manner of becoming aware of the fact serving as ground for the amendment, as well as all pieces of evidence supporting such statements and substantiating the absence of own fault.

(3) The evidence supporting the fact serving as ground for the amendment and substantiating the time and manner of becoming aware of the fact serving as ground for the amendment shall be attached to the request referred to in paragraph (1).

Section 218 *[Examination of the request for the amendment of the action or statement of defence]*

(1) The court shall reject the request for the amendment of the action or statement of defence without issuing a notice to remedy deficiencies if it is late, does not contain all information required under section 217 or the statement of claim could be rejected under this Act regarding the amended action. The court shall state its reasons for adopting its order on rejection.

(2) If the request for amendment is submitted again by the party in a regular manner, except for the attachments already submitted in a regular manner, then, within eight days of service of the order on rejection but before the hearing preceding the first instance judgment being adopted is closed, the legal effects of having submitted the request shall persist. No application for excuse shall be accepted for missing this time limit.

(3) If the same party submits a repeated request for amendment and it is rejected by the court again, the court may impose a fine on the party in its order on rejection.

Section 219 *[Examination of the permissibility of the amendment of the action or statement of defence]*

(1) If the request for the amendment of the action or statement of defence was submitted by the party in a regular manner then, provided that the conditions of amendment are met, the court shall permit the amendment and shall proceed according to section 222; otherwise, the request for the amendment shall be dismissed. Before deciding on the matter, the court may interview the parties in writing, or orally during the main hearing. The court shall state its reasons for dismissing the request in its judgment at the latest.

(2) If a party submits an obviously unfounded or repeatedly unfounded request for the amendment of the action or statement of defence, the court shall impose a fine on that party in its order dismissing the request.

Section 220 *[Subsequent taking of evidence]*

(1) A party may submit any further motion for evidence or make available any further evidence after the order closing the preparatory stage is adopted, but before the hearing preceding the first instance judgment being delivered is closed, if

a) it is to prove or refute a fact invoked to support his action or statement of defence, provided that it occurred or became known subsequently and without any fault on his part,

b) it is to refute the probative force of a means of evidence or the results of taking evidence, provided that the method and means of refutation became known to him as a result of the evidence-taking conducted,

c) it is to prove or refute a fact invoked as a ground for amending his action or statement of defence, provided that the amendment of the action or statement of defence is permitted by the court, or

d) it became necessary as a result of the case management of the court after the order closing the preparatory stage has been adopted.

(2) In the case described in point *a)* of paragraph (1), the motion for evidence or the evidence may be submitted by the party within fifteen days after becoming aware of it, and the party shall also substantiate the likely time of becoming aware thereof and the absence of any fault of his.

(3) In the case described in point *b)* of paragraph (1), the motion for evidence or the evidence may be submitted by the party within fifteen days after evidence-taking is carried out, and he shall also substantiate the refutation being recognised retrospectively and the submitted means of evidence being a suitable means of refutation.

(4) In the case described in point *c)* or paragraph (1), during the supplementary preparations concerning the amended part, the party may submit his evidence and objections to evidence in accordance with the provisions pertaining to the preparatory stage.

(5) In the case described in point *d)* or paragraph (1), the party may submit a motion for evidence or evidence within fifteen days after the communication of the case management measure taken by the court.

(6) The time limit specified in paragraphs (2), (3) and (5) may be extended by the court by fifteen days upon a reasoned request. An application for excuse for missing the time limit open for requesting any subsequent taking of evidence shall not be accepted, and a notice to remedy deficiencies regarding the deficiencies of any such request shall not be issued.

(7) Any evidence or motion for evidence submitted in violation of the provisions laid down in this section shall be ignored by the court.

Section 221 *[Preparatory statements not depending on specific conditions]*

(1) A party may, without the consent of the opposing party or any condition specified in this Act, at any time, in writing or orally during the hearing

a) reduce the amount of his claim that can be adjudicated separately, including his counter-claim or set-off,

b) acknowledge, in whole or in part, a statement of law or a request made by the opposing party, and admit to a statement of fact from the opposing party that he disputed earlier,

c) withdraw his complaint based on substantive law or his statement of fact that was disputed by the opposing party earlier, or

d) withdraw a motion for evidence before engaging in taking evidence.

(2) A statement modified in accordance with paragraph (1) shall not be withdrawn, and the statement preceding the modification shall not be submitted again; any statement to the contrary shall be ineffective.

66. Supplementing the preparatory stage

Section 222 *[Supplementing the preparatory stage]*

(1) In its order on permitting the amendment of the action, statement of defence or the extension of the action, the court shall order the preparatory stage to be supplemented regarding the part affected by the amendment. The court may adopt its order outside the hearing or during the main hearing, and the supplementary preparatory hearing may be held together with the main hearing, even immediately.

(2) If the action or the statement of defence is amended, the court, simultaneously with taking the measure specified in paragraph (1), shall serve the request for amendment to the opposing party of the party requesting the amendment, and shall invite the opposing party to submit the necessary preparatory statement in a preparatory document or orally during the supplementary preparatory hearing, within an appropriate time limit. Thereafter, the manner of the supplementary preparation shall be determined, and it shall be conducted in accordance with the rules pertaining to the preparation of the proceedings.

(3) If the action is extended, the court, simultaneously with taking the measure specified in paragraph (1), shall proceed regarding the action concerning the change of persons in accordance with the provisions pertaining to the communication of the statement of claim and preparation of the proceedings.

(4) Ordering the preparatory stage to be supplemented shall not prevent the continuation of the main hearing stage regarding matters not affected by the supplementation of the preparatory stage. The court may change the sequence of evidentiary acts affected by the ordering of preparations, or may postpone such acts until a time that is after the closure of the supplementary preparatory stage.

(5) In the event of missing the supplementary preparatory hearing, the consequences of missing the main hearing shall apply.

(6) If the supplementation of the preparatory stage is ordered, the rules pertaining to

a) summons to the preparatory hearing,

b) the proceeding and postponement of the preparatory hearing,

c) the continued preparatory hearing,

d) the consequences of omission to submit a preparatory statement, and

e) closing the preparatory stage at the preparatory hearing

shall apply.

(7) If set-off is applied by a party during the main hearing stage, the court shall proceed in accordance with paragraphs (1) to (6), with the proviso that the party shall be called upon to present or submit his statement of defence against the set-off orally or in writing.

67. The main hearing

Section 223 *[Setting the date for the main hearing; the consequences of missing the main hearing]*

(1) The court may set the date for the main hearing and any continued main hearing for multiple, even for sequential hearing days. If taking evidence cannot be conducted or can be conducted only in part during the main hearing, the court shall postpone the hearing and shall immediately set a due date for the continued main hearing, to which the parties shall be summoned.

(2) If the court holds the main hearing immediately after the order closing the preparatory stage is adopted, section 121 (1) *b)* shall not apply in the event of missing the hearing.

(3) With regard to a party missing the hearing, the provisions laid down in section 190 (2) shall apply to the main hearing. These provisions shall also apply to all evidentiary acts conducted during the hearing.

Section 224 *[Closure of the hearing]*

(1) If the action, or any matter that can be decided separately, is ready for decision making, the court shall close the hearing.

(2) The chair shall draw this to the parties' attention before closing the hearing.

(3) The court may reopen a closed hearing before announcing its decision, if further hearings are needed regarding any matter. The hearing shall be re-opened and section 225 shall apply if any change takes place regarding the members of the panel between the closure of the hearing and the adoption of the decision.

CHAPTER XIV

COMMON PROVISIONS ON THE PREPARATORY AND MAIN HEARING STAGE

68. General provisions on hearings

Section 225 *[The presentation of documents]*

(1) If any change takes place regarding the members of the panel at any hearing after the preparatory hearing, the chair shall present the submissions filed by the parties, the written minutes of previous hearings, the written extracts of minutes, and any conducted evidentiary acts and other documents of the case; the parties may make their observations regarding any such presentation.

(2) At the preparatory hearing and any subsequent hearing, the court shall provide information on any document generated before the preparatory hearing or since the last hearing, respectively, and shall present any document not served on the parties; the parties may make their observations and may request the presentation of further documents.

Section 226 *[Setting a date for the hearing]*

(1) Unless otherwise provided in this Act, a hearing, including any continued hearing, shall be set for a date that allows the hearing to be held within four months after the act in the court proceedings that serves as the ground for setting a date for the hearing in accordance with this Act.

(2) The provisions on the due date of the hearing shall not apply if a summons needs to be served on a party in another country, and the time needed for service does not allow the hearing to be held within the time limit.

(3) As a rule, the hearing shall take place at the official premises of the court; however, if there is an important reason, it may be held at another location, even at a location that falls outside the territorial jurisdiction of the court.

(4) The court shall also summon to the hearing all persons whose claim to enforce the prosecutor or another person authorised to do so brought an action; the absence of such a person shall not prevent the hearing from being held, even if it was not possible to serve the summons on him.

Section 227 [*Proceeding of the hearing; presence of the parties*]

(1) The court shall open the hearing on the first due date set.

(2) After the commencement of each hearing, the court shall count the parties present and examine if all summons were duly served, and then the court shall establish, taking the provisions laid down in paragraph (3) into account, if the hearing is to be considered missed. If it is, the court shall decide on the consequences of missing the hearing; if the summons was not served in the regular manner, the hearing shall be postponed and a new due date shall be set immediately for the hearing, to which the parties shall be summoned.

(3) If the legal representative of a party failed to appear despite having been summoned in the proper manner, or if the person appearing as the legal representative either fails to certify his right of representation or may not act as a representative, the hearing shall be considered to have been missed by the party, even if he or another representative was present. If the right of representation is certified in an improper manner, the court shall request the person present to certify his right of representation in the proper manner and within a short time limit.

(4) If, in addition to the legal representative, the person appearing as representative on behalf of the party who was summoned in the proper manner either fails to certify his right of representation or may not act as a representative, no remedy of deficiencies shall be allowed regarding certifying of the right of representation or the appearance of the representative in accordance with the legal requirements. If the right of representation is certified in an improper manner, the court shall request the person present to certify his right of representation in the proper manner and within a short time limit.

(5) In the absence of any certification made according to paragraphs (3) and (4) in the proper manner, the court may or, at the request of the party present, shall hold the hearing. If the right of representation is not certified in the proper manner within the specified time limit, all acts performed in the court proceedings by the person present shall be ineffective, and the provisions pertaining to omissions shall apply. If the court closed the hearing, it shall only set a date for the announcement of its decision, and the parties shall be notified accordingly. The announcement of the decision shall not be prevented if the service of the notice is not certified.

(6) The consequences of omission shall also apply if

a) the summons was to be served on the defendant under Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000, but no

acknowledgement of service was returned to confirm the service, provided that the conditions laid down in Article 19 (2) of the Regulation are met, or

b) the summons was to be served under the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed in the Hague on 15 November 1965 and promulgated by Act XXXVI of 2005, but no acknowledgement of service was returned to confirm the service, provided that the conditions laid down in the second paragraph of Article 15 of the Convention are met.

Section 228 *[Establishing the regularity of a summons retrospectively, and the legal consequences of summons]*

(1) If a service certificate (hereinafter "acknowledgement of receipt") regarding the summons is not received by the due date of the hearing and, as a consequence, it cannot be established if the hearing is to be considered to be missed by the party, the court may or, at the request of the party present, shall hold the hearing, if doing so is not prevented by a statutory obstacle.

(2) If the court did hold the hearing and, according to the received acknowledgement of receipt, the summons

a) was not served in the proper manner, the hearing shall be repeated to the necessary extent; in light of the outcome of the repeated hearing, a decision shall be adopted on upholding or setting aside in full or in part the decision adopted at the hearing,

b) was served in the proper manner, the provisions pertaining to omission shall apply.

(3) If the court closed the hearing in the case described in paragraph (2) *b)*, it shall only set a date for the announcement of its decision and shall notify the parties accordingly. The announcement of the decision shall not be prevented if the service of the notice is not certified.

(4) If the court does not hold the hearing, it shall postpone it and set a due date immediately, to which the parties shall be summoned. If the received acknowledgement of receipt confirms that the legal representative was summoned in the proper manner, the court shall apply the provisions pertaining to omission.

Section 229 *[Postponement of a hearing without holding a hearing]*

(1) The court shall postpone the hearing if the parties submit a joint reasoned request to this effect at least three days before the date set. If a joint request is submitted later, the hearing may only be postponed for exceptionally important reasons.

(2) Prior to or during the hearing, the court may *ex officio* postpone the set hearing without holding it only for an important reason or a reason within the court's sphere of interest; in such an event, the reason shall be specified.

(3) Simultaneously with postponing the hearing, the court shall set a new hearing date, and it shall notify the persons summoned to the postponed hearing thereof in advance, if possible.

Section 230 *[Personal interview of a party]*

(1) If doing so is necessary for adjudicating the action or establishing the facts of the case, the court may order *ex officio* and at any stage of the proceedings the personal interview of a natural person party, his statutory representative and the statutory representative of a party other than a natural person.

(2) During the interview of a party, the identification data of the party shall be verified by the court via the inspection of documents that are suitable for identification. If any doubt arises regarding the identity of a person, the court may use electronic means and may consult databases directly

a) to confirm that the data provided to certify the identity or address of a person are the same as those recorded in the official registers, and

b) to confirm that the official verification card or residence permit suitable for verifying identity is valid and reflects the same data as those recorded in the official registers.

(3) Prior to his interview, the party shall be warned of his obligation to speak the truth and the consequences of violating this obligation.

(4) If necessary, and regarding questions of fact only, the court may also hold an interview for a minor party above the age of fourteen who does not have procedural capacity to act, or for a minor party below the age of fourteen who is of sound judgment.

(5) Prior to his interview in accordance with paragraph (4), the minor party shall be informed of the provisions laid down in paragraph (3) in a way that is suitable for his age and degree of maturity.

69. Publicity during the hearing

Section 231 *[The publicity of a hearing]*

(1) Unless otherwise provided by an Act, the court shall adjudicate the legal dispute between the parties at a public hearing, and the judgment delivered during the hearing shall be announced publicly.

(2) The court, acting *ex officio* or upon the reasoned request of a party, shall exclude the public from the entire hearing or a part thereof if doing so is justified by the protection of classified data, business secrets, other secrets specified in an Act, or by the protection of public morals, minors or the personality rights of a party. In exceptionally justified cases, the court may also exclude the public from the interview of a witness during the hearing, if the data of the witness were ordered to be processed in a confidential manner, and holding the interview of the witness in a closed hearing is absolutely necessary to protect his or his relative's life or physical integrity.

(3) The court shall provide its reasoning with respect to its order adopted on the exclusion of the public.

Section 232 *[Making recordings in the hearing]*

(1) With a view to informing the public, a media content provider, as defined in the Act on the freedom of the press and the fundamental rules on media content, may make image and sound recordings of a public hearing in a manner determined by the court and subject to the conditions laid down in paragraphs (2) to (5).

(2) At the request of the court, a person producing such a recording shall produce credible evidence that he is acting on behalf of a media content provider. If no such evidence is produced, or the produced evidence cannot be verified, the court shall prohibit any recording from being made.

(3) No consent shall be needed to make image or sound recordings of members of the court, the keeper of the minutes, the prosecutor or, unless otherwise provided by an Act, of the person acting in an official capacity on behalf of the State or a local government, or performing other public duties specified by law.

(4) With the exception of prosecutors, no image or sound recording shall be made of the parties and other persons participating in the action, their representatives, witnesses, experts, and holders of an object of inspection without their explicit consent, and the full name of a natural person shall not be published in any media content without his consent. If pertinent, the court shall require the statement of such persons in order to assess whether they give their consent; the accomplishment of this and the content of the declaration of consent shall be recorded in the minutes.

(5) As part of maintaining order during the hearing, the chair shall ensure that the provisions of this section are observed and shall also ensure the protection of the personality rights of the persons mentioned in paragraph (4).

70. Conducting the proceedings

Section 233 *[Case administration]*

(1) Within the limits of this Act, the chair shall determine the acts in the court proceedings, and the sequence and time thereof, to be performed during and outside the hearing, and shall also ensure that order is maintained.

(2) The hearing shall be managed by the chair. The chair shall interview the parties and other persons, who may be asked questions also by the members of the proceeding panel, and the parties and their representatives may propose questions to be asked.

(3) At the request of the parties and their representatives, the chair shall allow them to ask the person being interviewed questions directly. The chair shall decide whether a question is admissible. The chair shall ensure that the hearing does not extend to circumstances that are not related to the case, and he may prohibit asking or answering questions which are not related to the case or are capable of influencing the person being interviewed. If, despite the warning, the measure taken by the chair to this end remains unsuccessful, he shall forbid the party or his representative to speak.

Section 234 *[General provisions on maintaining order]*

(1) The chair shall ensure the maintenance of the order and dignity of the hearing and any act in the court proceedings performed outside the hearing.

(2) The provisions pertaining to maintaining the order and dignity of hearings shall also apply with regard to the content of submissions filed with the court by persons specified in section 236 (1).

(3) The court shall notify the competent authority of any disturbance that may serve as grounds for any criminal or disciplinary procedure and, if taking the perpetrator into custody will be necessary, the court shall arrange for the perpetrator to be taken into custody and shall simultaneously file a criminal complaint.

(4) With the exception of police and correctional officers performing service tasks, a person carrying a firearm or other item capable of causing a disturbance shall not enter the courtroom.

Section 235 *[The means of maintaining order with respect to the audience]*

(1) With a view to conducting the proceedings in compliance with the rules and maintaining the dignity and security of the proceedings, the chair may determine the number of those in the audience, according to the limited space available.

(2) The chair shall call to order any member of the audience who disturbs the hearing. If the disturbance is serious, caused repeatedly, or if the physical state or appearance of the member of the audience violates the dignity of the hearing, the chair may expel or order the person concerned to be removed from the hearing.

Section 236 *[The means of maintaining order with respect to the parties and other persons participating in the action]*

(1) The chair shall call to order a party, representative, other person participating in the action, witness, expert, or holder of an object of inspection if he disturbs the order of the hearing or the proceedings, or if he insults the court, another party, representative or person participating in the action, or a witness, expert or holder of an object of inspection. The court shall impose a fine if the act is serious or is performed repeatedly or if the physical state or appearance of the person concerned violates the dignity of the hearing or the court.

(2) The court, in addition to, without or after imposing a fine, may expel or order a person referred to in paragraph (1) to be removed from the hearing, if the act is serious or is performed repeatedly. A person referred to in paragraph (1) may be also expelled or removed if the physical state or appearance of that person violates the dignity of the hearing during any continued hearing following the imposition of the fine. Subject to the discretion of the court,

the expulsion shall remain in effect for the given hearing date, or a part thereof, or for the entire proceedings.

(3) With regard to a minor party, an interested minor party or a minor witness, the provisions laid down in paragraphs (1) and (2) shall apply with the derogation that

a) the form of call to order shall be suitable for the age and degree of maturity of the minor concerned,

b) the chair shall impose a fine upon a minor above the age of fourteen only if it is especially justified and the disturbance is serious or is committed repeatedly.

(4) If a party, his legal representative or his representative other than his legal representative is expelled, the court shall postpone the hearing unless the expelled party or his legal representative requests the hearing to be held. If a party is expelled from the entire proceedings, the court shall request the party to arrange for a representative for the hearing within a specified time limit. If the request remains unsuccessful, the consequences of omission shall apply regarding the party. If a witness or expert is expelled, the provisions laid down in sections 272 to 274 shall apply.

Section 237 *[Case management]*

(1) If the preparatory statement made by a party including, for the purposes of this section, any statement made in the statement of claim, is incomplete, not sufficiently detailed or contradictory, the court shall intervene to have the party make a complete preparatory statement or rectify its deficiencies.

(2) If the preparatory statement does not provide evidence regarding a relevant fact, or if the parties dispute the bearing of the burden of proof regarding a fact, the court, beyond the provisions laid down in paragraph (1), shall inform the parties of the consequences of omission to provide evidence or to file a motion for evidence or of the failure to take evidence.

(3) The court shall contribute to clarifying the boundaries of the legal dispute by informing the parties if

a) it interprets a legal provision invoked by the parties differently,

b) it detects any fact on the basis of available data that it shall take into account *ex officio*, or

c) it is not bound by the claim by virtue of law,

and shall allow the parties to make their statements.

(4) In the cases described in paragraphs (1) to (3), the court shall support the parties in performing their procedural obligations by asking the parties questions, calling upon them to make statements, and providing information, depending on the circumstances of the case.

(5) The court shall perform case management according to and within the limits of the parties' requests and statements of law, which may be used by the parties freely in the course of performing their acts in the court proceedings.

71. Settlement

Section 238 *[Attempt at settlement in an action; providing information on the mediation procedure]*

(1) The court may attempt, at any stage of the proceedings, to have the legal dispute or some of the disputed matters settled by the parties by way of settlement.

(2) The court shall inform the parties of the essence, availability and conditions of mediation, if it appears that such a procedure may be successful, and especially if it is requested by a party, as well as of the rules pertaining to the stay of the proceedings. If the parties enter into an agreement in the course of a mediation procedure, they may file it with the court for approval as settlement during the period of stay. In such an event, the court shall continue the proceedings and shall proceed in accordance with section 239 (1).

Section 239 *[The settlement and the approval thereof]*

(1) If the settlement, including the agreement specified in section 238 (2), is in compliance with the law, it shall be approved by a court order, otherwise the court shall refuse to approve it and shall continue the proceedings.

(2) A separate appeal may be filed against the order approving or declining the settlement. An appeal filed against the approving or declining order shall not have suspensory effect on the enforcement of the settlement or on the continuation of the proceedings, respectively.

(3) A settlement approved by the court shall have the same effect as a judgment.

72. Termination of the procedure

Section 240 *[Terminating the procedure ex officio]*

(1) The court shall terminate the procedure *ex officio* at any stage if

a) the statement of claim should have been rejected under section 176 (1) *a)* to *i)* or section 176 (2) *a)* to *c)*,

b) the jurisdiction of Hungarian courts cannot be established on any ground of jurisdiction, although jurisdiction could be justified on the ground that the defendant enters into the action, but

ba) the defendant did not file a written statement of defence, or

bb) the defendant files a complaint due to the lack of jurisdiction of the court,

c) the jurisdiction of Hungarian courts cannot be established on any ground of jurisdiction, and the jurisdiction of the court cannot be justified on the ground that the defendant enters into the action,

d) the statutory representative of a party was not involved, and this deficiency is not remedied by the set time limit,

e) it establishes that the action falls within the material jurisdiction or exclusive territorial jurisdiction of a court proceeding in another matter falling within the scope of this Act, unless

ea) material jurisdiction depends on the value of the subject matter of the action, and the defendant has already submitted a written statement of defence without any complaint regarding material jurisdiction, or

eb) territorial jurisdiction is based on the choice of the parties, and the defendant has submitted a written statement of defence without any complaint regarding territorial jurisdiction,

f) a party dies or terminates, provided that the nature of the legal relationship excludes legal succession,

g) the parties missed the preparatory hearing or the continued preparatory hearing, or the party present does not request the hearing to be held,

h) the plaintiff fails to arrange for the replacement of his absent or terminated legal representation within the time limit set by the court, despite being called upon to do so by the court, including the case described in section 73 (1), or

i) it establishes that the matter falls within the material jurisdiction of an administrative court.

(2) In the course of applying paragraph (1) *b) ba)*, a statement of opposition submitted against an order for payment shall not be deemed a written statement of defence. The defendant may file a complaint regarding jurisdiction according to paragraph (1) *b) bb)* in his written statement of defence at the latest, simultaneously with submitting his defence on the merits.

(3) In the event described in paragraph (1) *e)* and *i)*, the court, at the time of terminating the proceedings, shall order the documents of the case to be transferred according to the provisions pertaining to the transfer of the statement of claim, unless the case is already in

progress before the administrative court, and that court has established its own material jurisdiction.

(4) In the event described in paragraph (1) *h)*, if the plaintiff submits a request for permission to be represented by a patron lawyer within the time limit specified by the court, the time limit open for arranging for legal representation shall be calculated from the day when the decision on the request becomes final and binding.

(5) At the latest in its judgment, the court shall state the reasons for adopting an order dismissing a request filed by a party for the termination of the procedure invoking a ground specified in paragraph (1) or another provision of an Act allowing *ex officio* termination.

(6) A separate appeal may be filed against the order terminating the proceedings on the basis of paragraph (1) or *ex officio* on the basis of another provision of an Act.

Section 241 *[Terminating the proceedings at request]*

(1) The court shall terminate the proceedings at request at any stage, even before communicating the statement of claim, if

a) the plaintiff abandons the action in full,

b) it is jointly requested so by the parties,

c) a terminated party does not have a legal successor, and any of the parties requested the termination of the procedure, or

d) the court obliged the plaintiff to provide security for the litigation costs but the plaintiff failed to provide such security within the time limit set, and the defendant requested the termination of the procedure in his request for security.

(2) In the event described in paragraph (1) *a)*, the plaintiff may abandon the action without the consent of the defendant until the written statement of defence is submitted by the defendant; after that, abandonment shall require the consent of the defendant, except for the case mentioned in paragraph (3). The declaration of consent shall be attached to the written notice of abandoning the action. Failing this, the court shall call upon the defendant to make a statement, warning the defendant that if he fails to make a statement regarding the call within the time limit set, the proceedings shall be terminated as requested by the plaintiff.

(3) If the proceedings are terminated due to abandoning the action, the consent of the defendant shall not be needed, provided that the action was abandoned because the defendant fulfilled the claim after the launch of the proceedings.

(4) A separate appeal may be filed against the order terminating the proceedings on the basis of paragraph (1) or another provision of an Act. If the request for terminating the proceedings is dismissed on the ground of paragraph (1) *a)* and *b)*, a separate appeal may be filed against the order on dismissal.

Section 242 *[Terminating the proceedings in part]*

(1) If the ground for terminating the proceedings *ex officio* or upon request is applicable only with regard to the action or with regard to the counter-claim alone, or is only related to one of the parties, the court shall terminate the proceedings only with regard to the action or counter-claim, or only with regard to the party affected by the ground for termination.

(2) If the plaintiff abandons his action at the main hearing stage with regard to only a part of his claim that can be adjudicated separately, the court shall exclusively terminate the proceedings with regard to the respective part.

(3) If the proceedings are terminated in part, the provisions pertaining to the termination of the procedure shall apply.

Section 243 *[Upholding the legal effects of filing a statement of claim and of bringing an action]*

(1) If the proceedings are terminated pursuant to section 240 (1) a) and d), or pursuant to section 241 (1) d), the legal effects of submitting the statement of claim and bringing an

action shall persist, provided that the plaintiff files the statement of claim again in the proper manner, apart from any attachment that was already properly attached, or enforces his claim in another proper manner within thirty days after the decision on termination becomes final and binding. The provisions laid down in section 178 (2) shall apply to the statement of claim filed before the order on termination becomes final and binding.

(2) No application for excuse shall be accepted for missing the time limit specified in paragraph (1).

CHAPTER XV

DEROGATING PROVISIONS WITH RESPECT TO PARTIES ACTING WITHOUT A LEGAL REPRESENTATIVE IN MATTERS FALLING WITHIN THE MATERIAL JURISDICTION OF DISTRICT COURTS

73. Use of legal representation

Section 244 *[Choice to act with a legal representative; switching to acting without a legal representative]*

(1) If a party acts with a legal representative in an action falling within the material jurisdiction of district courts, it shall be deemed that the party has chosen to act with a legal representative, and legal representation shall be maintained from that time until the proceedings are completed with final and binding effect, with the exception specified in paragraph (2). If the party has chosen to act with a legal representative, he shall be subject to the provisions pertaining to mandatory legal representation, with the derogations specified in paragraphs (2) and (3), as well as to the provisions laid down in Chapters XI to XIV, without the derogations specified in this Chapter, even if his legal representation is terminated.

(2) If the party has chosen to act with a legal representative, he may once switch to acting without a legal representative. The switch shall become effective as of when it is notified by the party. The party's act in the court proceedings regarding his choice to act with a legal representative, or to switch, shall not apply to his legal successor.

(3) If the party has chosen to act with a legal representative, a junior attorney-at-law or a junior in-house legal counsel shall also qualify as his legal representative in the proceedings.

(4) The court shall inform the party or his legal successor of the provisions laid down in paragraphs (1) to (3) at the time of its first measure addressed to the party or his legal successor.

74. General provisions

Section 245 *[Rule referring to the application of the rules of first instance proceedings]*

Unless otherwise provided in this Act, the provisions laid down in Chapters XI to XIV shall apply to the party acting without a legal representative in matters falling within the material jurisdiction of district courts, with the derogations specified in this Chapter.

75. Bringing an action; the preparatory stage; the main hearing stage

Section 246 *[Filing submissions]*

(1) The party shall use a template form specified by law and standard for this purpose, in order to submit

a) his statement of claim,

b) his statement of counter-claim, set-off document, and

c) his written statement of defence.

(2) The plaintiff may present his action orally at the district court for the place where he has his domicile, seat or place of work, or which has territorial jurisdiction over the action, during

the office hours set by the president of the court in accordance with the applicable laws, and the court shall record the action on the template form standard for this purpose. If the action was recorded by a court other than the one having territorial jurisdiction over the action, the action shall be sent to the competent court without delay, indicating the time when the action was presented. The time of presenting the action orally shall be deemed the time of submitting the statement of claim.

(3) The party may present his counter-claim, set-off statement or statement of defence orally at the court proceeding in the action in a manner specified in paragraph (2), and it shall be recorded by the court on a standard template form for this purpose.

(4) In the cases described in paragraph (2) or (3), the party shall be provided with the necessary information regarding his procedural rights and obligations, and he shall immediately be called upon to remedy any deficiency; if the party omits to remedy any deficiency despite being called upon to do so, the action or statement shall be recorded on the template form with incomplete content. No separate minutes need to be taken of the oral presentation unless a notice to remedy deficiencies was issued and the party omitted to remedy the deficiency.

(5) The party may submit requests and statements other than those specified in paragraphs (2) and (3) to the court proceeding in the action orally and in a manner specified in paragraph (2) and which shall be recorded in the minutes.

(6) The court shall only call the party to submit a reply document, rejoinder or preparatory document if it would not pose any considerable difficulty to the party or his representative who does not qualify as a legal representative (hereinafter "non-legal representative").

Section 247 *[The content of submissions]*

(1) Of the mandatory content elements required under this Act, the party shall not be required to specify the legal basis, legal reasoning or the legal provision in his statement of claim, statement of counter-claim, set-off document or written statement of defence.

(2) The party shall indicate the right to be enforced or the complaint based on substantive law in a manner allowing for the legal basis to be identified.

Section 248 *[Deficiencies of the submissions]*

(1) The court shall call upon the plaintiff, in addition to warning him of the consequences of omission, to remedy deficiencies, if the statement of claim was not submitted on the template form specified by law, or if the rejection of the statement of claim would be required under section 176 (1 *j)* or *k)*, except if a content element referred to in section 247 (1) is missing. If the plaintiff does not remedy the deficiency, the court shall reject the statement of claim; a separate appeal may be filed against the order on rejection.

(2) At the time of communicating the claim, the court shall, in addition to warning him of the consequences of omission, inform the defendant that a template form specified by law is required for submitting the written statement of defence, statement of counter-claim, and set-off document. A submission specified in this paragraph shall be rejected by the court if it was not submitted by the defendant on the template form specified by law; a separate appeal may be filed against the order on rejection.

(3) The court shall call upon the party, in addition to warning him of the consequences of omission, to remedy deficiencies, if rejecting the statement of counter-claim or set-off document would be required on any of the grounds specified in section 176 (1) *j)* or *k)*, except if a content element referred to in section 247 (1) is missing. If the party does not remedy the deficiency, the court shall reject the statement of counter-claim or set-off document; a separate appeal may be filed against the order on rejection.

Section 249 *[The presence of the parties at hearings]*

(1) If a non-legal representative appearing at any hearing on behalf of a party summoned in the proper manner does not certify his right of representation, or this certification is not in accordance with the applicable rules, the court shall call upon the person present to certify his right of representation in the proper manner and within an appropriate time limit, and shall call upon the party to submit a statement approving the acts of the person present. If the person appearing as the representative may not represent the party by virtue of an Act, the court shall call upon the party to proceed in the action personally or with an agent who complies with the legal provisions, and to make a statement within an appropriate time limit as to whether he approves the acts of the person appearing as the representative.

(2) In the case described in paragraph (1), the court may or, at the request of a party present, shall hold the hearing.

(3) If the certificate or statement mentioned in paragraph (1) is not submitted within the given time limit, all acts performed in the court proceedings by the person who appeared as the representative of the party shall be ineffective, and the provisions pertaining to omission shall apply. If the court closed the hearing, it shall only schedule the announcement of its decision, and the parties shall be notified thereof. If the service of the notice is not certified, it shall not prevent the announcement of the decision.

Section 250 *[Request for the amendment of the action or statement of defence]*

The party may present his request for the amendment of the statement of claim, statement of counter-claim or set-off, or his request for the amendment of the statement of defence against the statement of claim, statement of counter-claim or set-off orally during the hearing as well.

Section 251 *[Subsequent taking of evidence]*

The provision set forth in section 220 (6) regarding the remedy of deficiencies and the application for excuse shall not be applied.

Section 252 *[Maintenance of order]*

If the non-legal representative of the party is expelled, he may also request the hearing to be held. If the party or his non-legal representative is expelled from the entire proceedings, the court shall call upon the party to arrange for a new representative or to appear at the hearing in person. If the legal representative is expelled from the entire proceedings, the court shall call upon the party, in addition to the call to arrange for a new representative, to inform the court if he wishes to switch to acting without a legal representative, provided that its conditions prescribed by law are met.

Section 253 *[Case management]*

The rules pertaining to case management shall apply, with the addition that the court

a) may order the personal interview of the party to determine the boundaries of the legal dispute, including the clarification of any statement of fact or law, claim or statement of defence made by the party, as well as his possibilities to provide evidence, and

b) shall provide the party with information on the possibilities to provide evidence, means of producing evidence, and the related conditions concerning any fact to be proved, if necessary.

CHAPTER XVI

ACTIONS RELATED TO ORDER FOR PAYMENT PROCEDURES

76. Bringing the action

Section 254 *[Rejection of the statement of claim and the termination of the procedure due to the omission of the order for payment procedure]*

(1) Unless otherwise provided by an Act and provided that the value of the subject matter of the dispute does not exceed three million forints, an overdue claim limited exclusively to the payment of money shall only be enforced in an order for payment procedure falling within the material competence of civil law notaries and regulated in Act L of 2009 on the order for payment procedure (hereinafter the "Fmhtv.").

(2) If the plaintiff seeks to enforce a demand in his claim which, according to the Fmhtv., may only be enforced in an order for payment procedure, the court shall reject the statement of claim and shall inform the plaintiff of the possibility and method of initiating an order for payment procedure.

(3) In the case described in paragraph (2), the proceedings shall not be terminated *ex officio* due to the omission of the order for payment procedure, if the defendant submitted a written statement of defence without raising any objection in this regard.

(4) If an attempt at pre-trial settlement is made and in the event described in section 255 (2), the provision on exclusion and the limitation concerning the value of the subject matter of the action as laid down in paragraph (1) shall not apply, and the statement of claim shall not be rejected on the basis of section 176 (1) *b)*.

(5) Paragraph (1) shall not exclude the party from enforcing his claim in a procedure specified in Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure or in arbitration court procedure.

Section 255 *[Actions brought through an order for payment procedure]*

(1) An order for payment procedure shall be transferred to an action by the submission of a statement of opposition by the obligor, with respect to the part affected by the statement of opposition.

(2) Beyond the cases specified in paragraph (1), the order for payment procedure shall also be transferred to an action if

a) the request for issuing an order for payment is rejected by the notary, or

b) the order for payment procedure is terminated by the notary with a procedural decision,

and the obligee subsequently brings an action to the court for the enforcement of his claim.

(3) The provisions laid down in Chapters XI to XV shall apply in an action brought concerning an order for payment procedure, with the derogations specified in this Chapter.

Section 256 *[The legal effects attached to filing the statement of claim; the legal effects of bringing the action]*

(1) Submitting a request for issuing an order for payment shall have the same effect as submitting a statement of claim.

(2) The service of an order for payment shall have the same effect as the communication of the claim.

(3) In the cases described in section 255 (2), the legal effects of submitting a request for issuing an order for payment, and in the events described in section 255 (2) *b)* the legal effects of serving the order for payment shall persist, if the plaintiff submits his statement of claim, accompanied by the procedural decision on rejection or termination, to the court within thirty

days after the procedural decision on rejection or termination adopted by the notary becomes final and binding. No application for excuse shall be accepted for missing this time limit.

Section 257 *[The document containing the statement of claim]*

(1) Within fifteen days after the service of the notary's notice according to section 37 (3) of the Fmhtv., the plaintiff shall pay any additional procedural fees and submit his claim to the court specified in the notice by the notary, in a document complying with the provisions on the content of the statement of claim and its attachments. In the introductory part of the document, in addition to indicating the notarial case number, reference shall be made to the case history with respect to the order for payment procedure, and a copy of the notary's notice shall be attached to the document.

(2) If the action falls within the material jurisdiction of district courts and the plaintiff acts without a legal representative, the document containing the statement of claim shall be submitted on the template form specified by law and standard for this purpose; the provisions laid down in section 247 shall apply to the document. The plaintiff may present his action orally at the district court specified in the notary's notice during the office hours set by the president of the court in accordance with the applicable laws, and the action shall be recorded by the court on the template form standard for this purpose. The provisions set forth in section 246 (4) shall apply to such a submission.

Section 258 *[Measures taken by the court after the transfer of an order for payment procedure to a court action]*

(1) If, for any reason, the notary sent the documents of the order for payment procedure (hereinafter "notarial documents") to a court other than the one specified in the notice according to section 37 (3) of the Fmhtv., the court shall send them without delay to the court specified in the notice, without applying the rules pertaining to the transfer of the case.

(2) If the plaintiff files the document containing the statement of claim with a court other than the court specified in the notary's notice, the court, without applying the rules pertaining to the transfer of the case, shall send the document to the court specified in the notary's notice without delay, and shall notify the plaintiff accordingly. The document containing the statement of claim shall be deemed submitted when it is received by the court specified in the notary's notice.

(3) If the court specified in the notary's notice establishes that the action falls within the material or territorial jurisdiction of another court, it shall terminate the proceedings and shall order the transfer of the case; this rule shall also apply if the plaintiff fails to submit a document containing the statement of claim within the time limit and to the court specified in the notary's notice.

(4) The court shall reject the document containing the statement of claim if the plaintiff did not attach the notary's notice to the document containing the statement of claim, and it is not possible otherwise to determine the court specified in the notary's notice; and no notarial documents were the sent to the court either. For a party acting without a legal representative, this provision shall only apply if the court called upon the party, in addition to warning him of the consequences of omission, to submit the notice of the notary within eight days, and this time limit expired without result. The plaintiff may file a separate appeal against such an order. If subsequently it becomes possible to determine the court specified in the notary's notice, the court shall amend the order on rejection and take the necessary measures.

(5) The court with material and territorial jurisdiction over the action shall reject the statement of opposition and terminate the proceedings if the notary failed to take the measure specified in section 36 (5) of the Fmhtv. A separate appeal may be filed against such an order. The notary shall be bound by the final and binding order of the court. When sending its final and binding order, the court shall call upon the notary to take the measures related to the final and binding nature of the order for payment.

(6) If the court with material and territorial jurisdiction over the action finds that a request concerning transfer to a court action, falling within the material jurisdiction of the notary, was not adjudicated by the notary, it shall call upon the notary to adjudicate the request, and it shall suspend its proceeding until the request is adjudicated with final and binding effect.

Section 259 *[Termination of the proceedings]*

(1) With the exception specified in paragraph (2), the court shall terminate the proceedings without issuing a notice to remedy deficiencies if, within fifteen days after the service of the notary's notice, the plaintiff does not perform his obligation to pay the procedural fee or does not submit the document containing the statement of claim to the court specified in the notary's notice.

(2) The proceedings shall be terminated if the plaintiff performs his obligation to pay the procedural fee only in part, or does not indicate a mandatory content element in the document containing the statement of claim, or does not attach a mandatory attachment thereto, provided that the court, in addition to warning the plaintiff of the consequences of omission, called upon him to remedy the deficiencies within a time limit of fifteen days, and the time limit expired without result. The proceedings shall also be terminated by the court if, in an action falling within the material jurisdiction of a district court, the plaintiff acting without a legal representative submits the document containing the statement of claim using means other than the template form specified by law, provided that the court, in addition to warning the plaintiff of the consequences of omission, called upon him to remedy the deficiencies within a time limit of fifteen days, and the time limit expired without result. The proceedings may not be terminated if the missing element of the document containing the statement of claim, apart from the certification of the representative's right of representation, may be established on the basis of the notarial documents.

(3) If any of the reasons specified in section 176 (1) *a)* to *i)* or (2) *a)* to *c)* for which the statement of claim should be rejected in an action commenced by means of a statement of claim applies in an action referred to in section 255 (1), the proceedings in this action shall be terminated *ex officio*.

(4) A separate appeal may be filed against the order referred to in paragraphs (1) to (3).

Section 260 *[Service of documents]*

The court shall serve its notices and decisions mentioned in sections 258 and 259 on the representative specified in the party's order for payment, statement of opposition or document containing the statement of claim, regardless whether his right of representation has not been certified. If the name or service address of the specified representative is incomplete, the document shall be served on the party.

77. Other rules pertaining to actions related to an order for payment procedure

Section 261 *[Litigation costs; legal aid]*

(1) In the case described in section 255 (1) or, if the conditions specified in section 256 (3) are met, in the case described in section 255 (2), the fee for the order for payment procedure and the fee for copying necessarily arising in the order for payment procedure (for the purposes of this section, hereinafter jointly "fee") shall form part of the litigation costs.

(2) The effect of a final and binding procedural decision adopted by the notary granting the party legal aid shall extend to the action as well.

(3) If the notary granted the party legal aid during the order for payment procedure, in the case described in section 255 (1) the court shall decide on the payment and bearing the fee in its decision closing the proceedings, and the party shall be obliged to pay the fee that was not paid due to the legal aid (for the purposes of this section, hereinafter "unpaid fee") to the Hungarian Chamber of Civil Law Notaries (hereinafter "MOKK"). If the proceedings are

terminated as a result of staying of procedure, the court shall decide on the unpaid fee in a separate order, and the plaintiff shall be obliged to pay it to MOKK; a separate appeal may be filed against this order.

(4) The decision adopted on the unpaid fee shall be served by the court on MOKK as well. MOKK may file an appeal against the decision on the unpaid fee. If the court failed to decide on the matter of the unpaid fee, MOKK may request the decision to be supplemented within five years after the decision becoming final and binding.

(5) The provisions laid down in the Fmhtv. and any law passed under the authorisation thereof shall apply to the legal aid available regarding the fee, and the provisions laid down in this Act and any law passed under the authorisation thereof shall apply to all other reductions that are available in the course of the action. If a party is granted partial legal aid during the action, it shall not relieve him from paying the fee.

Section 262 *[Other rules pertaining to the communication of the claim and the court injunction in the case of a procedure transferred to an action]*

(1) If taking the measures specified in sections 258 and 259 is not needed, and the plaintiff has performed his obligations specified in section 257, the proceedings shall be continued in accordance with the rules pertaining to the communication of the statement of claim and by applying section 179, with the derogation that the statement of claim shall be construed as the document containing the plaintiff's claim. In accordance with section 179, the provision laid down in section 260 shall apply to the documents to be served on the defendant.

(2) In any of the cases described in section 181, the submission of a statement of opposition against the order for payment shall not prevent a court injunction from being issued.

PART FOUR

THE TAKING OF EVIDENCE

CHAPTER XVII

THE GENERAL RULES ON TAKING EVIDENCE

78. Fundamental provisions on taking evidence

Section 263 *[The principle of establishing the factual situation freely]*

(1) Unless otherwise provided by an Act, the court shall not be bound by any formal rule or specific method of taking of evidence, or by the use of specific means of producing evidence; it shall be free to use any statements made by the parties and any evidence that is suitable for establishing the factual situation.

(2) In the course of adopting its decision, the court shall not be bound by any decision adopted by another authority, nor by any disciplinary decision, nor by the factual situations established in such decisions, except for the provisions set forth in section 264.

Section 264 *[The binding effect of the decisions of other authorities]*

(1) If the property law consequences of a criminal offence adjudicated with final and binding effect are to be assessed in civil proceedings, the court shall not be entitled to establish in its decision that the convicted person did not commit the crime for which he was convicted.

(2) A court proceeding in a matter falling within the scope of this Act shall be bound by a final and binding decision adopted by an administrative court regarding the legality of administrative activities.

Section 265 *[Interest to prove and privileged case of inability to prove]*

(1) Unless otherwise provided by an Act, the relevant facts in a case shall be proved by the party having an interest in the fact being accepted by the court as the truth (hereinafter

"interest to prove"), and the consequences of not proving or unsuccessfully proving such a fact shall be borne by the same party.

(2) A party shall be considered to be in a privileged case of inability to prove if he substantiates that

a) the data indispensable for his motion for evidence are in the exclusive possession of the party with opposing interests, and he certifies that he took the necessary measures to obtain such data,

b) it is not possible for him to prove a statement of fact, but it can be expected that the party with opposing interests will supply evidence of the non-existence of the facts stated, or

c) the success of taking evidence was frustrated due to the fault of the party with opposing interests,

and the party with opposing interests does not substantiate the opposite of those specified in points *a)* to *c)*.

(3) In a privileged case of inability to prove, the fact to be proved by the party concerned may be accepted by the court as the truth if it does not have any doubt regarding its veracity.

Section 266 *[Facts that may be established without taking evidence]*

(1) A statement of fact may be accepted by the court as the truth if it does not have any doubt regarding its veracity, provided that it is acknowledged by the opposing party, it is presented by the parties identically, it is not disputed by the opposing party despite him being notified by the judge, or it is to be considered as undisputed pursuant to this Act.

(2) Facts that are considered by the court to be commonly known, or of which the court has official knowledge, shall be taken into account by the court even if they are not invoked by any of the parties.

(3) The court shall take statutory presumptions into account *ex officio*, including circumstances that, by virtue of law and unless proven to the contrary, are to be considered to be true.

(4) The court shall inform the parties of any fact taken into account *ex officio* under paragraphs (2) and (3). Unless otherwise provided by an Act, opposing evidence shall be allowed in the cases described in paragraphs (2) and (3).

79. The methods and means of taking evidence

Section 267 *[The methods of taking evidence]*

Evidence may be taken especially through witness evidence, expert evidence, documentary evidence and inspection. The court may use any other method of taking evidence that is suitable for establishing the relevant facts in the case, if it seems expedient with respect to the adjudication of the legal dispute, unless the respective method of taking evidence would violate public order.

Section 268 *[The means of taking evidence]*

(1) The means of evidence shall have to be suitable for the court to obtain evidence that can be used to establish the relevant facts of the case and that may be taken into account during deliberation.

(2) As a means of evidence, a witness, expert, document, image recording, sound recording, audio-video recording and other means of physical evidence may especially be used.

(3) A means of evidence shall not be used, if its use is

a) prohibited by an Act, or

b) subject to a condition by an Act, unless it can be established that the condition is met.

Section 269 *[Unlawful means of taking evidence]*

(1) A means of evidence, or any separable part of it, shall be unlawful and shall not be used in the action if

a) it was obtained or produced by violating or threatening a person's right to life and physical integrity,

b) it was produced by any other unlawful method,

c) it was obtained in an unlawful manner, or

d) its submission to the court would violate personality rights.

(2) A means of evidence shall be considered evidently unlawful if that can be established clearly as a fact on the basis of the evidence and data available. The evidently unlawful nature of a means of evidence shall be taken into account by the court *ex officio*, and the parties shall be informed accordingly.

(3) If a means of evidence is not evidently unlawful, its unlawful nature shall be notified without delay by the opposing party of the party submitting the means of evidence. A party may invoke the unlawfulness of a means of evidence after the order closing the preparatory stage is adopted if he became aware of it subsequently and without any fault on his part, and it is notified within fifteen days after becoming aware of it.

(4) With the exception of the case described in paragraph (1) a), the unlawful means of evidence may be taken into account by the court exceptionally and with due regard to

a) the specifics and extent of the violation of law,

b) the legal interest affected by the violation of law,

c) the impact of the unlawful piece of evidence on discovering the factual situation,

d) the weight of other available pieces of evidence, and

e) all other circumstances of the case.

(5) If an unlawful means of evidence cannot be used and the party proving a relevant fact in the case cannot prove it in any other way, the court shall apply the rules pertaining to the privileged case of inability to prove.

(6) The rules pertaining to unlawful means of evidence shall also apply to evidence that is based on a statement of fact, expert opinion, testimony, or another statement by a person contributing to taking evidence.

Section 270 *[Using the results of taking evidence carried out in other proceedings]*

(1) The court may use evidence obtained in other proceedings, including statements of fact made by a party in other proceedings, unless the method of taking evidence, apart from the characteristics of those proceedings, is in violation of the provisions laid down in this Act.

(2) The court shall examine, upon request, the obstacle to using a piece of evidence, unless it is obvious. If a party states that a piece of evidence obtained in other proceedings may not be used, he shall bear the burden of proof in this respect.

(3) The results of taking evidence in other proceedings shall be presented by the court to the necessary extent during the hearing, and the parties may make their observations. If a piece of evidence to be used was not known earlier to any party present, if he so requests, the court shall present that piece of evidence in more detail.

80. Contributors and coercive measures against contributors

Section 271 *[The obligations and rights of contributors]*

A witness, officially appointed expert, holder of a document or object of inspection, and other persons whose participation in taking evidence is considered necessary by the court (hereinafter "contributors") shall be obliged to contribute to evidence being taken. Unless otherwise provided by an Act, contributors, upon request, shall be entitled to reimbursement of their costs incurred in relation to their contribution, or to appropriate remuneration, if their

contribution is provided by exercising their profession. The contributor concerned and the parties may file a separate appeal against the order determining the amount of such costs or remuneration; the appeal shall have no suspensory effect on the payment with respect to the part not affected by the appeal.

Section 272 *[Coercive measures against contributors]*

(1) If a contributor violates his obligation without requesting excuse in advance on a valid ground, also substantiating that ground, the court

a) shall oblige the contributor to reimburse the costs caused,

b) may impose a fine on the contributor,

c) may order the contributor's forced appearance,

d) may reduce the contributor's remuneration,

e) may inform the superior, supervisor or employer of the contributor of his omission.

(2) The court may apply the coercive measures specified in paragraph (1) jointly.

(3) Coercive measures shall not be applied against a minor below the age of fourteen, but paragraph (1) *a)* and *b)* may be applied against his statutory representative.

(4) The court shall oblige, in an order, the person specified in the order on forced appearance to pay the costs of the forced appearance referred to in paragraph (1) *c)*. The person obliged to pay the costs of the forced appearance may file a separate appeal against the order.

Section 273 *[Subsequent exculpation]*

If a contributor performs his obligation without delay or applies for excuse on a valid ground after the application of any coercive measure, also substantiating that ground, the order on the coercive measure shall be set aside by the court.

Section 274 *[Procedural remedy]*

The contributor concerned may file a separate appeal against the order applying a coercive measure or dismissing a request for setting aside the order applying one. A decision on forced appearance may be enforced preliminarily, regardless of any appeal.

CHAPTER XVIII

GENERAL RULES ON THE EVIDENTIARY PROCEDURE

81. Motion for evidence and ordering the taking of evidence

Section 275 *[Motion for evidence; making the means of evidence available]*

(1) In a motion for evidence, the party shall specify the facts to be proven, the means of evidence, and the method of taking evidence, and he shall briefly justify why they are suitable as evidence.

(2) When making a document or a piece of physical evidence available as means of evidence, the party shall specify the fact to be proved, and he shall briefly justify why it is suitable as evidence.

Section 276 *[Ordering the taking of evidence]*

(1) With a view to establishing the facts necessary for adjudicating the action, the court shall order evidence to be taken.

(2) The court may order evidence to be taken *ex officio* if doing so is permitted by an Act.

(3) The court shall not be bound by a motion for evidence filed by a party, or by its own decision adopted with regard to taking evidence.

(4) The court shall not order evidence to be taken if

a) the motion for evidence was submitted by the party not in accordance with the provisions of this Act, unless otherwise provided by an Act,

b) the party who is obliged to pay the costs in advance for the performance of taking evidence failed to perform his obligation to pay in advance, despite being called upon to do so.

(5) The court shall not order evidence to be taken, or shall not conduct the taking of evidence already ordered, if it is unnecessary for adjudicating the legal dispute.

82. Taking evidence and assessing the results of taking evidence

Section 277 *[The location of taking evidence]*

(1) A court may perform judicial acts directly only within its own area of jurisdiction or at its seat, and it may not perform such acts within the area of another court, unless

a) doing so is necessary to complete an act to be performed at the border of its area, or

b) performing the act directly is justified by urgency, the interests of a minor or other important interests.

(2) If a court proceeds beyond its area of jurisdiction, it shall notify the district court with territorial jurisdiction of it, and the latter, upon request, shall assist during the taking of evidence.

(3) As a rule, the evidentiary procedure shall be performed by the court during a hearing. If the conditions laid down in this Act are met, evidence may be taken using an electronic communications network.

(4) If taking evidence during a hearing would entail significant difficulties or disproportionately high costs, evidence may also be taken by a delegate judge or a requested court.

Section 278 *[The method of taking evidence; the rights of the parties]*

(1) Within the framework of the motions for evidence filed by the parties, the court may determine the method and means of taking evidence, as well as the scope and sequence of evidentiary acts.

(2) Unless otherwise provided in this Act, the court shall have the contributors make their statements in the course of taking evidence. The members of the court may ask the contributors and parties questions with a view to clarifying the truthfulness of their factual statements, examining the credibility of the contributor and the lack of undue influence, and discovering circumstances pertaining to gaining knowledge or to the credibility of a document or other means of evidence.

(3) The parties may be present during the taking of evidence and may make their observations and motions concerning it, and they may propose further questions to be asked by the court. The court may allow a party to ask the contributor certain questions directly.

(4) If this Act allows a party to make motions to the court during the taking of evidence, such motions may also be submitted during the main hearing phase. If a ground specified in section 276 (4) and (5) exists, or if the party submits his motion late and without a valid reason for the delay, the court shall not grant the motion.

Section 279 *[Assessing the results of taking evidence]*

(1) The court shall establish the relevant facts of the case by comparing and individually and jointly evaluating the statements of fact and behaviour of the parties during the proceedings, and the evidence discovered during the hearing and other data related to the action.

(2) If the statements of fact made by the party and his representative in the proceedings are inconsistent, it shall be assessed by the court as if the statements of fact made by the party were inconsistent.

(3) The amount of damages or other debt shall be determined by the court at its own discretion and on the basis of all circumstances of the case, if it cannot be determined on the basis of an expert opinion or other piece of evidence.

CHAPTER XIX

THE SPECIAL RULES ON TAKING EVIDENCE

83. Taking evidence using an electronic communications network and the taking evidence by a delegate judge

Section 280 *[Interview taken through an electronic communications network]*

If a party or another person involved in the action, a witness or an expert needs to be interviewed in the course of taking evidence, the court may also conduct the interview using an electronic communications network in accordance with the provisions laid down in Chapter XLVII.

Section 281 *[Taking evidence by a delegate judge]*

(1) Unless otherwise provided in this Act, the chair or one or more members of the panel proceeding in the case, or one or more judges or junior judges of the proceeding court, may proceed as a delegate judge.

(2) The order on the taking of evidence by a delegate judge shall indicate

a) the delegate judge,

b) the time of taking evidence,

c) the name, address and the position in the procedure of the person to be interviewed, or the location of the inspection,

d) the facts to be proved, and other matters on which the interviewed person is to make a statement,

e) the document or physical evidence to be presented by the contributor at the location of the interview.

(3) In the order, the court may set forth that

a) the taking of evidence shall be performed by the delegate judge at a specific location or at the place of residence of the person concerned,

b) the delegate judge shall make an image, sound or audio-visual recording of the evidentiary act.

(4) The court shall summon the person to be interviewed, as well as the parties, for the date of taking evidence.

(5) The evidentiary act shall be recorded by the delegate judge in the minutes.

84. Taking evidence by a requested court

Section 282 *[Ordering the taking of evidence by a requested court]*

(1) The court shall request the district court for the place where the persons to be interviewed reside, or within whose area taking evidence can be performed in the most expedient manner. A district court operating at the seat of the proceeding court shall not be requested to take evidence.

(2) The requested court and the details required under section 281 (2) *c) to e)* shall be specified in the order on requesting the court to perform the taking of evidence; furthermore, the court may also order the provisions set forth in section 281 (3). The chair shall communicate to the requested court the questions that are to be clarified while taking evidence, and the data necessary to perform the taking of evidence, including especially the name and other identification data of the persons and their representatives participating in the proceedings, data pertaining to the advance payment of costs, a short description of the case to the extent necessary and the factual situation to be proved, and if any person involved in the proceedings was granted partial legal aid.

(3) The documents that are necessary to perform the request shall also be sent to the requested court.

Section 283 *[The proceedings of the requested court]*

(1) The requested court shall set a due date for taking evidence, and the persons requested to be interviewed shall be summoned to it and the parties shall be informed of the due date.

(2) On behalf of the requested court, taking evidence shall be performed by a sole judge or a junior judge. Unless otherwise provided in this Act, the requested court shall be entitled to the rights of the requesting court.

(3) If performing the request falls in whole or in part within the territorial jurisdiction of another court, the requested court shall notify the requesting court thereof without delay.

(4) The requested court shall perform the request within fifteen days. If the requested court does not perform the request within fifteen days, it shall inform the requesting court of the obstacle to performing the request.

(5) The requested court shall record the taking of evidence in the minutes, in which both the requesting and the requested court shall be indicated. The minutes, together with the documents, shall be sent to the requesting court within eight days.

CHAPTER XX

WITNESSES

85. General provisions in connection with witnesses

Section 284 *[The motion for witness evidence]*

(1) The witness's name and his address that can be used for the summons shall be indicated in the motion for witness evidence.

(2) If the witness to be summoned is a minor, also his age and his statutory representative's name and address that can be used for the summons shall be indicated.

(3) If a judge or another official person is to be summoned during the action with regard to his official activities or a reason related to it, the address to be used for the summons shall be the address of the authority at which he serves, or the court in the territory of which the address of the authority at which he serves is located. If the service relationship of the judge or other official person is terminated during the proceedings, the general rules on summons shall apply.

Section 285 *[Processing the data of the witness in a confidential manner in the course of submitting a motion for witness evidence]*

(1) With the exception of the witness's name, all his other data shall be submitted on a separate sheet, unless he consented in advance to the disclosure of his data, the data are known to all parties to the action or they are available in a publicly certified register.

(2) The party filing the motion for witness evidence shall declare in his motion if that consent has been granted or if the data is known.

(3) In the motion for witness evidence, another indication may be used in place of the witness's name in exceptionally justified cases; if the witness is indicated in such a manner, his name shall be indicated on the separate sheet.

(4) The court shall handle the separate sheet among the documents of the case separately and in a confidential manner, and its contents may only be disclosed to the court, the keeper of the minutes, the transcriber and the prosecutor. The court shall ensure that the personal data of the witness are not revealed to the parties and to other persons involved in the action, with the exception of the prosecutor and the party who reported the data, and the court shall also ensure that such data are not revealed from any other data pertaining to the proceedings.

(5) If a party files a motion for witness evidence in violation of the rules laid down in paragraphs (1) to (3), and the witness files a complaint within fifteen days of becoming aware of that violation, the court shall impose a fine on the person who reported the data. No complaint shall be filed in this respect if six months have passed since the data were reported. A late complaint shall be dismissed by the court *ex officio*, and a separate appeal may be filed against the decision dismissing the complaint.

Section 286 *[Obliging the party with opposing interests to provide the data of the witness]*

At the request of the party producing evidence, the court may oblige the opposing party to provide the witness's name and address that can be used for the summons, if the party producing the evidence substantiates that the opposing party knows or should know the witness, who is unknown to him. In such an event, in the absence of the consent of the witness, processing the data in a confidential manner may only be ceased if meanwhile the party producing the evidence became familiar with the personal data of the witness from another source.

Section 287 *[Summoning the witness]*

(1) The witness shall be summoned by the chair. The circumstances about which the witness is to be interviewed may be specified in the summons, and the witness may be called upon to bring with himself certain notes, documents or other items that may be used while taking evidence.

(2) In the summons, the witness shall be informed of the method of processing his data, his rights pertaining to processing his data and the extent to which he may request the reimbursement of his costs incurred in relation to his appearance.

(3) The court shall summon a minor witness below the age of fourteen through his statutory representative, calling upon him to ensure that the witness will appear. If a minor witness above the age of fourteen is summoned, the court shall notify his statutory representative thereof.

(4) If a witness cannot be summoned because the notified data are incorrect, the court shall, before summoning the witness again, examine whether the notification was made incorrectly with the aim of protracting the proceedings.

Section 288 *[The interview of a statutory representative]*

The statutory representative of a party shall not be interviewed as a witness, unless the natural person party represented by him has procedural capacity to act in the proceedings.

Section 289 *[Inability to give witness testimony]*

(1) A person shall not be interviewed as a witness if

a) he acted as a defence counsel, regarding a matter he learned about in his capacity as a defence counsel,

b) he was not exempted from his obligation of confidentiality, regarding a matter qualifying as classified data.

(2) The obligation of confidentiality shall remain in effect, even after the termination of the underlying legal relationship.

(3) The authority or body authorised to grant exemption from the obligation of confidentiality in certain cases shall be specified by law.

(4) The matters for which the exemption is requested shall be specified in the request for exemption.

(5) The testimony of a witness interviewed in violation of the provisions of this section shall not be taken into account as evidence.

Section 290 *[Refusal to give witness testimony]*

(1) A person may refuse to give witness testimony if

a) he is a relative of any of the parties,

b) by testifying, he would incriminate himself or his relative of committing a criminal offence, regarding the related matters,

c) he is obliged by his profession to maintain confidentiality, and giving witness testimony would violate that obligation, unless he was exempted from this obligation by the interested party,

d) he is obliged to maintain a business secret, regarding the matters testifying about which would violate his obligation to maintain confidentiality, unless the data concerned in his testimony do not qualify as business secret under the Act on the accessibility of data of public interest and data accessible on public interest grounds, or if the subject matter of the action is to decide whether or not the given data is of public interest or is accessible on public interest grounds,

e) he was involved as a mediator or expert in a mediation procedure conducted in a case related to the legal dispute,

f) he is a media content provider or is employed by, or is in another employment-related relationship with, a media content provider, if the witness testimony would reveal the identity of the person who provided information to him in relation to his activities as a media content provider, regarding the related matters.

(2) If there are co-litigants and the witness is not a relative of every co-litigant, he shall not refuse to give witness testimony regarding the others, unless his testimony cannot be separated.

(3) Witness testimony shall not be refused on the basis of paragraph (1) *a)* and *b)*, if

a) the witness is a legal predecessor of one of the parties in the disputed legal relationship,

b) the dispute concerns a legal transaction in which

ba) the witness participated as a representative of one of the parties or as a witness to the transaction, or

bb) the witness was represented by one of the parties, or

c) the matter concerns the parentage, marriage, the being alive or death of a family member of the witness, the way of exercising parental custody over a minor family member of the witness, or placement with or releasing from a third party the minor family member of the witness, or a property dispute arising from family relations.

(4) The exemption specified in paragraph (1) *c)* to *f)* shall persist even after the termination of the underlying relationship. The obligation specified in paragraph (1) *c)* and *d)* shall terminate if the entity other than a natural person that holds the secret terminates without a legal successor.

(5) In the cases described in paragraph (1) a), and c) to f), the witness shall be warned of his exemption prior to his interview, or as soon as the exemption becomes known. The warning and the response given to the warning by the witness shall be recorded in the minutes.

(6) If, despite his well-grounded claim for exemption, the witness is made to give testimony in a case specified in this section, or if the provisions laid down in paragraph (5) are not fulfilled, the testimony of the witness shall not be taken into account as evidence.

Section 291 *[Preliminary notification of inability or refusal to give witness testimony]*

(1) If the witness shall not be interviewed pursuant to section 289 (1), or he does not wish to testify pursuant to section 290 (1), he may notify the court accordingly, even before the due date set. He shall present and substantiate the reason for refusal at the time of giving his notice. In the absence of other supporting data, the court may also interview the witness regarding the reason for his refusal.

(2) The court carrying out the interview shall decide whether the witness's refusal to testify can be accepted. The parties present shall be interviewed before adopting the decision. If the witness is interviewed by way of request, the requesting court may amend the decision of the

requested court upon request. The request shall have suspensory effect on interviewing the witness.

(3) The witness may file a separate appeal against the decision obliging him to testify. The appeal shall have suspensory effect on interviewing the witness. If, clearly without any ground, the witness refuses to testify, the court adjudicating the appeal may impose a fine on the witness, and the court proceeding in the action may oblige the witness to reimburse the costs caused.

86. Rules pertaining to the interview process of the witness

Section 292 *[General provisions pertaining to the interview of the witness]*

(1) A witness who was summoned and is present shall be interviewed on the day of the hearing. Any deviation from this shall be exceptional and subject to well-founded reasons only.

(2) The witness shall not be present during the hearing or the evidentiary procedure before being interviewed, and he shall not leave after his interview without the court's permission.

(3) Prior to the commencement of the interview, the witness shall be warned of the consequences of perjury.

(4) If the witness is a person with disability, he shall be interviewed with a view to and in a manner that is suitable for his condition. The interview of a witness with disability may be dispensed with if he cannot be expected to give meaningful testimony due to his condition.

Section 293 *[Processing the data of the witness in a confidential manner during and after the interview]*

(1) Prior to commencing the interview of a witness, a statement shall be obtained from him as to whether or not he wishes his personal data, other than his name, as specified in sections 284 (1), (2) and 294 (1) to be processed in a confidential manner or, in a case specified in section 285 (3), whether or not he wishes his personal data including his name to be processed in a confidential manner. If he wishes so then all data of the witness that are not known to the opposing party of the party requesting the witness to be summoned, with the exception of the prosecutor, shall be processed by the court in a confidential manner.

(2) If the witness, when asked by the court, does not request his personal data to be processed in a confidential manner, or he states without being asked that he does not wish his personal data to be processed in a confidential manner, the court shall cease to process his personal data in a confidential manner; this measure may be limited to ceasing processing the name of the witness in a confidential manner.

(3) If the court establishes during the proceedings that the opposing party of the party requesting the witness to be summoned, with the exception of the prosecutor, is familiar with the personal data of the witness, the court shall cease processing the personal data of the witness in a confidential manner.

(4) The court carrying out the interview shall decide on the issue of processing the personal data of the witness in a confidential manner without obtaining the parties' opinion; the court shall not be required to adopt a separate decision on this matter; it shall be sufficient to record the fulfilment of paragraphs (1) to (3) in the minutes.

Section 294 *[Identifying and interviewing a witness]*

(1) At the commencement of the interview, the court shall verify the identity of the witness and record the name, place and date of birth, mother's name, and domicile of the witness in the minutes or on a separate sheet, in accordance with the method of processing such data. The data of the witness shall be recorded even if he is entitled to refuse to testify.

(2) If a judge or other official person is interviewed by the court as a witness with regard to his official activities or for a reason related to it then, prior to commencing his interview, his

identity shall be verified by recording his name, scope of activities, position, any senior mandate and the name and address of the authority which he serves, or the name and address of the court in the territory of which the address of the authority he serves is located.

(3) The identification data of the witness shall be verified by the court by inspecting documents that are suitable for his identification. If any doubt arises regarding the identity of the witness, the court may use electronic means and may consult databases directly

a) to confirm that the data provided to certify the identity or address of the witness are the same as those recorded in the official registers, and

b) to confirm that the official verification card or residence permit suitable for verifying his identity is valid and reflects the same data as those recorded in official registers.

(4) The witness shall be asked about the kind of relationship he has with the parties, and whether he is biased due to that relationship or for any other reason. The witness shall answer this question, even if he is entitled to refuse to testify. Then, the witness obliged to testify shall be interviewed in detail regarding the facts that are essential for adjudicating the action, also clarifying how he became aware of the information he presented.

(5) Throughout the whole interview, special attention shall be paid to the protection of the witness's personality rights, including especially his human dignity. If a person repeatedly behaves toward, or talks to, a witness in a disrespectful manner, the court, beyond applying the measure specified in section 236, may forbid further questions on the part of that person or may forbid that person to ask the witness questions directly.

(6) If the testimony of a witness is inconsistent with the statement made by another witness or a party interviewed in person, an attempt shall be made to clarify the inconsistency through confronting the parties concerned with each other.

Section 295 *[Questions addressed to the witness]*

At the request of the party who initiated the interviewing of the witness, the chair may allow him to ask the witness questions directly first, and then the opposing party may also put his questions to the witness, if such a request is made by the opposing party. In such an event, the chair and other members of the panel shall be entitled to ask the witness questions following the parties.

Section 296 *[The obligation of a witness to produce documents]*

(1) If called upon by the court, the witness shall at his interview present for inspection any note, document or other item in his possession that can be used as evidence, or any part of it that relates to the action, unless such an item is held by the witness on behalf of a third party not participating in the action. The provisions set forth in section 291 (3) shall apply to any decision imposing an obligation to present a note, document or other piece of physical evidence.

(2) If necessary, the court may order a copy or extract of the document or note to be attached to the documents. If the witness cannot attach the copy or extract, the court shall arrange its preparation.

Section 297 *[Recording the witness testimony]*

(1) After the interview, the recorded testimony of the witness shall be read out loud from the minutes, unless the exception specified in paragraph (2) applies, or the recording is made continuously, or neither the witness nor the parties request the testimony to be read out. It shall be recorded in the minutes whether the testimony was read out.

(2) If the testimony of the witness is recorded by the court in the sound recording summarising the content of the minutes, the witness shall be instructed, before the sound recording is started, to listen carefully to the recording. The witness shall be informed that, while listening to the recording, he may request playback, correction or supplementation

immediately after hearing any disputed part. In such an event, the playback of the entire sound recording shall not be requested.

(3) If the witness corrects or supplements his testimony in the course of reading out the testimony or making the recording, the correction or supplementation concerned, if it is justifiable, shall be recorded in the minutes.

Section 298 *[Interviewing a witness of minor age]*

(1) A minor person below the age of fourteen shall only be interviewed as a witness if the evidence expected from his testimony cannot be replaced in any other way.

(2) On the occasion of interviewing a minor witness, his statutory representative may be present. During the interview, the warnings and information shall be communicated in an understandable manner, taking into account the age and degree of maturity of the minor witness. The interview shall be conducted in an atmosphere and manner that is suitable and understandable for the minor.

(3) If a minor witness below the age of fourteen is interviewed, he shall be informed of his obligation to speak the truth instead of the consequences of perjury, in a manner that is understandable for him, considering his age and degree of maturity. If the witness is a minor below the age of fourteen, all statements on processing his personal data in a confidential manner and on refusing to give testimony shall be made by his statutory representative, and the right of appeal against the decision imposing an obligation to testify shall be exercised by his statutory representative.

(4) If there is a conflict of interest between the minor witness and his statutory representative, an *ad hoc* guardian appointed by the guardianship authority at the court's request shall be entitled to the rights specified in paragraphs (2) and (3).

Section 299 *[Reimbursement of costs]*

(1) The witness may claim the reimbursement of the costs he necessarily incurred regarding his appearance in court. The witness shall be warned of this possibility after his interview.

(2) The calculation and detailed rules of the reimbursement of costs to a witness shall be specified by law.

(3) The amount of the witness fee determined shall immediately be released by the court carrying out the interview from the sum deposited as coverage. If such a deposit was not requested by the court, or if the deposited amount is insufficient, the party obliged by this Act to pay the costs in advance shall be obliged to advance the determined witness fee.

(4) If the witness was summoned from a settlement other than the seat of the court, the court may also release the cost of travel to the witness as an advance payment.

CHAPTER XXI

EXPERTS

87. The rules on employing an expert

Section 300 *[Employing an expert]*

(1) An expert shall be employed if specialised expertise is required to determine the boundaries of the legal dispute, or to establish or assess a relevant fact of the case.

(2) Only a person who is an expert or *ad hoc* expert according to the Act on judicial experts may be employed as an expert.

(3) Unless otherwise provided by an Act, an expert may be employed either under a mandate by a party or by official appointment, upon request.

Section 301 *[The disqualification of an expert]*

(1) A person shall not be employed as an expert if

a) he is subject to any of the grounds for disqualification specified in section 12 *a)* to *c)*, *e)* or *f)*,

b) he participated in the case as a judge,

c) he is a member or employee of a company or service provider that participated earlier in the case as an expert.

(2) A company or service provider shall not be employed as an expert if any of its members or executive officers is subject to a ground for disqualification specified in section 12 *a)* to *c)* or *e)*, or if any of its executive officers is subject to a ground for disqualification specified in section 12 *f)*; an expert institution, institute, body, organ or organisation shall not be employed as an expert if its head or president is subject to a ground for disqualification specified in section 12 *a)* to *c)*, *e)* or *f)*.

(3) The ground for disqualification shall be taken into account by the court *ex officio*, and it shall be reported to the court by the expert and the party without delay.

(4) The court shall decide on the disqualification after interviewing the parties. If an officially appointed expert is employed in the action, the court shall interview the expert before making its decision.

88. The employment of a party-appointed expert

Section 302 *[The opinion of a party-appointed expert]*

(1) Unless otherwise provided by law, a party may propose that an expert opinion (hereinafter "opinion of the party-appointed expert") prepared by an expert appointed by him (hereinafter "party-appointed expert") be submitted.

(2) If the court accepts the proposal, the party shall be required to submit the opinion of the party-appointed expert within the time limit set by the court.

(3) The opposing party of the party presenting the evidence shall be entitled to propose that the opinion of a party-appointed expert be submitted, once the party presenting evidence proposed the same.

(4) Multiple parties presenting evidence or multiple opposing parties of the party presenting evidence shall be allowed to employ only one party-appointed expert regarding the same subject matter.

(5) If the employment of an officially appointed expert or an expert officially appointed in other proceedings is requested, a party-appointed expert may not be employed regarding the same subject matter.

Section 303 *[The procedural rights and obligations of a party-appointed expert]*

(1) During the proceedings, the party-appointed expert shall be entitled to

a) inspect and make copies of the documents of the case with a view to performing his tasks, and

b) be present during the hearing or taking of evidence, and to propose questions to be asked of the parties, the party-appointed expert of the opposing party and the contributors after the submission of his opinion of a party-appointed expert.

(2) During the proceedings, a party-appointed expert shall be obliged to

a) inform the opposing parties of his principal of the subject matter of his mandate, the scope of matters to be examined, and any on-site inspection or examination scheduled by him,

b) allow the opposing party to make statements regarding the subject matter of the mandate, and to submit observations that are relevant to the subject matter of the examination,

c) prepare his expert opinion, including the assessment of any statement or observation communicated to him by an opposing party, and

d) answer questions asked by the court, the parties, and the party-appointed expert of the opposing party during the hearing or taking of evidence.

Section 304 *[Supplementing the opinion of a party-appointed expert]*

(1) The opinion of a party-appointed expert shall be served by the court on the opposing party of the party submitting it. The opposing party may ask the party-appointed expert questions regarding his opinion.

(2) With a view to

a) answering the questions of the opposing party regarding the opinion of the party-appointed expert,

b) presenting the reasons for any inconsistency with the opinion of the expert of the opposing party regarding the subject matter,

c) presenting clarifications as necessary to address any other inconclusiveness of the opinion of the party-appointed expert, or

d) answering questions pertaining to essential data in the proceedings that were not communicated to the party-appointed expert,

a party may propose the written or oral supplementation of an opinion of the party-appointed expert submitted by him.

(3) If there is inconsistency between the opinions of party-appointed experts regarding the subject matter, any party may propose that the party-appointed experts orally supplement these opinions with respect to the reasons for such an inconsistency during the same hearing.

(4) If the court accepts the proposal, the party shall be required to submit a supplement to the opinion within the time limit set by the court, or present his expert at the hearing specified by the court.

(5) Before interviewing a party-appointed expert, the court shall verify his identity, as well as determine the type of relationship he has with the parties and whether he is subject to any ground for disqualification, and warn him of the legal consequences of delivering a false expert opinion and, if he is a judicial expert, the court shall also record his name, expert identification card number and contact address. The provisions set forth in section 308 (2) shall apply with respect to questions.

Section 305 *[The employment of a new party-appointed expert]*

After submitting the opinion of a party-appointed expert, the party shall only employ a new party-appointed expert in accordance with sections 302 and 304 if

a) the party-appointed expert was excluded from the action by the court, or

b) the person employed is not allowed to pursue judicial expert activities by virtue of an Act, or is not entitled to give an answer regarding the subject matter by virtue of an Act.

89. The employment of an expert officially appointed in other proceedings

Section 306 *[The employment of an expert officially appointed in other proceedings]*

(1) The party presenting evidence may propose that the opinion of an expert who has been officially appointed in other proceedings be used.

(2) If the court accepts the proposal, the party presenting evidence shall be required to submit the expert opinion within the time limit set by the court or, if doing so is expedient, the court shall arrange to obtain the expert opinion.

(3) The parties may propose questions to be asked regarding the expert opinion or on essential data in the action that were not communicated to the expert, and may request clarifications to be made by the expert as necessary to address any inconclusiveness of his expert opinion.

(4) If the employment of an officially appointed expert or party-appointed expert is requested, an expert who was officially appointed in other proceedings shall not be employed regarding the same subject matter.

90. The employment of an officially appointed expert

Section 307 *[The conditions for officially appointing an expert]*

(1) Upon a motion, the court shall officially appoint an expert if, regarding a given subject matter,

a) the employment of a party-appointed expert or an expert officially appointed in other proceedings was not requested by any of the parties presenting evidence,

b) all the opinions of the party-appointed experts are inconclusive, or

c) it is necessary to provide clarifications as necessary to address the inconclusiveness of the opinion of an expert officially appointed in other proceedings, or to answer any question proposed.

(2) In a motion for the official appointment of an expert, the clear questions to be answered by the expert in his expert opinion shall be specified. The party may supplement his motion until the official appointment of the expert. Until the same time, the opposing party of the party filing the motion may also propose questions to be asked.

Section 308 *[Official appointment of the expert]*

(1) As a rule, the court shall appoint one expert regarding a single subject matter. In the event described in section 307 (1) *c)*, the previously employed expert shall be appointed; if this is not possible for a reason pertaining to the person of the expert, and in any other cases of official appointment, the expert designated jointly by the parties shall be officially appointed as the expert. In the absence of an agreement, the court shall decide on the expert to be appointed.

(2) The court may ask the expert questions regarding the statements of fact affected by questions specified by the parties, and matters that are not related to the case or go beyond the expertise of the expert shall be omitted by the court in the appointment.

(3) In the official appointment, the court shall call upon the expert to present or to supplement his expert opinion in writing. The expert may also be summoned to the hearing as an exceptional measure and if it seems to be expedient. An expert may be summoned in particular if his presence at the hearing is justified by the need to determine the framework of the legal dispute or other data needed to express an opinion.

(4) If necessitated by the high costs expected for the expert's work, the court, at the request of a party, shall primarily call upon the expert in the official appointment to produce a working schedule regarding his expert tasks and the expected cost. The court shall only summon or call upon the expert to submit his expert opinion in writing if the party, being aware of the working schedule, states within the time limit specified by the court that he requests the expert work to be carried out. If, within the time limit, the party does not request the expert work to be carried out, his motion for the employment of the expert shall be deemed withdrawn.

Section 309 *[The exemption of the officially appointed expert from his obligations]*

The provisions set forth in sections 289 to 291 shall apply to officially appointed experts as well.

Section 310 *[Discharging the officially appointed expert]*

The court shall discharge the officially appointed expert from his appointment *ex officio* if

a) the expert is not entitled to proceed under the official appointment by virtue of an Act, or he is prevented from proceeding for another important reason,

b) the expert cannot be expected to deliver an expert opinion on the subject matter under section 309, or if the court determined in its decision that he refused to deliver an opinion on valid grounds,

c) the party withdrew his motion for the employment of an expert before the submission of the expert opinion, or if the court did not order or conduct the taking of expert evidence, or

d) another reason specified by law exists.

Section 311 *[Official appointment of another expert]*

(1) With the exceptions specified in paragraphs (2) and (3), the court shall appoint another expert *ex officio* if the expert was excluded from the action or discharged from the official appointment.

(2) If it excluded an expert who was acting on behalf of an entity other than a natural person, the court shall not appoint another expert, unless the official appointment was refused by that entity other than a natural person.

(3) In the case described in section 310 *c)*, another expert shall not be officially appointed.

Section 312 *[The rights of an officially appointed expert, and the examination by the expert]*

(1) With a view to performing his tasks, the officially appointed expert may be present at the hearing or otherwise during the taking of evidence, and may propose questions to be asked of the parties and the contributors.

(2) The court may order the expert to carry out the examination as necessary for delivering the expert opinion in the absence of the court and, possibly, of the parties.

(3) If there is any impediment to the examination by the expert, the court shall apply the rules on interfering with an inspection.

Section 313 *[Supplementing a written expert opinion]*

(1) The court shall serve the written opinion of the officially appointed expert on the parties.

(2) The parties may propose questions to be asked of the expert regarding his expert opinion or on essential data in the action that were not communicated to him, and may request clarifications to be made by the expert as necessary to address any inconclusiveness of his expert opinion.

(3) If the court accepts the proposal, it shall call upon the expert to supplement his expert opinion in writing or, if it seems to be expedient, the court shall summon him to the hearing, to answer the questions and provide the necessary clarifications. The provisions laid down in section 308 (2) shall apply to the questions.

Section 314 *[Expert opinion presented orally and its supplementation]*

(1) The provisions set forth in section 304 (5) and in section 313 (2) to (3) shall apply to the interview of an expert and to supplementing the expert opinion, respectively.

(2) If, at the hearing, the expert cannot present an expert opinion that is not deemed to be inconclusive, or cannot present it in a way that covers all questions, the court shall set a new due date for presenting the expert opinion, or it may request the expert to submit his expert opinion in writing during or after the hearing.

Section 315 *[Official appointment of a new expert]*

(1) If the opinion of an officially appointed expert is inconclusive and the inconclusiveness could not be addressed despite the clarifications provided by the expert, the court shall, upon a motion, officially appoint a new expert.

(2) The court may officially appoint an expert body if the official appointment of an additional new expert is required after the appointment of a new expert and, by virtue of law, the subject matter falls within the field of expertise of an expert body. The provisions pertaining to officially appointed experts shall apply to the members of the committee set up

by the expert body, with the proviso that the designated member or the representative of the committee may be summoned to the hearing when the expert opinion is submitted.

91. The evaluation of the expert opinion and conducting the proceedings

Section 316 *[The inconclusiveness of the expert opinion, and expert opinions to be ignored for other reasons]*

(1) The opinion of an officially appointed expert shall be deemed inconclusive if

a) it is incomplete or does not contain the mandatory content elements of an expert opinion as required by law,

b) it is vague,

c) it is inconsistent with itself or other data of the action, or

d) there is otherwise significant doubt regarding its correctness.

(2) The opinion of a party-appointed expert shall be deemed inconclusive if

a) any of the cases specified in paragraph (1) exist,

b) the party-appointed expert failed to perform his procedural obligations specified in this Act,

c) it was not supplemented regarding the questions raised by the opposing party,

d) it was not supplemented orally regarding the reasons for inconsistency with the opinion of the opposing party's expert concerning the subject matter, or

e) there is an inconsistency between it and the opinion of the opposing party's expert concerning the subject matter, and the grounds specified in points *a)* to *d)* do not apply to any of these opinions.

(3) The opinion of a disqualified or discharged expert, the inconclusive opinion of a party-appointed expert, the inconclusive opinion of an officially appointed expert, and, if submitted in conflict with the provisions of an Act or in violation of the provisions laid down in this Chapter, the opinion of a party-appointed expert or an expert officially appointed in other proceedings shall not be taken into account as evidence.

Section 317 *[Conducting the proceedings]*

(1) The court shall inform the party if

a) the employment of an expert is necessary,

b) by virtue of law, an expert may be employed only through official appointment,

c) data not provided during the action are necessary for preparing the expert opinion, or

d) the opinion of the party-appointed expert or officially appointed expert is inconclusive.

(2) If the court appointed the expert *ex officio*, it shall be entitled to perform *ex officio* any necessary act in the court proceedings that a party may request under this Chapter.

92. The fee for an expert, and reducing the fee for an officially appointed expert

Section 318 *[Expert fee]*

(1) If the opinion of the party-appointed expert is inconclusive, the party shall not be entitled to charge the fee for the party-appointed expert in the proceedings.

(2) The cost of producing a working schedule shall be advanced by the party producing evidence. If the party producing evidence does not request the expert work to be carried out or does not deposit the expert fee indicated in the working schedule within the time limit specified in the call under section 308 (4), he shall not be entitled to charge the cost of producing the working schedule.

(3) In the cases described in section 307 (1) *b)* and *c)*, and in section 313 (3), the expert fee shall be advanced by the party filing the motion.

(4) The expert and the parties may file separate appeals against the order determining the fee for the officially appointed expert. The appeal shall have suspensory effect with regard to the challenged amount only.

Section 319 *[Reducing the fee for an officially appointed expert]*

When applying the coercive measure specified in section 272 (1) *d)*, the court shall reduce the fee for the officially appointed expert by one percent after each day following the expiry of the time limit.

CHAPTER XXII

DOCUMENTS

93. Producing evidence through documents

Section 320 *[Making the document available]*

(1) If a party seeks to prove his statements of fact by presenting any document, the document shall be attached to his submission or shall be presented at the hearing. At least a simple Hungarian language translation shall be attached to any document written in a foreign language. If any doubt arises concerning the correctness or completeness of the translated text, a certified translation shall be applied; in the absence thereof, the document shall be ignored by the court.

(2) At the request of the party presenting evidence, the court may oblige the party with opposing interests to make available the document that is in his possession, which he would be obliged to release or present anyway under the rules of civil law. In particular, the party with opposing interests shall be subject to such an obligation if the document was issued in the interest of producing evidence or attests a legal relationship concerning the party, or it is related to a hearing pertaining to such a legal relationship.

(3) If the document is in the possession of a person who is not participating in the action, the court shall have the document made available by applying the rules on inspection.

(4) If it is impossible or disproportionately difficult to make the document available in the official premises of the court, the court shall inspect the document on-site by applying the rules on inspection accordingly.

(5) With regard to a fact that can be proved from documents, the court may ignore other forms of taking evidence.

Section 321 *[Original documents, copies, extracts]*

(1) It shall be sufficient to make available an authentic or simple copy of a document instead of the original, if the party with opposing interests does not have any objection and the court does not consider it necessary to make the original document available.

(2) If a document produced after the original document (document produced from an original document by copying or recording it, or via a data-storage medium) is made available by the party producing evidence, and it qualifies as a private deed of full probative value or a public deed, the court shall assess to the disadvantage of the party with opposing interests any failure to make the original document that is in his possession available during refutation.

(3) If only a part of a book or other voluminous document is used as evidence, it shall be sufficient to make the relevant part available only as an extract, unless the court considers it necessary to make the entire document available for any reason.

(4) The court may order the original document or its copy or extract to be attached to the documents of the case; if an original document of significant importance is to be attached, the court shall arrange to have it safeguarded.

(5) The court, after interviewing the persons interested if necessary, shall decide on releasing documents and other attachments attached to the documents of the case. If the court

considers it necessary, the release of a document or other attachment may be subject to the condition that a simple or authentic copy is submitted.

Section 322 *[Acquiring documents and data]*

(1) Upon the motion for evidence of a party, the court shall arrange for obtaining documents or data held by a court, notary, other authority, administrative organ or other organisation, provided that the release of the document or data may not be requested by the party directly. The original document need not be obtained if it is not necessary to inspect it and the party presents an authentic or simple copy of it during the hearing. Sending a document shall be permitted unless it contains classified data. If the contributor fails to perform his procedural obligation then only the coercive measures specified in section 272 (1) *b)* may be applied.

(2) If the person sending the document made available declares that it contains any classified data, business secret, professional secret or other secret specified in an Act, the use of which has not been permitted by the classifier or the person with authority to grant exemption from confidentiality (hereinafter "secret holder"), the court shall contact the classifier or secret holder to request authorisation to inspect the classified data or secret, unless the content of the document does not qualify as business secret according to an Act, or the subject matter of the action is to decide whether the content of the document qualifies as data of public interest.

(3) If the secret holder fails to make a statement within eight days of receiving the request, permission shall be deemed granted; the secret holder shall be warned accordingly. In other respects, the provisions pertaining to the refusal to give witness testimony shall apply. If the secret holder declares within the time limit that he does not give permission to the parties to disclose the business secret, professional secret or other secret specified in an Act, the corresponding part of the document shall not be used as evidence.

(4) The court shall inform the parties of the receipt of the documents and the possible disclosure and use of the documents in the action, depending on the eventual statement of the secret holder.

(5) A document or part of a document containing classified data shall not be used as evidence in the action if the classifier did not agree to disclose it to the party.

(6) Paragraph (5) shall not apply if the action was brought because an authorisation for inspection was refused, or the subject matter of the action is to decide whether the content of the document qualifies as classified data. In such an action, the classified data shall not be disclosed to the plaintiff, to the person intervening on the side of the plaintiff or the representatives of such persons during the proceedings. The classified data shall not be disclosed to the other persons participating in the procedure and their representatives, unless their national security clearance is completed.

(7) The court shall ensure that no other data protected under an Act but not specified in this section is published or disclosed to unauthorised persons, and that during the court proceedings such data is ensured the protection required by an Act.

(8) Measures related to paragraph (1) may also be taken by the court at the preparatory stage, after receipt of the statement of defence.

94. The types of documents

Section 323 *[Public deeds]*

(1) A public deed means a paper-based or electronic document, which was issued in accordance with the legal provisions by a court, a notary, or other authority or administrative organ acting within its scope of responsibilities.

(2) A public deed shall be deemed original unless proven to the contrary, but the court may *ex officio* call upon the entity issuing the deed to make a statement regarding its authenticity.

(3) A public deed shall prove with full probative value that

a) the issuing entity carried out the measure or adopted the decision with the content specified therein,

b) the data and facts confirmed by the public deed are true,

c) the statement contained in the public deed was made, and the place and manner of making that statement.

(4) Unless provided otherwise by law, for an electronic public deed to be issued, the entity authorised to issue shall affix to the electronic deed a qualified electronic signature or seal, or an advanced electronic signature or seal based on a qualified certificate, as well as a timestamp, if required by law.

(5) Any other document or thing, regardless of the data-storage medium, may be classified as a public deed by law.

(6) Refutation of a public deed shall also be allowed, unless it is prohibited or restricted by an Act.

Section 324 *[The probative value of a copy made of a public deed]*

(1) Regardless of the technology of copying or the data-storage medium, the copy of a public deed shall have the same probative value as the original public deed, if the copy was made by the organ entitled to issue or safeguard the public deed, or by another person or organisation with the confirmation of that organ, or if the copy was made in accordance with the rules pertaining to the central electronic administration service of authentic copying, as set forth in the Act on electronic administration.

(2) If a copy of a document not qualifying as a public deed is made in the form of a public deed, the public deed shall only prove that its content is identical to that of the original document not qualifying as a public deed.

Section 325 *[Private deed of full probative value]*

(1) A private deed shall have full probative value, if

a) the deed was written and signed by the issuing person with his own hand,

b) two witnesses confirm that the issuing person signed the deed not written with his own hand in whole or in part, or acknowledged his signature as his own, in front of them; for confirmation, the deed shall be signed by both witnesses, indicating their name and, unless otherwise provided by an Act, domicile or, in the absence thereof, place of residence, in a legible manner,

c) the signature or initials of the issuing person on the deed is authenticated by a judge or a notary,

d) the deed is signed by a person entitled to represent the legal person, in accordance with the rules pertaining to him,

e) the deed was drafted and countersigned in the proper manner by an attorney-at-law or a registered in-house legal counsel, confirming that the person signing the deed signed the deed drafted by another person with his own hand or acknowledged a signature as his own in front of that attorney-at-law or registered in-house legal counsel,

f) the person signing the deed affixed to the electronic deed his qualified electronic signature or seal, or advanced electronic signature or seal based on a qualified certificate, as well as a timestamp, if required by law,

g) the electronic deed is authenticated by the signatory through the Document Authentication Based on Identification service specified in a government decree, or

h) it is created through a service, specified by an Act or government decree, where the service provider attributes the deed to the issuing person through the identification of the issuer, and certifies the attribution to a person together or on the basis of data that can be traced back clearly to a signature made by the issuer with his own hand; furthermore, the

service provider records a certificate of clear attribution to a person into a clause attached to and forming an inseparable part of the electronic deed, and signs it and the deed with at least an advanced electronic seal and at least an advanced timestamp.

(2) If the person signing the deed cannot read or does not understand the language of the deed, a private deed of full probative value shall only be created if it is indicated in the deed itself that its content was explained to the signatory by one of the witnesses or the person performing the authentication.

(3) Unless proven to the contrary, a private deed of full probative value shall prove with full probative value that the signatory made, accepted or agreed to be bound by the statement recorded therein.

(4) The authenticity of a private deed of full probative value needs to be proved only if it is questioned by the opposing party or proving its authenticity is considered to be necessary by the court.

(5) If the authenticity of a signature on a private deed of full probative value is proved or not questioned, or unless suggested otherwise by the result of verifying at least the advanced electronic signature or seal or other data that can clearly be traced back to the of the signatory's own signature as part of a fiduciary service used in a closed system, the text above the signature or stamp or, in the context of electronic deeds, the signed or sealed data shall be deemed authentic until proven otherwise, except if the deed is affected by any irregularity or deficiency rebutting this presumption.

(6) In the event of any doubt, the authenticity of a signature or the integrity of any text on a private deed of full probative value may be verified by comparing it to another piece of writing, the authenticity of which is beyond doubt. To this end, the court may order a writing test, and may have the result of the test and the deed or signature in question examined by an expert.

(7) If there is any doubt regarding the identity of the person signing or sealing an electronic deed carrying at least an advanced electronic signature or seal, or the integrity of the deed itself, the court shall primarily contact the fiduciary service provider that issued the certificate for the electronic signature or seal, with a view to establish its authenticity. If there is any doubt regarding the data confirmed by the timestamp affixed to an electronic deed, the court shall primarily contact the fiduciary service provider that affixed the timestamp. If an electronic deed was issued through a fiduciary service used in a closed system, where the deed is attributed to the signatory by the service provider, and the attribution and the data, which are clearly traceable to the own signature of the signatory, are certified in an authentic manner, the court shall primarily contact the fiduciary service provider of the closed system.

(8) For electronic deeds, the signed or sealed data, unless proven to the contrary, shall be deemed authentic based on the certification of the service provider making the storage, if the service provider

a) verified the validity of the authentication of the electronic deed upon its receipt for storage,

b) performs storage as part of a qualified archival service or electronic document storage central electronic administration service, as defined in the Act on electronic administration and in accordance with the conditions laid down in a government decree, and

c) the authenticity of the electronic deed is certified in accordance with the provisions of the government decree.

Section 326 *[Unauthenticated private deed]*

No statutory presumption shall be attached to a private deed, if it was not issued in accordance with section 325 (1), and the probative value of such a deed shall be determined by the court in accordance with the general rules of taking evidence, and with regard to all data of the hearing and taking evidence, unless

a) the probative value of the given private deed is regulated otherwise by law, or

b) a deed issued in a specific form is required by law to be regarded as documentary evidence.

Section 327 *[The probative value of copies of deeds issued or kept by a legal person]*

A paper-based or electronic copy of a deed issued or kept by a legal person shall prove with full probative value that its content is identical to the content of the original deed, provided that it was certified by the legal person who issued or kept the deed in a regular manner by issuing the copy in accordance with section 325 (1) *d)* or *f)*. A copy produced by a legal person shall have the same probative value as the original deed, unless the copy was made of a public deed.

CHAPTER XXIII

INSPECTION

95. Order for inspection

Section 328 *[The conditions of an order for inspection; summoning to an inspection]*

(1) If the direct examination or observation of a person, item, location or event is necessary to establish a relevant fact in the case, the court shall order an inspection.

(2) Inspection shall not be ordered if it would violate the protection of classified data or it would be in conflict with diplomatic immunity, protection or inviolability, or with any ground that would prevent the holder of the object of inspection from being interviewed as a witness.

(3) If the holder of the object of inspection is not a party in the action or another person regarded as a party, he shall be summoned to the inspection by the court.

(4) The holder of the object of inspection shall be called upon by the court to present the object for inspection or allow the inspection to be carried out, and he shall be informed that he may request the reimbursement of his costs and damage that arise as a result.

(5) If the object of inspection is held by another court, an authority or a private person under the order of a court or authority, the court shall request the respective court or authority to make the object available for inspection or to allow the inspection to be carried out.

Section 329 *[Inspection carried out via electronic media network]*

In accordance with the provisions laid down in Chapter XLVII, the court may order the inspection to be carried out via an electronic communications network.

Section 330 *[Refusal to carry out the inspection]*

(1) In the case described in section 289 (1) *b)*, or if the refusal to give witness testimony would be required, the holder of the object of inspection may refuse to present the object for inspection or to allow the inspection to be carried out. In other cases the court shall decide at its discretion whether the refusal is well-grounded.

(2) If the holder of the object of inspection refuses to present the object for inspection or to allow the inspection to be carried out, the court shall decide on the possibility of carrying out the inspection in an order.

(3) If the court intends to carry out the inspection despite the refusal, it shall oblige the holder of the object of inspection to tolerate the inspection, also warning him of the legal consequences of obstructing the inspection; the court may interview the parties or allow them to make a written statement before adopting its decision.

(4) The person obliged to tolerate the inspection may file a separate appeal against the order. The appeal shall have suspensory effect. The court may also amend its order within its own competence.

96. The rules of carrying out the inspection

Section 331 *[Carrying out the inspection]*

(1) The inspection shall be carried out by the court during the hearing or on-site. An on-site inspection shall not be public if it is to be carried out on private property. If the holder of the object of inspection allows the inspection to be carried out in public, it may be restricted by the court in accordance with cases when the exclusion of the public would be required.

(2) The court shall ensure that the inspection is carried out in the proper manner, even if it is carried out on-site. To this end, the court may apply the coercive measures at its disposal and request police assistance in accordance with the rules of applying coercive measures. At the request of the competent police organ, the cost of police assistance shall be reimbursed by the person obstructing the inspection.

(3) If, despite a warning, the person having an interest in the performance of the inspection obstructs it from being carried out in the proper manner, the court, instead of applying the coercive measures specified in paragraph (2), may declare the inspection to be unsuccessful.

(4) If the inspection fails for a reason attributable to the behaviour of the party with opposing interests with respect to the performance of the inspection, the court, instead of applying the coercive measures specified in paragraph (2), shall apply the rules pertaining to the privileged case of inability to prove.

Section 332 *[Recording the results of an inspection]*

(1) The performance the inspection and the statements and remarks made thereon, as well as the facts identified by the court, shall be recorded by the court in the minutes.

(2) The court may make image recordings, sound recordings, audio-video recordings and sketches of the object of the inspection; it may take samples from it with the permission of the person entitled to avail of the object of inspection, and it may also preserve the demonstrability of its findings in other suitable ways. The objects produced for demonstration purposes during the inspection shall be attached to the minutes.

(3) The rules pertaining to witnesses shall apply to processing the personal data of the holder of the object of inspection in a confidential manner.

Section 333 *[The costs of an inspection]*

The holder of the object of inspection may request the compensation of the damage that occurred in the course of carrying out the inspection. Any request made by the holder of the object of inspection for the reimbursement of costs and compensation for damage shall be decided by the court in accordance with the rules pertaining to the reimbursement of costs to the witness.

CHAPTER XXIV

PRELIMINARY TAKING OF EVIDENCE

97. Ordering the preliminary taking of evidence

Section 334 *[The conditions for ordering the preliminary taking of evidence]*

Preliminary taking of evidence shall be performed at the request of the interested person, before the bringing or during the period of the action, whenever the statement of claim is considered suitable for litigation, if

a) taking evidence may not be performed or would involve considerable difficulties during or at a later stage of the action,

b) the preliminary taking of evidence facilitates the avoidance of the action or its completion within a reasonable period of time, or

c) performing the preliminary taking of evidence is permitted by law.

Section 335 *[Territorial jurisdiction]*

(1) Performing the preliminary taking of evidence shall fall within the territorial jurisdiction of

a) the district court for the place where the requesting party has his domicile, or

b) the district court within whose area taking evidence can be conducted in the most expedient manner.

(2) If the action is already in progress, the proceeding court shall have exclusive territorial jurisdiction for performing the preliminary taking of evidence.

Section 336 *[Request for the preliminary taking of evidence]*

(1) The following shall be specified in the request for ordering the preliminary taking of evidence:

a) name and domicile of the parties; if the party with opposing interests is unknown, the reason for that,

b) the facts to be proved and the related means and methods of producing the evidence,

c) an explicit request to carry out the preliminary taking of evidence,

d) the condition serving as ground for ordering the preliminary taking of evidence according to section 334, and

e) data for establishing the territorial jurisdiction of the court.

(2) The fact that the party with opposing interests is unknown and the conditions for the preliminary taking of evidence being met shall be substantiated.

Section 337 *[Adjudicating the request]*

(1) The court shall decide on ordering the preliminary taking of evidence after interviewing the party with opposing interests orally or in writing, unless

a) the party with opposing interests is unknown, or

b) ordering the preliminary taking of evidence is a matter of urgency.

(2) The court shall send the request for ordering the preliminary taking of evidence to the party with opposing interests together with a summons to the due date of the interview or a call to submit a written statement.

(3) If the court does not hold such an interview, it shall send to the party with opposing interests the request for ordering the preliminary taking of evidence, together with its order on the preliminary taking of evidence or its refusal.

(4) A separate appeal may be filed against the order refusing the preliminary taking of evidence.

98. Performing the preliminary taking of evidence

Section 338 *[The preliminary taking of evidence]*

(1) The rules on taking evidence shall apply to the preliminary taking of evidence.

(2) In the case described in section 334 *a)*, the court shall proceed regarding the preliminary taking of evidence as a matter of priority.

(3) In the course of the preliminary taking of evidence, only an officially appointed expert may be employed.

(4) The result of the preliminary taking of evidence may be used in the action by any of the parties.

Section 339 *[The costs of the preliminary taking of evidence]*

(1) If the action is already in progress, the general rules pertaining to costs shall apply to the costs incurred with regard to the preliminary taking of evidence.

(2) If the preliminary taking of evidence is performed before the action is brought, the costs of the preliminary taking of evidence shall be advanced and borne by the requesting party.

PART FIVE

DECISIONS

CHAPTER XXV

THE TYPES, CONTENT, AND COMMUNICATION OF DECISIONS

99. The types and content of decisions

Section 340 *[The types of decisions]*

The court shall make a decision by

a) adopting a court injunction in cases specified in this Act,

b) delivering a judgment on the merits of the action,

c) adopting an order regarding any other matter that may arise in the course of the action.

Section 341 *[The completeness and types of judgments]*

(1) The ruling adopted as a judgment shall extend to all claims enforced in the action.

(2) The court may decide on individual claims or parts of a claim that can be adjudicated separately by delivering a partial judgment, if further hearings are needed to decide on the remaining claims, the remaining parts of a claim or a set-off. A partial judgment may be set aside, upheld, or amended accordingly by a subsequent judgment with regard to the outcome of the hearing concerning a set-off or counter-claim.

(3) The court may decide on dismissing a claim or claims forming part of a *quasi* joinder of claims by delivering a partial judgment, if further hearings are needed to decide on any other claim forming a part of the joinder. The hearing shall not be continued regarding any remaining claim before the partial judgment becomes final and binding.

(4) If the dispute pertaining to the existence of a right enforced by an action can be separated from the dispute pertaining to the amount or volume claimed by the plaintiff on the basis of that right, the court may establish the existence of that right by delivering an interlocutory judgment. In such an event, the hearing pertaining to the amount or volume claimed by the plaintiff shall not be continued before the interlocutory judgment becomes final and binding.

(5) The court shall deliver a complementary judgment in the cases specified in this Act.

Section 342 *[Limits of a decision on the merits]*

(1) A decision on the merits shall not extend beyond the claims indicated in the action, the statement of defence or a request for set-off. This rule shall also apply to the charges claimed with the principal claim.

(2) If, according to the rules of civil law, a claim can only be enforced against a part of the assets of a party, the court shall specify that part in its decision.

(3) Unless otherwise provided by an Act, a decision on the merits shall not include a right that was not claimed by a party in the action.

(4) The court shall decide on actions that are in a contingent relationship in the order of their submission only.

Section 343 *[Adopting the decision]*

(1) If it proceeds as a panel, the court shall adopt its decision by voting after deliberation in a closed session; in the absence of unanimity, the decision shall be adopted by a majority of votes.

(2) Younger judges shall vote before more senior judges, and the chair shall be the last to vote. A judge left in a minority may attach his written dissenting opinion to the decision in a sealed envelope. The dissenting opinion may only be disclosed to the court proceeding with respect to the procedural remedy, the person authorised to initiate a disciplinary procedure, a disciplinary court in the course of a disciplinary procedure, and the chamber of the Curia entitled to initiate or conduct the procedure for the uniformity of jurisprudence.

Section 344 *[Time limit for performance]*

(1) As a general rule, the court shall set a time limit of fifteen days for the performance of an obligation determined in its decision.

(2) If it seems justified after considering the equitable interests of the parties or the nature of the obligation, the court may also set a time limit for performance that is shorter or longer than fifteen days, or it may order the obligation to be performed in instalments.

(3) In exceptional cases, the court of first instance, upon receipt of a reasoned request of a party, may allow the obligation to be performed in instalments or modify the performance in instalments even after the decision became final and binding, unless a judicial enforcement procedure in accordance with the Act on judicial enforcement is in progress for the performance of the obligation. The court shall adopt its decision outside the hearing, but it shall interview the opposing party before adopting its decision. A separate appeal may be filed against the decision of the court.

(4) If performance in instalments is allowed, the court shall order that the entire outstanding debt shall become due and payable if the payment of any instalment is omitted.

(5) In a possessory action, the court, at the request of the opposing party, shall oblige with immediate effect the party to restore the possessory status or to cease the disturbance of the possession.

(6) In a decision ordering the evacuation of an immovable property, the court, at the request of the obligor and in a case deserving special consideration, may set a time limit for performance up to six months, if

a) the immovable property is the domicile of the obligor, and is the sole residential property of the obligor and his direct family members,

b) the obligor substantiated in his request his inability to arrange for at least temporary accommodation for himself and his family,

c) he was not subject to a fine and did not act in bad faith during the action, and

d) the apartment to be emptied has not been occupied arbitrarily.

Section 345 *[The calculation of the time limit for performance]*

(1) The time limit for performance shall commence on the day following the communication of the decision.

(2) If the court imposes an obligation for services that are not yet due, the date of performance shall be the same as the date of expiry. Where the performance of services not yet due is ordered, the date of performance shall be the same as the date of expiry.

Section 346 *[The content of a judgment]*

(1) A written judgment shall include an introductory part, an operative part, a procedural remedy part, a statement of reasons and a closing part.

(2) The introductory part shall contain

a) the name of the court,

b) the case number,

c) the name and domicile or seat of the person representing each party, with reference to the type of representation, or, in the absence of a representative, a reference to the fact of proceeding in person,

d) the name and domicile or seat of each party,

e) the position of the party in the procedure, and

f) the indication of the subject matter of the action.

(3) The operative part shall include the provisions of the decision of the court. The procedural remedy part shall specify if an appeal may be filed against the judgment, as well as the time limit for and place of submitting the appeal, and information on the rules pertaining to the request for holding an appeal hearing.

(4) The statement of reasons shall include the facts established by the court, the claims and statements of the parties regarding the subject matter of the action, including a short description of the basis thereof, a reference to the content of the provision on the merits, and a legal reasoning.

(5) The legal reasoning shall include the legal provisions serving as grounds for the judgment, as well as their interpretation if necessary, the evidence concerning the facts established and the governing circumstances taken into account by the court when considering the evidence, other circumstances pertaining to the establishment of facts and the reasons for which a statement of fact was not accepted by the court as proved, or the offered evidence was not accepted. The legal reasoning shall include also the reasons for which the court dissented, concerning a question of law, from a decision by the Curia published in the collection of court decisions *Bírósági Határozatok Gyűjteménye* (hereinafter "published Curia decision"), or dismissed a motion to that effect.

(6) Following the legal reasoning, the judgment shall include a statement of reasons for an order adopted during the proceedings, if the respective order may not be challenged by a separate appeal under this Act but the court is required by this Act to state its reasons for the adoption of the order and it has not done so before delivering the judgment.

(7) The closing part shall include the place and date of delivery of the judgment, as well as the name and signature of the sole judge or the chair and members of the panel. If any of these persons is prevented from signing, the final part shall state this fact and the obstacle as well.

Section 347 *[Judgments with an abbreviated statement of reasons]*

(1) A judgment shall include an abbreviated statement of reasons if

a) the judgment is based on the waiver of a right or the acknowledgement of a right and a claim,

b) the factual and legal evaluation of the case is simple,

c) all persons entitled to file an appeal have waived their right to do so after the announcement of the decision, or

d) all parties agreed to it.

(2) The abbreviated statement of reasons shall only include

a) the facts established by the court,

b) the claims or statements of the parties concerning the subject matter of the action, and a short description of the grounds thereof,

c) the laws serving as grounds for the judgment, and

d) reference to the statutory conditions for providing an abbreviated statement of reasons.

Section 348 *[The content of a court injunction]*

(1) The provisions laid down in section 346 shall apply to a court injunction, with the exceptions specified in paragraphs (2) to (4).

(2) In the procedural remedy part, the court shall inform the parties of the possibility, time limit and place of filing a statement of opposition, as well as the fact that a final and binding court injunction has the same effect as a judgment.

(3) The statement of reasons in a court injunction shall only include the establishment of the omission.

(4) A court injunction issued by the court during a hearing shall be recorded in the written minutes. In such a case, the court injunction shall only include an operative part, a procedural remedy part and the statement of reasons.

Section 349 *[The content of an order]*

(1) The provisions laid down in section 346 shall apply to an order, with the exceptions specified in paragraphs (2) to (4).

(2) An order shall contain information pertaining to representation and the domicile of the parties only to the extent necessary.

(3) No statement of reasons shall be included in an order approving a settlement or in an order against which a separate appeal may not be filed, unless otherwise provided in this Act.

(4) An order adopted during a hearing shall be recorded by the court in the minutes; if a continuous recording is produced then the order shall also be included in the written extract of the minutes. In such an event, the order shall only include an operative part, a procedural remedy part and the statement of reasons.

100. The announcement and communication of decisions

Section 350 *[The announcement of a decision]*

(1) A decision adopted by the court during a hearing shall be announced during the hearing, and a decision adopted after the closure of the hearing shall be announced on the day of the hearing, with the exception specified in paragraph (4).

(2) The announcement of a decision adopted during a hearing shall consist of presenting the operative part, providing information on the possibility, place, and time limit of filing an appeal against the decision, and presenting the reasons.

(3) With the exception specified in paragraph (4), the operative part of a decision adopted after the closure of the hearing shall be put in writing and shall be signed by the sole judge or the chair and members of the panel before the announcement of the decision. The announcement of the decision shall consist of reading out the operative part, providing information on the possibility, place, and time limit of filing an appeal against the decision, and a brief presentation of the reasons.

(4) After the closure of the hearing, the court may postpone the adoption and announcement of the judgment for up to thirty days. In such an event, the due date of making the announcement shall be set simultaneously, the decision adopted shall be put in writing before the announcement, and the decision shall be announced in a manner specified in paragraph (3) on the due date of making the announcement.

(5) When announcing the decision, the reasons shall not be presented if the statement of reasons for the decision is not required under this Act.

(6) If all parties are present at the announcement of the judgment and the provisions laid down in paragraph (4) are not applied, the court, after announcing the judgment, shall obtain a statement from each party as to whether they agree to include only a short reasoning in the written judgment. This fact of this taking place, as well as the content of the statements, shall be recorded in the minutes; if a continuous recording is produced, these shall also be included in the written extract of the minutes. No statement shall be required from the parties if all of them waived their right to appeal.

Section 351 *[The communication of a decision]*

(1) The court shall communicate its decision by means of announcement, with the exception specified in paragraph (2).

(2) The court shall communicate

a) a judgment or court injunction to the parties,

b) an order adopted during a hearing to a party who was not summoned to the hearing in the proper manner,

c) an order that was adopted during a hearing on closing the preparatory stage or setting a new due date, or an order against which a separate appeal may be filed to the party who missed the hearing,

d) an order adopted outside the hearing to the party interested, and

e) all decisions adopted during the proceedings to a person on behalf of whom the action was brought by a prosecutor or a person authorised to bring the action

by means of service.

(3) Unless adopting and announcing the judgment was postponed, the court shall put the decision in writing within not more than thirty days after it is adopted, and order it to be served within three days after it is put into writing.

(4) If adopting and announcing the judgment was postponed by the court, the written judgment shall immediately be served on the parties who are present at the announcement of the judgment, and serving it on the absent parties shall be ordered within three days.

(5) Not only the operative part but also the statement of reasons shall be served on the parties, unless a statement of reasons for the decision is not required under this Act.

(6) The provisions laid down in this section shall also apply if the decision is to be served on a party interested other the parties to the action.

101. The rectification, adjustment, and supplementation of a decision

Section 352 *[Rectification]*

(1) If the decision includes an incorrect or mistyped name, numeric or calculation error, or another similar clerical error, the court may rectify it any time, upon request or *ex officio*.

(2) The court shall interview the parties regarding the rectification, if necessary. If a party misses the due date or time limit set for his interview, it shall not prevent a decision from being adopted, and no application for excuse shall be accepted.

(3) The rectifying decision shall be recorded on the rectified decision, and if possible, on all of its copies as well. The copy indicating the rectified decision shall also be served along with the rectifying decision.

(4) A separate appeal may be filed against the decision adopted with regard to the rectification, if the court

a) rectified the operative part of a decision against which a separate appeal may be filed, or

b) dismissed a request for rectifying the operative part of a decision.

(5) The submission of a request for rectification shall have no suspensory effect on the submission of an appeal against the decision, or on the enforcement of the decision.

Section 353 *[Rectification by a court of second instance]*

A decision of a court of first instance may also be rectified by the court of second instance in its decision on the merits of the appeal.

Section 354 *[Adjustment]*

(1) If the statement of reasons of a judgment, which may not be subject to appeal or is excluded from review, is vague or contradictory, it may be adjusted by the court at the request of a party. A request to this end may be submitted within fifteen days after the communication

of the judgment. An explicit request for adjustment shall be submitted, and the reason for and extent of the adjustment shall be specified in it.

(2) The request for adjustment shall be rejected by the court if it is late or submitted against a decision that may not be adjusted.

(3) In other respects, the rules pertaining to rectification shall apply to adjustments.

Section 355 *[The supplementation of a judgment]*

(1) A judgment may be supplemented by the court upon request if it does not include a decision on a claim or a part of a claim, or, even though it would have been required, on the bearing of litigation costs or on the preliminary enforceability of the judgment.

(2) If, in its judgment, the court did not decide on a matter on which, by virtue of law, it is mandatory to decide *ex officio*, it shall rectify the omission without delay after becoming aware of the deficiency. A judgment may also be supplemented *ex officio*, if it is necessary due to a decision adopted in connection with the adjudication of an appeal filed against an order specified in section 365 (2) *c)* and *d)*.

(3) A request for supplementation may be submitted within fifteen days after the communication of the judgment. An explicit request for supplementation shall be submitted, and the reason for and extent of the supplementation shall be specified in it. The submission of the request shall have no suspensory effect on the submission of an appeal against the judgment or on the enforcement of the judgment, but the court may also suspend the enforcement of the judgment *ex officio* until the request for supplementation is dealt with.

(4) A request for supplementation shall be rejected by the court if it is late or submitted against a part of the judgment which may not be supplemented. A separate appeal may be filed against the order rejecting the request for supplementation.

(5) The court shall decide on supplementing the judgment on the basis of a hearing, unless

a) the request for supplementation is rejected,

b) all parties agreed to the decision to be adopted outside the hearing,

c) supplementing the judgment is not requested with respect to the claim or a part of the claim by the party, or

d) the court supplements a judgment delivered outside the hearing or else the request was filed to supplement a judgment delivered outside the hearing.

(6) Missing the hearing shall not prevent a decision from being adopted, and no application for excuse shall be accepted for missing the hearing.

(7) The court shall deliver a complementary judgment if supplementing a judgment is required; otherwise, the request shall be dismissed by the court in an order. A separate appeal may be filed against the order. The complementary judgment shall be recorded on the original judgment, and if possible, on all of its copies as well.

(8) A judgment shall not be supplemented if five years have passed after it became final and binding.

Section 356 *[The supplementation of a court injunction and an order]*

(1) The provisions laid down in section 355 shall also apply to supplementing a court injunction, with the proviso that if supplementation takes place, the court shall adopt a complementary court injunction and omit the interview of the parties.

(2) The provisions laid down in section 355 shall also apply to supplementing an order, with the proviso that if supplementation takes place, the court shall again adopt an order, and may omit the interview of the parties.

CHAPTER XXVI

THE LEGAL EFFECTS OF DECISIONS

102. Binding effect, final and binding effect

Section 357 *[Simple binding effect]*

(1) Unless otherwise provided in this Act, the court shall be bound by its own decision during the period of the action in the course of which the decision was adopted, as of the time of announcing it or, in the absence thereof, communicating its decision.

(2) The court shall not be bound by its orders pertaining to conducting the proceedings or rejecting or dismissing a unilateral request; however, it may amend an order dismissing an act in the court proceedings that is subject to a time limit only before the order becomes final and binding.

Section 358 *[Final and binding effect]*

(1) A decision cannot be challenged by an appeal after it becomes final and binding.

(2) A decision that shall not be challenged by an appeal shall become final and binding at the time of its announcement; however, time limits counted as of the date when a decision becomes final and binding shall be calculated from the date when the decision is communicated to the party.

(3) A decision that may be challenged by an appeal shall become final and binding on the day following the expiry of the time limit open for appeals, provided that no appeal was submitted by a person entitled to file one, or all submitted appeals were rejected by the court with final and binding effect.

(4) The person entitled to file an appeal may waive his right to appeal after the announcement or, in the absence of an announcement, communication of the decision. A statement of waiver shall not be withdrawn. A waiver shall not take effect unless submitted by all those entitled to file an appeal. If all those entitled to appeal waive their right to appeal after the announcement of the decision, the decision shall become final and binding on the day when the statements are made or when the last statement is received by the court.

(5) An appeal filed in due time shall have suspensory effect on the decision becoming final and binding. An appeal or cross-appeal filed by a co-litigant shall be effective with respect to the other co-litigants only in the cases specified in sections 36 and 37 *a)*. If the person entitled to appeal files an appeal against only a part or provision of the decision, the part or provision not affected by the appeal shall become final and binding. Any part of the decision that cannot be challenged by an appeal shall also become final and binding.

(6) If an appeal is withdrawn, the decision shall become final and binding on the day when the notice of withdrawal of the appeal is received by the court, provided that the time limit for filing an appeal has expired with respect to all other persons entitled to appeal. However, if the time limit for filing an appeal has not expired with respect to all persons entitled to appeal, the decision shall become final and binding on the day following the expiry of the time limit open for filing an appeal.

Section 359 *[The attestation of final and binding effect]*

(1) The date of the final and binding effect of a decision shall be attested by the chair of the proceeding panel of the court of first instance in a decision noted on the original decision, or in a separate decision.

(2) The court shall also indicate in its order if only parts of the decision of the court of first instance related to certain persons or matters became final and binding.

(3) The court shall notify the parties, as well as other interested persons, of the decision becoming final and binding within fifteen days of the final and binding date. The notification shall be made by serving the order attesting the final and binding effect or, if the decision has

not yet been served on the party or the other interested person, a copy of the decision including the order attesting the final and binding effect.

(4) If, for any reason, the final and binding effect of a decision is only partial and this can only be established after the documents are forwarded to the court of second instance, the measure specified in paragraph (3) shall be taken by the court of second instance.

Section 360 *[Res judicata effect]*

(1) The final and binding effect of a judgment delivered with regard to the right enforced in the action, or with regard to the set-off, the merits of which has been assessed regarding the existence of the counter-claim, shall prevent the same parties, including their legal successors, from bringing a new action against each other regarding the same right arising from the same factual basis, or from disputing the right assessed in the judgment between themselves in any other way.

(2) The provisions laid down in paragraph (1) shall also apply if the judgment was delivered by the court on the basis of an action not filed by a party but by a prosecutor acting on behalf of the party or by another person authorised to bring the action, provided that the judgment was served on the party in the proper manner and, pursuant to section 358, it also became final and binding with respect to the party.

Section 361 *[Subsequent action]*

(1) If a party is obliged by a judgment to perform a service that expires after the delivery of judgment, the *res judicata* effect shall not prevent the parties from bringing an action for modifying the volume or duration of the service, if the facts on which the court relied when it delivered its judgment have changed subsequently and significantly.

(2) Until the subsequent action is in progress, the court proceeding in it shall have exclusive territorial jurisdiction over any action of the same kind filed by the other party.

(3) In a subsequent action, the service to be rendered by virtue of the previous judgment of the court may only be modified by the court in respect of the period extending to as far as six months back from the date of bringing the action at most.

103. Preliminary enforceability

Section 362 *[Decisions to be declared preliminarily enforceable regardless of an appeal]*

(1) A judgment shall be declared enforceable regardless of an appeal, if

a) it imposes an obligation to provide maintenance payment, annuity, or another periodic service for the same purpose,

b) it imposes an obligation to cease the disturbance of possession,

c) it imposes an obligation against the defendant with respect to a claim that is acknowledged by him,

d) it includes an obligation for payment of money on the basis of an obligation undertaken in a public deed or a private deed of full probative value, provided that all circumstances serving as grounds for the judgment are proven with such a deed, or

e) it includes a non-monetary obligation, if postponing the enforcement would cause the plaintiff disproportionately serious harm or a harm that is hard to define, and if the plaintiff provides adequate security.

(2) Preliminary enforceability shall not apply to litigation costs, unpaid procedural fees and costs advanced by the State.

Section 363 *[The non-application of preliminary enforceability]*

(1) In the cases specified in section 362 (1) *b)* to *e)*, the court may decide not to declare preliminary enforceability, if it would be disproportionately more burdensome to the defendant than its absence would be to the plaintiff. A request to this end shall be submitted

by the defendant before closing the hearing. Having regard to the circumstances, the court may also decide to declare the preliminary enforceability of the judgment only in part.

(2) In exceptionally justified cases, the court may decide not to declare the preliminary enforceability of the judgment with respect to instalments that already became due before the delivery of the judgment.

PART SIX

PROCEDURAL REMEDIES AND RELATED PROCEDURES

CHAPTER XXVII

APPEAL

104. General rules

Section 364 *[Applying the rules relating to first instance proceedings]*

Unless otherwise provided in this Chapter, the rules pertaining to first instance proceedings shall apply to second instance proceedings, with the proviso that second instance proceedings shall not be divided into a preparatory stage and a main hearing stage, and taking minutes by continuous recording shall not be required.

Section 365 *[Initiating second instance proceedings]*

(1) Second instance proceedings shall be initiated by the appellant by filing his appeal in writing with the court of first instance.

(2) An appeal may be filed against

a) the judgment of the court of first instance,

b) the order of the court of first instance, if specifically permitted by this Act,

c) the order of the court of second instance, if a separate appeal may be filed against it under the rules of first instance proceedings,

d) the order of the court of second instance on the rejection of an appeal or cross-appeal.

(3) If by virtue of this Act, a statement of reasons is required for an order against which a separate appeal may not be filed, it may be challenged by the party in his appeal against the judgment.

(4) With respect to appeals, the decision adopted by the chair shall be considered the same as the decision adopted by the court.

(5) An appeal may be filed by a party, or by any other person concerning whom a provision is included in the decision, against the provision concerning him.

(6) The time limit for filing an appeal shall be fifteen days after the communication of the decision.

(7) The submission of an appeal shall have suspensory effect on the enforcement of the decision, unless otherwise provided by an Act or by the court by virtue of an Act.

Section 366 *[Measures taken by the court of first instance regarding an appeal]*

(1) If an appeal is late or is filed with respect to a decision against which the appellant may not appeal, the court of first instance shall reject the appeal; a separate appeal may be filed against this order.

(2) If an appeal is incomplete, the court of first instance shall call upon the party to remedy the deficiencies within a short time limit; the time limit shall not be extended. If the party does not remedy the deficiencies of the appeal within the specified time limit, the appeal shall be rejected by the court; a separate appeal may be filed against this order.

(3) If the time limit for appeal expired with respect to all persons entitled to appeal, or if appeal was filed by all persons entitled without any deficiency, the court of first instance shall

forward within eight days the appeal together with all documents of the case to the court of second instance, with the exception specified in paragraph (4). If the appeal challenges the preliminary enforceability of the decision as well, it shall be forwarded without delay.

(4) If an appeal is filed against a partial judgment or an order, only the necessary documents of the case shall be forwarded.

(5) If the party, in addition to filing an appeal, submits an application for excuse for missing the hearing prior to the adoption of the decision, or for missing a time limit, the appeal shall not be forwarded to the court of second instance unless the application for excuse is dismissed.

Section 367 *[Measures taken by the chair of the second instance panel]*

(1) After the documents are received by the court of second instance, the chair of the panel of second instance shall arrange, to the necessary extent, for the remedy of any deficiency; if the appeal should already have been rejected by the court of first instance, he shall adopt a decision accordingly.

(2) The chair of the panel of second instance shall decide with respect to the suspension of the enforcement, if the court of first instance declared the preliminary enforceability of a decision in violation of this Act.

(3) If proceedings are in progress before the court of first instance due to a request to rectify or supplement a decision, or due to an application for excuse, the court of second instance may suspend its proceedings *ex officio* until the decision on the rectification, supplementation or excuse becomes final and binding, or until the appeal against that decision is forwarded.

(4) In the course of the second instance proceedings, the chair of the panel of second instance may establish, in an order and at any time, that the part of the decision that is not challenged by an appeal has become final and binding.

Section 368 *[Withdrawing the appeal]*

(1) The appeal may be withdrawn by the appellant before the second instance decision is adopted or, if a hearing is held, before the second instance hearing is closed. A withdrawn appeal shall not be submitted again.

(2) If the appeal is withdrawn, the chair shall send back the documents to the court of first instance. If it is necessary in connection with the appeal proceedings, the chair shall also decide on the bearing of litigation costs, the payment of any unpaid procedural fee or costs advanced by the State. A separate appeal may be filed against this decision.

105. Appeal against a judgment

Section 369 *[The power of revision by the court of second instance]*

(1) The court of second instance may revise the regularity of the proceedings of the court of first instance.

(2) The court of second instance may, together with the judgment of the court of first instance, also revise a first instance order, the reasons for which were indicated in the judgment, or which may be challenged in an appeal against the judgment.

(3) The court of second instance may revise the first instance judgment with respect to its compliance with substantive law. When revising on the basis of substantive law,

a) the results of the taking of evidence may be declared to be unreasonable, and, as a consequence, the facts of the case may be modified or supplemented accordingly,

b) evidence may be taken to establish a fact stated by a party in the first or second instance proceedings, and the facts of the case may be changed or supplemented accordingly,

c) a legal conclusion, other than the conclusion drawn by the court of first instance, may be drawn from the established facts, and the established facts may be qualified differently,

d) a decision adopted by the court of first instance within its discretionary power granted by substantive law may be reviewed, even without establishing the violation of any law,

e) a decision may be adopted regarding a matter not heard or decided on by the court of first instance.

(4) The part of the judgment or proceedings of the court of first instance related to case management may be examined and qualified by the court of second instance only as part of its revision on the basis of substantive law, in such a manner that it shall at the same time also carry out the case management it considers, based on its legal standpoint under substantive law, correct. In the course of this

a) the parties may be allowed to make preparatory statements or statements pertaining to expert evidence, and evidence may be taken accordingly,

b) the parties shall be informed of any fact discovered *ex officio*, any interpretation of law that is different from the interpretation of the parties and the court of first instance, and any requirement to derogate from the request by virtue of law, and the parties shall be allowed to make a statement in this regard, and evidence may be taken accordingly.

Section 370 *[Limits to the power of revision by the court of second instance]*

(1) The court of second instance shall exercise its power of revision with regard to and within the limits of the corresponding appeal, cross-appeal or statement of defence, with the derogations specified in paragraphs (2) to (4). The content-related requirements specified in section 371 (1) *a)* to *d)* shall be considered to be such limits.

(2) The court of second instance shall exercise its power of revision *ex officio* and regardless of any limitation pertaining to the corresponding appeal, cross-appeal or counter-appeal, if there is a reason serving as ground for the compulsory setting aside of the judgment.

(3) If a procedural violation of law not invoked in the appeal is discovered by the court of second instance, it shall be notified to the parties, together with a warning on the consequences, and it shall be taken into account if the appellant requests it.

(4) If it is established by the court of second instance that, as a result of its legal standpoint under substantive law being different from that of the court of first instance, the case management by the court of first instance was inadequate with respect to the subject matter at hand, the parties shall be informed accordingly, and it shall be taken into account if the appellant requests it. In such an event, the court of second instance shall proceed further in accordance with section 369 (4).

Section 371 *[The content of an appeal]*

(1) Beyond the form-related requirements pertaining to submissions, the following shall be indicated in an appeal:

a) the reference number of the judgment challenged by the appeal, and the provision or part of the judgment challenged by the appeal,

b) an explicit request to the court of second instance to amend or set aside the challenged provision or part of the first instance judgment in a specific manner,

c) the power of revision to be exercised by the court of second instance, and the presentation of the underlying reasons serving as grounds,

d) the substantive or procedural violation of law invoking the legal provision, unless such a violation is not a condition of exercising the power of revision.

(2) Without a request for the amendment of the judgment, the party may request the setting aside of the first instance judgment by invoking the provisions laid down in sections 379 to 381.

Section 372 *[Counter-appeal and cross-appeal]*

(1) The opposing party of the appellant may submit a counter-appeal with respect to the appeal, and he may file a cross-appeal if he also seeks the amendment of the judgment

challenged by the appeal; at the time of serving the appeal, the party shall be informed of this possibility and the provisions laid down in paragraph (2). A cross-appeal may only be filed against the part of the judgment that was challenged by the appeal. If an appeal was filed only for the judgment to be set aside, the cross-appeal shall not seek the amendment of the judgment.

(2) The counter-appeal and the cross-appeal shall be filed in writing to the court of second instance within fifteen days after the service of the appeal. At a reasoned request by the opposing party of the appellant, the chair may extend the time limit for filing the counter-appeal as an exceptional measure by up to fifteen days. The provisions set forth in sections 371, 373 and 374 shall apply to the counter-appeal and to the cross-appeal as well.

(3) A cross-appeal that is disqualified or late shall be rejected by the court of second instance; a separate appeal may be filed against this order. If an appeal is rejected or withdrawn, any counter-appeal or cross-appeal filed against the appeal shall become ineffective.

Section 373 *[Amendment of the statement of claim or statement of defence; subsequent taking of evidence]*

(1) In the appeal or in the course of the second instance proceedings, with the exceptions specified in paragraphs (2) to (5), the claim, counter-claim and set-off (for the purposes of this section, hereinafter jointly "claim"), or the statement of defence shall not be amended, and no subsequent taking of evidence shall be permitted. The court of second instance shall, in its judgment or in its order setting aside the first instance judgment at the latest, indicate its reasons for adopting the order rejecting the request for the amendment of the claim or statement of defence.

(2) The party may amend his statement of fact if he invokes a fact that occurred, or of which he became aware without any fault on his part and after the closure of the hearing prior to the first instance judgment was delivered, provided that a judgment more favourable for him would have been delivered if that fact had been assessed.

(3) A party may file a new motion for evidence or may make additional means of evidence available if it is to prove a statement of fact amended in accordance with paragraph (2), or a fact invoked earlier in support of his claim or statement of defence, provided that it occurred or he became aware of it without any fault on his part and after the hearing prior to the first instance judgment being delivered was closed.

(4) If the court of first instance did not inform the parties in advance of a fact it had taken into account *ex officio* in its judgment, of a legal interpretation that is different from that of the parties, or of its intent to deviate from a request by virtue of law, the party may file a related amendment to his claim or statement of defence and may propose the subsequent taking of evidence in his appeal, cross-appeal or counter-appeal.

(5) If the court of second instance informs the parties of a fact it discovered *ex officio*, of a legal interpretation that differs from that of the parties or the court of first instance, or of the necessity to deviate from the request by virtue of law, the party may file a related amendment to his claim or statement of defence and may propose the subsequent taking of evidence.

Section 374 *[Pleading a set-off]*

A set-off may be pleaded in the appeal or during the second instance proceedings, before the second instance decision is adopted or, if a hearing is held, before the second instance hearing is closed, if it is acknowledged by the opposing party or it is based on a final and binding judgment delivered in other proceedings.

Section 375 *[Amendment of the appeal or cross-appeal]*

(1) A request made in an appeal or cross-appeal shall not extend to the part of the first instance judgment that is not challenged by the appeal or the cross appeal and, with the

exception specified in paragraph (2), its content specified in section 371 (1) shall not be amended.

(2) Within the limits specified in sections 373 and 374, the appeal or cross-appeal may be amended by the party before the second instance decision is adopted or, if a hearing is held, before the second instance hearing is closed, if it becomes necessary due to an amendment of the claim or statement of defence, or set-off, permitted or allowed due to facts of which the party was informed by the court of second instance.

106. The adjudication of appeals

Section 376 *[Adjudicating an appeal outside the hearing]*

(1) The court shall adjudicate an appeal outside the hearing, unless

a) holding the hearing is requested by any of the parties,

b) it is considered by the court to be justified, or

c) taking evidence during a hearing needs to be performed.

(2) A request for holding a hearing shall be made by the appellant in his appeal. The opposing party of the appellant may request the holding of a hearing within fifteen days after the appeal is served; he shall be notified of this possibility at the time of serving the appeal.

(3) A hearing shall not be held, even if requested by a party, if

a) the first instance judgment has to be set aside for a reason specified in section 379 or 380,

b) the appeal only concerns the bearing or amount of the litigation costs, or the payment of any unpaid procedural fee or costs advanced by the State,

c) the appeal only concerns the time limit for performance, permission to pay in instalments, or preliminary enforceability,

d) the appeal only concerns the statement of reasons of the judgment.

(4) If an appeal is adjudicated outside the hearing, the chair shall communicate the counter-appeal or cross-appeal without delay to the opposing party, who may submit his observations or a statement of defence in writing within fifteen days.

Section 377 *[Setting a date for the appeal hearing]*

(1) If an appeal cannot be adjudicated outside the hearing, the chair of the panel of second instance shall set the due date for the hearing and summon the parties and other persons who appealed against the decision. The appeal shall also be sent to the party with opposing interests and the co-litigant concerned, together with the summons, if it was not sent earlier. If a prosecutor participated in the first instance proceedings, the competent prosecutor shall also be summoned to the hearing.

(2) If it is not excluded by the circumstances of the case, the hearing shall be set in such a manner that it can be held within four months after the documents or the request for the hearing filed by the opposing party is received by the court of second instance. The hearing shall be set in such a manner that the appeal is served on the opposing party at least fifteen days before the date of the hearing.

(3) The parties shall be warned in the summons that their absence would not prevent the administering of an appeal.

(4) The court may impose a fine on a party who requests a hearing to be held but fails to appear.

Section 378 *[The appeal hearing]*

(1) After opening the appeal hearing and taking note of the persons present, the chair, or a judge designated by him, shall present the content of the first instance judgment, as well as of the appeal, the cross-appeal and the counter-appeal.

(2) To the necessary extent, the court shall call upon or allow the parties to make their statements.

(3) If the court of second instance orders the taking of evidence, it shall perform it directly or by way of a request. The provisions laid down in section 282 (2) shall apply to the proceedings, with the derogation that the regional court of appeal may request the regional court proceeding as the court of first instance, or the district court within its territory to perform the taking of evidence.

(4) In cases where the taking of evidence may be performed under this Act by the chair instead of the court of first instance, the court of second instance may designate any member of the panel to perform the taking of evidence.

(5) The absence of all or any of those summoned to the hearing in the proper manner shall not prevent holding the hearing or handling the appeal. In such an event, no application for excuse shall be accepted for missing the hearing.

107. Decisions adopted in second instance proceedings

Section 379 *[The compulsory setting aside of a judgment due to the termination of the proceeding]*

If any of the reasons specified in sections 240 (1) or 241 (1) occurred during the first or second instance proceedings, the court of second instance shall adopt an order setting aside the first instance judgment, in whole or with respect to the part affected by the ground for termination, and terminate the proceedings. If the deficiency serving as ground for terminating the proceedings can be rectified, or remedied by approving the proceedings, the party shall be called upon before the termination of the procedure to do so within an appropriate time limit.

Section 380 *[The compulsory setting aside of a judgment due to a procedural violation of law]*

The court of second instance shall set aside the first instance judgment with an order and shall instruct the court of first instance to conduct new proceedings and adopt a new decision, if

a) the court of first instance was not formed in the proper manner,

b) a judge against whom a ground for disqualification exists by virtue of an Act participated in delivering the judgment, or

c) the judgment is affected by an irreparable deficiency as to its form, which makes it unsuitable for revision on the merits.

Section 381 *[The discretionary setting aside of a judgment due to a procedural violation of law]*

The court of second instance may set aside the first instance judgment with an order and instruct the court of first instance to conduct new proceedings and adopt a new decision, if the first instance proceedings need to be repeated or supplemented, due to the violation of the substantive rules of the first instance proceedings that affected the decision on the merits of the case, and remedying the situation in the second instance proceedings would be impossible or unreasonable.

Section 382 *[Upholding the judgment where the appeal is groundless]*

If the party requested the judgment to be set aside without submitting a request for its amendment, and his appeal is groundless, the court of second instance shall deliver a judgment on upholding the first instance judgment without dealing with the merits of the case.

Section 383 *[Decision on the merits of the case]*

(1) If this Act does not require the judgment to be set aside, the court of second instance shall decide on the merits of the case.

(2) If the first instance judgment is correct with respect to the merits of the case, it shall be upheld by the judgment of the court of second instance, otherwise it shall be amended in whole or in part.

(3) If the court of second instance amends the first instance judgment, it may also decide, within the limits of its power of revision, on any request that was not heard or decided on by the court of first instance, but serves as ground for a right enforced in the action or for a defence that was raised against the enforcement of that right.

(4) The court of second instance may deliver a partial or an interlocutory judgment if the conditions specified in this Act are met in the second instance proceedings.

(5) The court of second instance shall decide on the bearing of litigation costs related to any request, including any partial judgment, adjudicated with final effect as to its merits, if the conditions for deciding on all elements of the litigation costs are met. If the legal basis of the claim was established by an interlocutory judgment delivered on the basis of an appeal filed against the judgment dismissing the claim, the court of second instance shall only determine the amount of the litigation costs, and the other aspects of bearing such costs shall be decided by the court of first instance.

(6) The court of second instance shall decide *ex officio* on the payment of any unpaid procedural costs or fees advanced by but not reimbursed to the State, regardless of the limits of the appeal, cross-appeal or counter-appeal.

Section 384 *[Decision within the limits of the powers of revision related to case management]*

(1) The first instance judgment shall not be set aside on the sole ground that the court of second instance does not agree with the case management of the court of first instance. The parties may not request the first instance judgment to be set aside solely on this ground either.

(2) After exercising its power of revision specified in section 369 (4), the court of second instance shall

a) adopt a decision with respect to the merits of the case on the basis of available data and in accordance with section 383, if

aa) the party does not make any statement or does not make the necessary statement, or

ab) the deficiency of the first instance proceedings having an impact on adopting the decision on the merits of the case can be remedied by a statement of the party and supplementing the first instance proceedings as necessary,

b) set aside the judgment, if a decision on the merits of the case cannot be adopted in accordance with point *a)*.

Section 385 *[The legal effects of settlements and stays]*

(1) If the court approves a settlement concluded during the second instance proceedings by an order, it shall also establish that the first instance judgment becomes ineffective with respect to the part concerned by the settlement.

(2) If, during the second instance proceedings, the action is terminated due to a stay, the court of second instance shall establish in an order that the first instance judgment or the parts of it challenged by the appeal become ineffective.

Section 386 *[The content of the decision closing the proceedings]*

(1) The provisions pertaining to the content of a judgment shall also apply to the decision on the appeal adopted by the court of second instance, with the derogations specified in paragraphs (2) to (4).

(2) The order setting aside the judgment shall include

a) the name of the court of first instance and the case number,

b) the presentation of the first instance judgment, the appeal, the cross-appeal and the counter-appeal,

c) the reasons for setting aside the judgment, also specifying the violated substantive or procedural legal provisions in the event of a violation of law,

d) an instruction to the court of first instance on whether to conduct the new proceedings starting from the preparatory stage or from the main hearing stage, also specifying the necessary procedural acts to be taken.

(3) In its order setting aside the judgment, with the exceptions specified in section 379, the court of second instance shall only determine the amount of the litigation costs and any unpaid procedural fees or costs advanced by the State, while the other aspects related to bearing and paying such amounts shall be decided by the court of first instance.

(4) The judgment of the court of second instance shall also include the name of the court of first instance and the case number. If the first instance judgment is upheld by the court of second instance on the basis of reasons stated therein, the statement of reasons of the second instance judgment shall only include a reference to this fact.

Section 387 *[Measures after adopting the second instance decision]*

After the second instance decision is put in writing, the documents shall be sent by the court to the court of first instance within eight days, and the court of first instance shall communicate the decision closing the proceedings to the parties within fifteen days after the receipt of the documents. If the court of second instance postponed the announcement of its judgment then the judgment, if already put in writing, shall be served on the parties present without delay, and the service shall be recorded in the minutes.

108. Separate rules on filing an appeal by a party acting without a legal representative against a judgment delivered in the procedure of a district court

Section 388 *[The filing and content of the appeal]*

If a party acts without a legal representative, he may present his appeal orally at the court of first instance during the office hours set by the president of the court for such purposes and in accordance with the law, and the reference to the legal provisions may be omitted from the appeal while specifying the violation of law serving as ground for the appeal.

109. Rules pertaining to appeals against orders

Section 389 *[Applying the rules relating to appeals against judgments]*

The provision pertaining to appeals against judgments shall apply to appeals against orders, with the derogations specified in this Subtitle.

Section 390 *[Proceedings related to appeals against orders]*

(1) If the court of first instance is not bound by its order that is challenged by the appeal, the appeal may also be granted by the court of first instance itself.

(2) Before forwarding the documents, the appeal shall be served by the court of first instance on the opposing party of the appellant and on those concerned, with the warning that they may submit their observations to the court of first instance within eight days after receiving the appeal. A shorter time limit may be set in justified cases.

(3) A cross-appeal shall not be submitted.

(4) The documents and any observations submitted shall be forwarded by the court of first instance to the court of second instance after the expiry of the time limit open for submitting observations.

Section 391 *[Adjudicating an appeal against an order]*

(1) The court of second instance shall decide on the appeal outside the hearing, but it may interview the parties as necessary.

(2) An appeal filed against an order adopted by a requested court shall be adjudicated by the court of second instance of the requesting court or, if the request was made by the court of second instance, by the requesting court itself.

CHAPTER XXVIII

RETRIAL

110. Applicable rules in a retrial procedure; the conditions for retrial; the request for retrial

Section 392 *[Applicable rules in a retrial procedure]*

The court shall proceed in the retrial in accordance with the rules pertaining to the basic action, unless otherwise provided in this Chapter.

Section 393 *[The grounds for retrial]*

Retrial may be sought against a final and binding judgment or against other decisions with the same effect as a judgment, if

a) a party invokes a fact, a piece of evidence, or a final and binding decision of a court or other authority that was not assessed by the court during the proceedings, provided that a judgment more favourable for the party would have been delivered if it had been assessed,

b) the party lost the action in an unlawful manner due to a crime committed by a judge participating in the delivery of the judgment, by the opposing party or another person,

c) a party invokes a judgment delivered by the European Court of Human Rights in his case and establishing the violation of a right set forth in the Convention on the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 and promulgated by Act XXXI of 1993, or any protocol thereto, provided that the final and binding judgment is based on the same violation of law, and compensation was not awarded to him by the European Court of Human Rights, and the violation of law may not be remedied by recompense,

d) before the judgment in the action was delivered, a final and binding judgment was already adopted regarding the same right,

e) the statement of claim or another document was served on the party by public notice in violation of the rules pertaining to service by public notice.

Section 394 *[The permissibility of retrial]*

(1) A retrial shall only be permitted under section 393 *a)* if the party, without any fault on his part, was not in a position to enforce, in the previous procedure, the fact, evidence or decision invoked in his request for retrial, in particular to present it in his statement of opposition, appeal or cross-appeal.

(2) A retrial shall only be permitted under section 393 *b)* if the crime committed and invoked as the ground for the retrial is established by a final and binding court judgment, or if delivering such a judgment is not possible for a reason other than the lack of evidence.

(3) A retrial may be sought under section 393 *e)* only by the party on whom the document was served by public notice, and only if the legal consequences specified in section 144 (2) could not declared by the court during the first instance proceedings or in another procedural remedy for a reason other than the fault of the party, and the procedure conducted after the service by public notice was not approved by the party.

(4) With respect to the main subject matter of the action, retrial shall not be sought against a judgment granting a request for emptying an apartment or against a judgment establishing the validity of the unilateral termination of renting an apartment.

(5) By applying the provisions pertaining to retrials against judgments accordingly, a retrial may be sought against a settlement approved by the court, but it shall only be permitted under

section 393 *a)* if, at the time of entering into the settlement, the party moving for retrial was not aware of the fact, evidence or decision serving as ground for the retrial.

Section 395 *[The time limit for submitting a request for retrial]*

(1) The time limit for submitting a request for retrial shall be six months; this time limit shall be calculated from the date of the challenged judgment becoming final and binding or, if the party became aware of the ground for retrial or only became able to apply for retrial later, from this subsequent date. It shall be sufficient to substantiate the date of becoming aware of the ground.

(2) The prosecutor, if he was not participating in the action, may submit a request for retrial within the time limit also open for the parties to submit a request for retrial.

(3) With the exception specified in paragraph (4), retrial shall not be granted after five years following the date of the challenged judgment becoming final and binding; no application for excuse shall be accepted for missing this time limit.

(4) A request for retrial under section 393 *c)* shall be submitted within sixty days after receiving the judgment delivered by the European Court of Human Rights.

Section 396 *[Retrial in the event of a successful constitutional complaint]*

Retrial may be sought against a final and binding judgment on the basis of the decision of the Curia in accordance with the provisions set forth in Chapter XXX.

Section 397 *[Request for retrial]*

(1) The request for retrial shall be submitted in writing to the court of first instance.

(2) The judgment challenged by the request for retrial and the content of the decision sought by the party shall be specified in the request for retrial. The facts serving as ground for the retrial and the supporting evidence shall be specified in, and the relevant documents shall be attached to the request. If the request is submitted over six months after the challenged judgment became final and binding, the reasons for doing so shall be presented.

Section 398 *[Retrial concerning a final and binding order for payment]*

(1) A retrial may be sought against a final and binding order for payment. The retrial shall fall within the material and territorial jurisdiction of the court that, if a statement of opposition were to be filed, would have had material and territorial jurisdiction as the court of first instance over the procedure that was transferred to a court action

(2) If a request for retrial is submitted against a final and binding order for payment, section 393 *e)* shall apply in such a manner that the retrial may be permitted if the payment order was served on the obligor by public notice in violation of an Act. Section 394 (3) shall also apply in such an event.

(3) If a final and binding order for payment is set aside and a new decision is adopted by the court, the proceeding notary shall be notified by sending the decision to him after the decision becomes final and binding.

111. Adjudication in retrials

Section 399 *[Measures following the receipt of a request for retrial]*

(1) If a request for retrial is filed over five years after the challenged judgment became final and binding, or if it is filed against a decision that may not be subject to a retrial, the request shall be rejected by the court without a hearing being set; a separate appeal may be filed against this order.

(2) If the statutory conditions for remedying deficiencies are met, the court may order the deficiencies of the request for retrial to be remedied within a short time limit.

(3) The court shall send without delay the request for retrial, or the request for retrial filed again after remedying all deficiencies, to the parties and to those other interested persons who

are entitled to file an appeal against the challenged judgment, calling upon them to submit their remarks in writing within fifteen days of service.

(4) If, despite being called upon to do so by the court, the person who submitted the request for retrial fails to remedy the deficiencies of the request for retrial within the specified time limit, the request for retrial shall be rejected by the court outside the hearing. A separate appeal may be filed against this order of the court.

Section 400 *[Examination of the conditions for retrial]*

(1) The court shall examine *ex officio* whether the preconditions for retrial specified in sections 393 to 395 are met. With regard to permissibility under section 393 *a)*, the court shall decide whether the factors invoked by the person seeking retrial as grounds for retrial, if proved true, would be capable of allowing the court to deliver a judgment that is more favourable for the person seeking retrial.

(2) If a request for retrial is filed under section 396, it shall be permitted by virtue of an Act, and the court shall not adopt any specific decision to this end.

Section 401 *[Deciding on the permissibility of retrial outside the hearing]*

(1) The court may decide on the permissibility of retrial outside the hearing, if it considers, taking all circumstances of the case into account, that holding a preparatory hearing for retrial is unnecessary. A separate appeal may be filed against the decision adopted by the court on the matter of permissibility. After the order becomes final and binding, the court shall continue the proceedings by setting a date for a preparatory hearing for retrial. The provisions laid down in section 402 (4) to (6) shall apply to the preparatory hearing for retrial.

(2) If retrial was granted by the court and its success seems likely, the court may suspend *ex officio* the enforcement of the challenged judgment or, if retrial was requested with respect to an interlocutory judgment, the hearing of the basic action. A separate appeal may be filed against the order adopted by the court on the suspension of enforcement. The parties shall be interviewed regarding the issue of suspension. The court may change its order on suspension subsequently.

Section 402 *[Preparatory hearing for retrial]*

(1) If the court did not decide on the permissibility of retrial outside the hearing, it shall hold a preparatory hearing for retrial.

(2) At the preparatory hearing for retrial, presence shall be mandatory for the parties to the basic action and, if the request for retrial was filed by a person other than the parties, for the person seeking retrial. If the person who filed the request for retrial misses the hearing, the request for retrial shall be rejected by the court; a separate appeal may be filed against this order.

(3) During the preparatory hearing for retrial, the court shall decide first on the permissibility of retrial. A separate appeal may be filed against the order adopted by the court on the issue of permissibility. The preparatory hearing for retrial shall not be continued and a main retrial hearing shall not be held before the order of the court becomes final and binding.

(4) If the court granted retrial, it shall continue the preparatory hearing for retrial. If the circumstances of the case permit, the court may hold the main retrial hearing immediately after the order closing the preparatory stage is adopted. If the court does not hold the main retrial hearing immediately, it shall set a due date for it after closing the preparatory stage.

(5) The provisions set forth in section 401 (2) shall apply to the suspension of the enforcement of the judgment challenged by a retrial or, if retrial is sought against an interlocutory judgment, of the hearing of the base action.

(6) In other respects, the rules pertaining to the preparatory hearing shall apply to the preparatory hearing for retrial.

Section 403 *[Procedure in the event of a violation of the rules of service by public notice]*

The request for retrial filed under section 393 *e)*, if not rejected *ex officio* by the court of first instance, and the documents of the case shall be forwarded by the court of first instance to the court of second instance or the review court for a decision on the permissibility of retrial, if the rules of service by public notice were violated in the second instance proceedings or in the review procedure. In such a case, only that part of the proceedings that is affected by invalidity shall be repeated. In other respects, the court of second instance or the review court shall proceed by applying the rules on retrials accordingly.

Section 404 *[Main hearing during retrial]*

(1) If retrial is granted, the action shall be heard again at the main retrial hearing, within the limits of the request for retrial. The provisions pertaining to the amendment of the action in the second instance proceedings shall apply to the amendment of the action.

(2) Considering the outcome of the retrial, the court shall uphold the judgment challenged by way of retrial, or it shall set aside the judgment in whole or in part and adopt a new decision in accordance with the laws.

CHAPTER XXIX

REVIEW

112. The conditions for review and general provisions on review procedure

Section 405 *[Applicable rules in a review procedure]*

(1) Unless otherwise provided by an Act, the Curia shall proceed in the review procedure by applying the rules pertaining to appeals, with the derogations specified in this Chapter.

(2) In the course of the review procedure, any order against which a separate appeal may be filed according to the rules of first instance proceedings, and any order rejecting a review application shall be adopted by a panel of the Curia with a statement of reasons.

(3) Relating to the review procedure, a uniformity complaint procedure may be conducted pursuant to the provisions of the Act on the organisation and administration of the courts.

Section 406 *[The ground and subject matter of a review]*

(1) The review of a final and binding judgment or of a final and binding order adopted on the merits of the case (for the purposes of this Chapter, hereinafter jointly "judgment") may be requested from the Curia by a party or, with regard to the part affecting him, by another person affected by the provisions of the judgment, invoking the violation of law having an impact on the merits of the case or the dissent, concerning a question of law, from a published Curia decision..

(2) By applying the provisions laid down in paragraph (1) accordingly, a review application may be filed against a final and binding order rejecting the statement of claim under section 176 (1) *a)* to *i)* or section 176 (2) *b)* to *c)*, and against a final and binding order terminating the proceedings under section 240 (1) *a)* to *c)* or *f)*.

Section 407 *[Decisions excluded from review]*

(1) Review shall not be permissible

a) regarding a judgment that became final and binding at first instance, unless permitted by an Act,

b) if the party did not exercise his right to appeal, and the first instance judgment was upheld by the court of second instance in accordance with the appeal filed by the other party,

c) if it relates only to certain provisions of a final and binding judgment related to the payment of interest, litigation costs, any unpaid fee or costs advanced by the State, a time limit for performance, payment in instalments, or only to the reasoning of a final and binding judgment,

d) regarding a judgment delivered by the Curia,

e) if it is excluded by an Act.

(2) Review shall not be permissible if the first instance judgment was upheld by the court of second instance

a) in actions arising from the violation of neighbouring rights, in possessory actions filed directly with the court or in actions pertaining to the possession and use of a thing in joint ownership,

b) in actions for judicial enforcement as regulated in Chapter XL,

c) in actions for settling or amending the exercise of parental custody, the placement of a child with a third party, the change of placement of a child, or the regulation of keeping contact with a child,

d) in actions for challenging the decision brought by the organ of the community of co-owners of a condominium.

Section 408 *[The exclusion of review in certain property disputes]*

(1) Review shall not be permissible in property actions where the value disputed in the review application, or where the value established on the basis of the provisions of section 21 (1) to (4), or under section 21 (5) applied to joint actions accordingly, does not exceed five million forints. This value-dependent exclusion shall not apply to actions brought for the payment of damages or grievance award related to the exercise of official authority, or to actions brought for maintenance, sustenance or other annuities.

(2) Review shall not be permissible in a property action if the first instance judgment was upheld by the court of second instance on the basis of identical legal provisions and legal reasoning.

Section 409 *[The conditions for permitting review as an exception]*

(1) If review would not be permissible under section 408 but its possibility is not excluded by an Act for any other reason, the Curia may permit review in the cases under paragraph (2) and shall permit review in the case under paragraph (3).

(2) The Curia shall permit the review if the examination of the violation of law that affects the merits of the case is justified by

a) ensuring the consistency or development of jurisprudence,

b) the exceptional weight or social significance of the question of law raised, or

c) the necessity of a preliminary ruling procedure of the Court of Justice of the European Union, in the absence of a decision adopted by the court of second instance on the issue.

(3) The Curia shall permit the review if, concerning a question of law, the judgment dissents from a published Curia decision.

Section 410 *[Request for permitting the review]*

(1) The request for permitting the review may be filed by the party with the court of first instance, within forty-five days after the communication of the judgment.

(2) The following shall be indicated in the request for permitting the review:

a) the judgment against which the party seeks permission for review,

b) the violation of law affecting the merits of the case, with specific reference to the law violated, and

c) the following reasons and legal issues serving as the grounds for the review:

ca) the reasons justifying the permission for review with a view to ensuring the consistency or development of jurisprudence,

cb) the question of law, the weight or social significance of which justifies the permission for review,

cc) the question of law justifying the necessity of a preliminary ruling procedure of the Court of Justice of the European Union, or

cd) if, concerning a question of law, dissent from a published Curia decision is invoked, then the published Curia decision and its part the provision of the judgment dissents from.

(3) The provisions pertaining to the preliminary examination and rejection of a review application shall apply to the request for permission. The request for permission needs not be sent to the opposing party of the party filing it before the request is adjudicated.

(4) The request for permission shall be rejected by the Curia if it does not meet the statutory requirements.

Section 411 *[Decision on the permission for review]*

(1) If the request for the permission for review is suitable for adjudication on the merits, a panel of the Curia consisting of three members shall decide outside the hearing and within thirty days on granting or refusing permission for review.

(2) A short reasoning shall be provided to the order refusing review.

(3) The order regarding the permission for review shall be served by the Curia on the party who submitted the request for permission, and if necessary, it shall call upon that party to supplement, in a submission filed with the court within fifteen days after serving the order, the procedural fee to the amount of the procedural fee payable for the review procedure.

(4) If the party who submitted the request for permission does not fulfil the call specified in paragraph (3), the review procedure shall be terminated by the Curia.

Section 412 *[Submitting a review application]*

(1) The review application shall be filed with the court adopting the first instance decision, within forty-five days after the judgment has been communicated.

(2) If review is excluded under section 408, the request for permitting the review shall be attached to the review application, on which the procedural fee payable for the request for permission shall be paid.

Section 413 *[The content of the review application]*

(1) In addition to the general rules pertaining to submissions, the review application shall include

a) the reference number of the judgment to be reviewed,

b) the procedural or substantive violation of law that affected the decision on the merits of the case, specifying the violation of law and the violated provision, and the reasons based on which the party seeks the adoption of a new decision or the setting aside of the decision,

c) if, concerning a question of law, dissent from a published Curia decision is invoked, then the published Curia decision and its part the provision of the judgment dissents from,

d) an explicit request concerning the decision of the Curia, specifying the content of the decision sought by the applicant, and

e) data related to the enforcement, if the review application includes an application for the suspension of enforceability.

(2) An amendment of the action or the statement of defence, as well as the subsequent taking of evidence or set-off, shall not be permissible as part of the review application.

(3) The review application shall not be amended subsequently; the application may be withdrawn until the Curia adopts its decision or, if a hearing is held, until the hearing is closed for the purpose of adopting the decision. If it is necessary with respect to the review procedure, the Curia shall also decide on bearing litigation costs and the payment of any unpaid fee or costs advanced by the State.

(4) Remedying deficiencies shall not be ordered in review procedure.

Section 414 *[Forwarding the review application]*

(1) If the time limit open for filing the review application has expired for all parties, or if the review application has been filed by each party, the application and the documents of the case shall be forwarded without delay to the Curia by the court that adopted the first instance decision, and to the opposing party and, by sending the review application, the court that adopted the final and binding decision shall be notified of the initiation of proceedings.

(2) At the request of the party, the court of first instance shall notify the authority responsible for matters related to immovable property on the submission of the application.

(3) If enforcement was already ordered, or a request for the suspension of enforceability was submitted, the review application shall be forwarded without delay after it is received.

Section 415 *[The rejection of the review application]*

(1) The Curia shall reject the review application at any stage of the procedure if

a) it was not submitted by the person entitled to do so,

b) the procedural fee was not paid, with the exception specified in section 411 (3),

c) the review application is late,

d) review application is not permitted according to section 407,

e) review application is not permitted according to section 408, and the person submitting the review application did not submit a request for permission together with the review application,

f) the request does not meet all statutory requirements, and the deficiencies were not remedied within the statutory time limit open for submitting the request, or

g) the party submitting the request cannot be summoned from his domicile (seat) indicated, or he moved to an unknown location.

(2) The review application shall not be rejected on the sole ground that the violated legal provision is indicated incorrectly by it, if the reference to the substance of the provision is correct.

Section 416 *[Deciding on the enforceability of a decision]*

The submission of the review application shall not have suspensory effect on the enforcement of the decision but, as an exceptional measure and upon request, the enforceability of the decision may be suspended by the Curia. In the course of adopting an order on the suspension of enforceability, the court shall take into particular account whether the original situation could be restored following the enforcement, or whether the damage arising from non-enforcement would be greater than the damage arising from not suspending enforceability.

Section 417 *[The suspension of the proceedings]*

(1) If the proceeding panel initiates a procedure for the uniformity of jurisprudence in the course of adjudicating the review application, the review procedure shall be suspended by the Curia until the procedure for the uniformity of jurisprudence is terminated.

(2) If a review application is filed against an interlocutory judgment, the proceedings may also be suspended by the Curia *ex officio*, provided that the success of the application is probable. The court may amend its decision on suspension subsequently.

Section 418 *[Notifying the Constitutional Court]*

If a constitutional complaint is filed against a final and binding judgment, or against a law that serves as ground for a final and binding judgment, the Curia, after notifying the court of first instance concerning the submission of a constitutional complaint, shall notify the Constitutional Court of the review procedure without delay.

Section 419 *[Cross-application for review and counter-application for review]*

(1) The provisions pertaining to cross-appeals and statements of defence shall apply to the submission of cross-applications for review and counter-applications for review. A party shall

only be allowed to submit a cross-application for review if that party would have been entitled to request a review.

(2) If the review is based on a permission granted by the Curia, the opposing party of the party submitting the successful request for permission may submit the cross-application for review, invoking a violation of law related to the issue of legal interpretation specified in the order of the Curia and having an impact on the adjudication of the case on the merits.

113. The rules on the adjudication on the merits

Section 420 *[Adjudication on the merits of a review application]*

If the review application is adjudicated in a hearing, the chair shall set the date for the hearing in such a way that the review application is served on the parties at least fifteen days prior to the date of the hearing. The parties shall be warned in the summons that their absence does not prevent the adjudication of the review application.

Section 421 *[The participation of the Prosecutor General in review proceedings]*

(1) The chair, while sending the documents of the case and setting a time limit, may invite the Prosecutor General to present his position on the question of law.

(2) The position of the Prosecutor General shall be communicated to the parties, and the parties may make observations on it within the time limit set by the chair. This rule shall also apply if the Prosecutor General presents his position without an invitation by the chair.

(3) If the Prosecutor General presented his position in the proceedings, the review decision adopted by the Curia in those proceedings shall be sent to him.

Section 422 *[Special rules on taking evidence and establishing the facts of the case]*

Evidence shall not be taken in review procedure and, in the course of adjudicating the review application, the Curia shall decide on the basis of documents and evidence that were available at the time of delivery of the final and binding judgment.

Section 423 *[Limits of adjudication on the merits of a review application]*

(1) In the course of the review, the Curia shall examine the unlawfulness, or the dissent, concerning a question of law, from the published Curia decision, of the final and binding judgment within the limits of the cross-application for review and counter-application for review with regard to the laws specified therein and the dissent, concerning a question of law, from the published Curia decision, unless it terminates the proceedings *ex officio*, or the court that adopted the decision was not formed in the proper manner, or a judge affected by a statutory ground for disqualification participated in the decision being adopted.

(2) The review may extend to facts that occurred prior to the delivery of the final and binding judgment, and facts assessed in the final and binding judgment.

(3) The review of a final and binding judgment delivered in a retrial procedure shall not extend to the judgment delivered in the basic action.

Section 424 *[Decisions adopted in the review procedure]*

(1) If the decision to be reviewed complies with the laws, the violation of law that occurred had no substantive impact on the adjudication on the merits of the case, or the decision did not dissent, concerning a question of law, from the published Curia decision invoked, the Curia shall uphold the challenged decision.

(2) If the Curia establishes that the final and binding decision complies with the laws, it shall be sufficient to refer to this fact in the reasoning of the decision, beyond the applied laws. If the decision did not dissent, concerning a question of law, from the published Curia decision invoked, then it shall not be sufficient to refer only to this fact in the reasoning of the decision upholding the challenged decision.

(3) If the unlawfulness of a decision had an impact on the merits of the case or it dissents, concerning a question of law, from the published Curia decision invoked, the Curia shall set aside the decision in whole or in part, and shall adopt a new decision complying with the laws, otherwise it shall instruct the proceeding court of first or second instance to conduct new proceedings and adopt a new decision.

(4) If the Curia instructs the court of first or second instance to conduct new proceedings and adopt a new decision, it shall provide mandatory instructions with respect to conducting the new proceedings in the order on setting aside the judgment. In such an event, the Curia shall only determine the amount of any litigation cost, unpaid fee or cost advanced by the State, while the court adopting the new decision shall decide on bearing and the payment of such sums.

(5) If the Curia instructed the court of second instance to conduct new proceedings, the decision of the Curia shall be communicated to the parties by the court of second instance. otherwise by the court of first instance and, depending on the decision, the respective court shall make arrangements regarding the termination of enforceability or the termination or limitation of the suspension of the enforcement.

(6) If an instruction to conduct new proceedings is issued, the hearing shall commence from the stage of the action specified in the decision of the Curia, by presenting the decision of the Curia; after this, the court shall conduct the proceedings in accordance with the rules applying to it.

(7) The Curia shall initiate a procedure for the uniformity of jurisprudence if it establishes that, concerning a question of law, the decision dissents from the published Curia decision invoked, but the dissent is justified. The motion shall include also a suggestion as to how to decide the question of law.

CHAPTER XXX

PROCEEDING IN THE EVENT OF CONSTITUTIONAL COMPLAINTS

114. The proceedings of the court of first instance

Section 425 *[Submitting the constitutional complaint]*

(1) If a party files a constitutional complaint in accordance with the Act on the Constitutional Court, it shall be submitted without delay to the Constitutional Court by the court of first instance.

(2) If review procedure is also launched against the decision challenged in the constitutional complaint, the court of first instance shall notify the Curia without delay of the submission of the constitutional complaint, in addition to sending a copy of the complaint.

Section 426 *[Suspending the enforcement of a decision challenged by a constitutional complaint]*

(1) The court of first instance may suspend the enforcement of the decision challenged in the constitutional complaint until the proceedings of the Constitutional Court are completed; a separate appeal may be filed against this decision.

(2) The court of first instance shall suspend the enforcement of the decision challenged in the constitutional complaint until the proceedings of the Constitutional Court are completed, if called upon to do so by the Constitutional Court.

(3) The court shall send the order on the suspension of the enforcement of the decision challenged in the constitutional complaint to the Constitutional Court after

a) it becomes final and binding, in the case described in paragraph (1),

b) it is adopted, in the case described in paragraph (2).

115. The proceedings of the Curia

Section 427 *[Remedying the constitutional complaint]*

(1) If the Constitutional Court

a) annuls a law or a legal provision in the constitutional complaint procedure and, for this reason and unless otherwise decided by the Constitutional Court, it cannot be applied in the case serving as the ground for the proceedings of the Constitutional Court, or

b) establishes that the decision of the court is in conflict with the Fundamental Law and annuls the decision of the court,

the procedural means of remedying the constitutional complaint shall be determined by the Curia on the basis of the decision of the Constitutional Court and by applying the relevant rules of procedure accordingly.

(2) With a view to remedying the constitutional complaint, the Curia shall decide as follows:

a) if the Constitutional Court annulled a substantive law or a provision of substantive law and only an action or a non-contentious procedure was pending in the case, the Curia shall notify the complainant that he may submit a request for retrial to the court of first instance within thirty days,

b) if the Constitutional Court annulled a procedural law or a provision of procedural law, the Curia shall establish the applicability of the procedural right arising from the Constitutional Court's decision by applying the relevant rules of procedure accordingly and, if necessary, it shall order the procedural stage possibly affected by the application of the law that was in conflict with the Fundamental Law to be conducted again, while setting aside the decision closing that stage,

c) if the Constitutional Court annulled the decision of the court, the Curia, according to the Constitutional Court's decision and with the exception specified in point *d)*, shall order the court of first or second instance to conduct new proceedings and adopt a new decision, or shall order the adoption of a new decision regarding the review application,

d) if the Constitutional Court annulled the decision of the court and, by this, it also annulled the decision of another authority reviewed in that court decision then the Curia shall notify the authority that adopted the annulled decision to take the necessary measures, while sending the decision of the Constitutional Court to it, and shall inform the complainant accordingly.

Section 428 *[Procedural rules]*

(1) Proceedings launched on the basis of a successful constitutional complaint shall be conducted as a matter of priority.

(2) In the cases specified in section 427 (2) *a)* and *b)*, the proceedings shall be launched at the request of the complainant which may be filed within thirty days after the decision of the Constitutional Court was served on him, while in the cases specified in section 427 (2) *c)* and *d)*, the proceedings shall be launched *ex officio*. In the cases specified in section 427 (2) *c)* and *d)*, the court that adopted the first instance decision shall forward the decision of the Constitutional Court and the documents of the case to the Curia without delay. The Curia shall adopt its decision in non-contentious proceedings.

(3) In justified cases, the Curia shall interview the complainant and the party with opposing interests participating in the proceedings conducted regarding the case specified in the decision of the Constitutional Court. The absence of any of the persons summoned in the proper manner shall not prevent the issue from being dealt with.

PART SEVEN

SPECIAL PROCEDURES

CHAPTER XXXI

COMMON PROCEDURAL RULES ON ACTIONS RELATED TO PERSONAL STATUS

116. The definition of actions related to personal status

Section 429 *[Actions related to personal status]*

For the purposes of this Part, an action related to personal status means an action on custodianship, a matrimonial action, an action for the establishment of parentage, an action related to parental custody or an action related to the termination of adoption.

Section 430 *[Application of the general rules]*

In actions related to personal status, the provisions of this Act shall apply, with the derogation specified in this Chapter and Chapters XXXII to XXXVI.

117. Common rules

Section 431 *[Bringing the action]*

(1) The public may be excluded from the hearing at the request of a party, even if the conditions specified in section 231 (2) are not met. The court shall inform the parties accordingly.

(2) A person having limited capacity to act, whose personal status is affected by the action, shall have full procedural capacity to act during the action.

(3) If a party does not have procedural capacity to act and there is conflict between him and his statutory representative, the court shall appoint a guardian *ad litem* to represent the party, subject to the exception specified in connection with actions for the establishment of parentage.

(4) In the action, the signature and initials of a natural person party on an authorisation given by him to a person other than an attorney-at-law or law office shall be authenticated by a notary.

(5) In actions brought by or against the guardianship authority, the guardianship authority shall not be required to use the template form provided for parties acting without a legal representative.

Section 432 *[Preparatory stage]*

(1) In the course of the action, the following shall not be permitted:

a) submitting a reply document or rejoinder,

b) joining a claim,

c) intervening, unless an exception is provided in this Act,

d) issuing a court injunction,

e) omitting the preparatory hearing under sections 197 and 198.

(2) The party shall mandatorily appear at the preparatory hearing in person. The court shall interview each party to the action in person, unless the whereabouts of the party is unknown or his interview is prevented by an unavertable obstacle.

(3) If the plaintiff fails to appear at the preparatory hearing in person, the court shall terminate the proceedings *ex officio*. If the defendant fails to appear in person, the preparatory hearing shall be held at the request of the plaintiff, otherwise the court shall terminate the proceedings *ex officio*.

(4) The time limit for the submission of the written statement of defence shall be thirty days, and may be extended by the court by up to fifteen days at a reasoned request by the defendant. Before the order closing the preparatory stage is adopted, the defendant may file a counter-claim even after the expiry of the time limit for the submission of a written statement of defence. In such an event, the counter-claim, with a content that meets the requirements set out in the provisions pertaining to statements of counter-claim, may be presented orally at the preparatory hearing. The provisions of section 213 (4) shall apply accordingly to the communication of the counter-claim, the submission of the statement of defence against it, and the postponement of the hearing.

Section 433 *[Abandoning the action]*

The plaintiff may abandon his action at any stage of the proceedings, without the consent of the defendant. If the plaintiff abandons his action after the conclusion of the first instance proceedings but before the judgment becomes final and binding, the judgment shall be set aside by the court of first instance, if the documents of the case have not been forwarded to the court of second instance yet, otherwise by the court of second instance.

Section 434 *[The taking of evidence]*

(1) The court may order *ex officio* the taking of any evidence it considers necessary.

(2) A witness may not invoke section 290 (1) *a)*, and a doctor interviewed as a witness may not invoke section 290 (1) *c)*, to refuse to give witness testimony.

Section 435 *[Provisional measures]*

(1) If necessary, the court may take provisional measures, even in the absence of the parties' corresponding request.

(2) If the subject matter of a request for provisional measures submitted again has identical content to a request already adjudicated, and the requesting party does not substantiate any new circumstances that would serve as ground for the request, the provision set forth in section 105 (1) regarding appeals against orders shall not apply to the order dismissing the request for provisional measures.

CHAPTER XXXII

ACTIONS ON CUSTODIANSHIP

118. The definition of an action on custodianship

Section 436 *[The action on custodianship]*

An action on custodianship means an action brought for placement under custodianship, modification of placement under custodianship, termination of placement under custodianship, review of placement under custodianship or for the review of a preliminary juridical act.

119. Action brought for placement under custodianship

Section 437 *[Territorial jurisdiction]*

The court within whose area the defendant has been residing in a nursing home or a care hospital for a longer period, or within whose area the defendant has been resided customarily for a longer period, shall also have territorial jurisdiction over the action.

Section 438 *[The legal standing and representation of the parties]*

(1) The defendant shall have full procedural capacity to act during the action.

(2) During the action, a guardian *ad litem* shall be appointed for the defendant simultaneously with serving the statement of claim.

(3) The costs of the forced appearance of the defendant referred to in sections 443 (2) and 444 (2) shall be paid by the State.

Section 439 *[Bringing the action]*

(1) In addition to those specified in section 170, the statement of claim shall include

a) data based on which the eligibility to bring the action can be established,

b) data pertaining to the immovable assets of the defendant,

c) data pertaining to the preliminary juridical act of the defendant, if the plaintiff has any knowledge thereof, and

d) indication of at least one category of cases with regard to which the plaintiff requests placement under custodianship, if the action is brought for the placement of the defendant under custodianship partially limiting his capacity to act.

(2) If the guardianship authority is the plaintiff, the following shall be attached to the statement of claim, in addition to those specified in section 171:

a) the opinion of a medical specialist regarding the mental state of the defendant or, in the absence of such an opinion, a statement from the medical specialist who did not appear at the examination,

b) the report of the social environment assessment made at the domicile of the defendant,

c) the minutes of the interview prepared by the guardianship authority with the defendant, and

d) the decision appointing a temporary custodian or on impounding, if any.

(3) An action brought for placement under custodianship may only be joined to another action for the placement of the same person under custodianship, or to an action for the termination of parental custody of the same person.

Section 440 *[The defendant's statement of defence]*

The defendant may also present his statement of defence orally, at the preparatory hearing at the latest.

Section 441 *[The review of measures taken before bringing the action]*

(1) If freezing the plaintiff's assets or freezing the defendant's assets prior to bringing the action was ordered by the guardianship authority, or a temporary custodian was appointed for the defendant by the guardianship authority, the court shall examine the need to maintain the measures taken by the guardianship authority within thirty days of receiving the statement of claim by the court. In the course of the examination, the preliminary taking of evidence, including especially the examination of the defendant by a forensic psychiatric expert, may be ordered, even if the conditions specified in section 334 are not met.

(2) If the preliminary taking of evidence is not completed within thirty days after ordering it, the impounding or temporary custodianship may be extended by the court with an additional period of thirty days at most.

(3) As a result of the examination mentioned in paragraph (1), the court shall maintain the impounding or temporary custodianship in effect until the proceedings are completed with final and binding effect, or it shall change the decision of the guardianship authority by terminating the impounding or temporary custodianship, and shall notify the parties accordingly and without delay.

Section 442 *[Provisional measures]*

(1) If the necessity of placement under custodianship is likely and justified by the protection of the defendant's interests during the action, the court may order as a provisional measure an impounding or may appoint a temporary custodian, as specified in sections 2:25 and 2:26 of the Ptk., also applying the rules pertaining to the preliminary taking of evidence accordingly, if necessary.

(2) A separate appeal may be filed against the order on ordering or maintaining the impounding or temporary custodianship; the court may declare the order to be enforceable preliminarily.

(3) The order concerning impounding or the appointment of a temporary custodian shall be sent by the court to the guardianship authority with a view to taking the necessary measures, such as appointing a temporary custodian.

(4) The appointment of a temporary custodian shall not affect the defendant's procedural capacity to act.

Section 443 *[The hearing]*

(1) The public may be excluded from the hearing at the request of the plaintiff as well, provided that doing so is justified by the protection of the defendant's personality rights.

(2) If the defendant was summoned but failed to appear at the main hearing in person, the court may order his forced appearance, but other coercive measures shall not be applied.

(3) In the summons served on the defendant, the court shall provide information regarding the procedural role, rights and obligations of the guardian *ad litem*.

(4) The summons and all information served on the defendant during the action shall be appropriate for the mental state of the party.

Section 444 *[The taking of evidence]*

(1) The court shall appoint a forensic psychiatric expert for the examination of the defendant's mental state and for the assessment of depriving him of the right to vote.

(2) If the long-term observation of the defendant is necessary during the expert investigation, or if the defendant fails to appear at the expert investigation despite being summoned repeatedly, the court may order the defendant's forced appearance at the expert investigation, taking into account the expert's recommendation regarding the place and time of forced appearance, or may order the placement of the defendant in an appropriate care hospital for a period of thirty days at most. A separate appeal may be filed against the order.

Section 445 *[Judgment on placement under custodianship]*

If the defendant is placed under custodianship by the court, the court shall decide on the following, even in the absence of a corresponding claim:

a) the application of the preliminary juridical act, if there is no statutory obstacle preventing the application of the part of the preliminary juridical act affected by the judgment,

b) the proportion of the personal income that the person having partially limited capacity to dispose of his personal income may dispose of without the approval of his custodian, and

c) the issue of his deprivation of the right to vote.

Section 446 *[The effect of placement under custodianship]*

(1) The effect of placement under custodianship and the deprivation of the right to vote shall commence on the day following the final and binding date of the judgment on placement under custodianship.

(2) The court of first instance shall communicate the final and binding judgment placing the defendant under custodianship to the guardianship authority with a view to appointing a custodian and taking any other necessary measure.

(3) If the capacity of the defendant to act is limited by the court in full, or in part with regard to disposing of immovable property, and the defendant has immovable property or usufruct right over immovable property, or if another right or fact pertaining to the defendant is recorded or entered, the court of first instance shall arrange for the fact of placement under custodianship to be entered in the real estate register *ex officio*.

(4) The court shall keep a computer-based register of data pertaining to persons placed under custodianship, as specified in the Act on the registration of individuals under custodianship.

(5) The fact of being placed under custodianship and being deprived of the right to vote shall be recorded in the register operated by the court of individuals under custodianship.

(6) The particulars of a final and binding decision ordering the full or partial application of a preliminary juridical act or otherwise affecting any data recorded in the register of preliminary juridical acts, as specified in the Act on the registration of preliminary juridical acts, as well as all changes to such particulars, shall be recorded in or, if appropriate, erased from the register of preliminary juridical acts by the court of first instance.

120. Actions brought for the modification, termination or review of placement under custodianship

Section 447 *[Cross-reference rule]*

The rules pertaining to actions brought for placement under custodianship shall apply to the action, with the derogations specified in this Subtitle.

Section 448 *[The parties to the action]*

(1) An action for the termination of placement under custodianship, for the conversion of custodianship partially limiting capacity to act into custodianship fully limiting capacity to act, for the conversion of custodianship fully limiting capacity to act into custodianship partially limiting capacity to act, for the modification of the category of cases in which a person placed under custodianship partially limiting his capacity to act may not proceed independently, for deprivation of the right to vote or for the termination of the deprivation of the right to vote shall be brought against the individual under custodianship and the person upon whose action the court appointed the custodian. If the termination or modification of custodianship, or the deprivation or termination of deprivation of the right to vote is sought by the person upon whose action the court appointed the custodian, the action shall be brought against the individual under custodianship. If the person upon whose action the court appointed the custodian died, his whereabouts are unknown or he is in another country, the action shall be brought against the guardian *ad litem* appointed by the court.

(2) An action for the mandatory review of placement under custodianship shall be brought by the guardianship authority *ex officio* against the individual under custodianship.

Section 449 *[Specific procedural rules]*

(1) In addition to those specified in section 448 (1), in the event of a mandatory review of placement under custodianship, the action brought by the guardianship authority may also seek maintaining the placement under custodianship.

(2) An action for the termination or modification of placement under custodianship may be brought before the date of mandatory review of the placement under custodianship as well.

(3) The person under custodianship shall have full procedural capacity to act in the action.

(4) If the placement under custodianship is modified or terminated, or deprivation of the right to vote is applied or terminated by the court, the data recorded in the register of individuals under custodianship regarding the defendant shall be updated in accordance with the judgment.

121. Actions brought for the review of a preliminary juridical act

Section 450 *[Cross-reference rule]*

The rules pertaining to actions brought for placement under custodianship shall apply to the action, with the derogations specified in this Subtitle.

Section 451 *[Bringing the action]*

(1) The custodian shall bring the action against the individual under custodianship, while the individual under custodianship shall bring the action against the custodian. If the guardianship

authority or a prosecutor is the plaintiff, the action shall be brought against both the individual under custodianship and the custodian.

(2) At the time of serving the statement of claim on the individual under custodianship, a guardian *ad litem* shall be appointed for him in the action. The individual under custodianship shall have full procedural capacity to act in the action.

(3) If the action is brought by a person other than the guardianship authority, the guardianship authority shall be notified by sending it the statement of claim.

Section 452 *[The judgment]*

(1) If the court establishes that the provisions set forth in section 2:41 of the Ptk. are met, it shall order that the provisions related to the application of preliminary juridical acts in the judgment on placement under custodianship be omitted in whole or in part.

(2) The final and binding judgment delivered in the action shall be communicated by the court of first instance to the guardianship authority with a view to taking the necessary measures.

CHAPTER XXXIII

MATRIMONIAL ACTIONS

122. Special rules on matrimonial actions

Section 453 *[The matrimonial action]*

(1) Matrimonial action means an action brought for the annulment of marriage, for the establishment of the validity, existence, or non-existence of a marriage, or an action brought for the dissolution of marriage.

(2) The rules pertaining to the action for the annulment of marriage shall apply to actions brought for the establishment of the validity, existence or non-existence of the marriage.

Section 454 *[Territorial jurisdiction]*

(1) The court within whose area the spouses had their last common domicile shall also have territorial jurisdiction over the action.

(2) If a matrimonial action is in progress, another matrimonial action pertaining to the same marriage, or an action that may be linked to the matrimonial action under section 455 (1), may only be brought before the same court.

Section 455 *[Bringing the action]*

(1) Only an action for annulment regarding the same marriage, an action related to the maintenance of the spouses' child, an action for settling the exercise of parental custody concerning the child, for keeping contact, for the placement of a child with a third party, for spousal maintenance, for settling the use of the matrimonial home or for the prohibition of a spouse from bearing the married name may be linked to an action for the dissolution of marriage.

(2) In addition to those specified in section 170, the statement of claim shall include

a) data pertaining to the conclusion of the marriage and to the birth of children born in the marriage and still alive, and

b) data on the basis of which the entitlement to bring the action can be established.

(3) In addition to those specified in section 171, the documents certifying the data mentioned in paragraph (2) shall be attached to the statement of claim.

(4) The prosecutor shall be notified of the bringing of an action for the annulment of marriage by way of sending him the statement of claim.

(5) If the plaintiff requests the marriage to be dissolved under section 4:21 (2) and (3) of the Ptk., an agreement containing the common standpoint of the parties regarding all matters

specified in section 4:21 (3) of the Ptk. shall be attached to the statement of claim if it is already available at the time of submission of the statement of claim.

(6) The defendant shall also be required to submit a statement of defence if the plaintiff requests the marriage to be dissolved under section 4:21 (2) and (3) of the Ptk. The time limit for the submission of a written statement of defence shall be fifteen days, and may be extended by the court by up to fifteen days at a reasoned request by the defendant. If the defendant agrees to the dissolution of the marriage, he may make a statement under section 199 (6).

Section 456 *[Special rules pertaining to the preparatory hearing in an action brought for the dissolution of marriage]*

(1) The personal interview of a party shall not be mandatory, even if the party is placed under custodianship fully limiting his capacity to act.

(2) The court shall attempt to reconcile the parties during all stages of the action, but especially during the preparatory hearing. If the attempt at reconciliation succeeds, the court shall terminate the proceedings *ex officio*. In such an event, the parties shall not be obliged to pay any litigation costs.

(3) The court shall inform the parties of the possibility and advantages of engaging in a mediation procedure.

(4) If the parties do not reconcile during the preparatory hearing and their preparatory statements have been made, and the postponement of the preparatory hearing shall not be ordered, the court shall close the preparatory stage and set a due date for the main hearing.

(5) The main hearing shall not be commenced immediately after the order closing the preparatory stage is adopted, subject to the exception specified in paragraph (6).

(6) If allowed by the circumstances of the case, the merits of the action shall be heard immediately after the order closing the preparatory stage is adopted, if the personal interview of a party is not mandatory or the parties do not have a common minor child.

Section 457 *[Provisional measures]*

In the action, the court may decide, especially using provisional measures, on

a) the maintenance of a minor child and on designating the place of residence of a minor child to be with one of the parents or a third party,

b) settling the exercise of parental custody,

c) keeping contact by and between a parent and a child, and

d) the use of the spouses' matrimonial home.

Section 458 *[Omission; the stay of the proceedings]*

(1) If the plaintiff misses the main hearing of the action, the court shall terminate the proceedings *ex officio*; however, if the plaintiff is a prosecutor, a new due date shall be set *ex officio*.

(2) No application for excuse shall be accepted after the expiry of fifteen days from the missed due date or the last day of the missed time limit.

(3) The proceedings shall not stay in the case described in section 121 (1) *b)*.

(4) In an action brought for the dissolution of marriage, the proceedings may be stayed more than three times if agreed by the parties.

Section 459 *[The judgment]*

(1) Even in the absence of a claim to that end, if necessary, the court, in its judgment on annulling or dissolving the marriage, shall also decide on the exercise of parental custody, the placement of the child with a third party and the maintenance of the common minor child.

(2) In its judgment annulling or dissolving the marriage, the court shall determine the period of community of life, if it was not established earlier by the court proceeding in the

matrimonial property action in its decision on the merits closing the proceedings or in its interlocutory judgment.

(3) If the parties requested the marriage to be dissolved in consenting statements under section 4:21 (2) and (3) of the Ptk., the court may decide on the dissolution of the marriage after the parties have reached an agreement on all matters specified therein, and the agreement is approved by the court in a final and binding order. If a request for prohibiting the use of a name is submitted during a matrimonial action, it shall be decided by the court simultaneously with deciding on the dissolution or annulment of the marriage.

(4) In actions brought for the dissolution of marriage, the court shall decide on bearing litigation costs on the basis of all circumstances, regardless of the proportion of the success achieved in the action.

(5) A partial judgment shall not be delivered in the action. If no appeal is filed against the judgment of the court of first instance, the judgment shall become final and binding after fifteen days following the last day of the time limit open for appeals.

Section 460 *[Related measures]*

(1) If a spouse dies before the action brought for the dissolution of marriage is concluded with final and binding effect, the court shall terminate the proceedings *ex officio* and set aside any judgment that may have been delivered during the action.

(2) A judgment delivered by the court in an action brought for the annulment of marriage shall be communicated to the prosecutor, even if he did not participate in the proceedings, and he may also file an appeal against the judgment.

(3) After the judgment granting the claim becomes final and binding, the court of first instance shall send a data sheet containing demographic data to the competent civil registrar, as specified in the laws related to statistics.

Section 461 *[Retrial and review]*

Regarding the matters of annulment or dissolution, a request for retrial or review shall not be granted against the judgment annulling or dissolving the marriage.

123. The relationship between a matrimonial action and a matrimonial property action

Section 462 *[The prohibition of linking a matrimonial action to a matrimonial property action]*

With the exception of an action for spousal maintenance or for settling the use of the matrimonial home, an action concerning the property of the spouses (hereinafter "matrimonial property action") shall not be linked to a matrimonial action.

Section 463 *[Establishing the period of community of life]*

(1) If no matrimonial action is in progress at the time of or prior to the delivery of the judgment of the court of first instance proceeding in the matrimonial property action, the period of community of life shall be established by the court proceeding in the matrimonial property action in its decision on the merits closing the proceedings. An interlocutory judgment may be delivered with regard to the establishment of the period of community of life.

(2) If a matrimonial action and a matrimonial property action are simultaneously in progress between the parties, the period of community of life shall be established by the court proceeding in the matrimonial action. If the period of community of life is disputed by the parties in a matrimonial property action, the court may suspend the matrimonial property action until the pending matrimonial action is adjudicated with final and binding effect.

CHAPTER XXXIV

ACTIONS FOR THE ESTABLISHMENT OF PARENTAGE

124. The definition of the actions for the establishment of parentage

Section 464 *[Actions for the establishment of parentage]*

An action for the establishment of parentage means an action brought for the establishment of paternity, an action brought for rebutting the presumption of paternity or an action brought for the establishment of motherhood.

125. Special rules of actions for the establishment of parentage

Section 465 *[Territorial jurisdiction]*

The action may also be brought before the court of the domicile or place of residence of the minor child.

Section 466 *[The legal standing and representation of the parties; intervention]*

(1) For bringing an action for the establishment of paternity or for rebutting the presumption of paternity, the guardianship authority shall appoint an *ad hoc* guardian to act as the statutory representative of the child, if the mother of the child cannot or does not wish to act as the statutory representative of the child.

(2) In an action for the establishment of paternity or for rebutting the presumption of paternity, the mother may join any party as an intervenor, if she is not a party to the action. The mother shall be informed of the bringing of the action by way of sending her the statement of claim, even if she is not a party to the action; in the notice, the mother shall be informed of her right to intervene.

(3) If the action is to be brought against a guardian *ad litem* appointed by court, a lineal blood relative may join any party as an intervenor. The court shall inform the guardianship authority of the appointment of a guardian *ad litem*, and shall inform the lineal blood relatives whose domicile is known of their right to intervene.

(4) If the defendant dies during the action, it shall be continued against the guardian *ad litem* appointed by court. The court shall inform the lineal blood relatives of their right to intervene.

Section 467 *[Bringing the action]*

(1) The action may also be brought before the child is born, but the judgment shall only be delivered after the birth of the child.

(2) An action for the establishment of paternity, before the court proceeding in the action, may be linked to an action for the maintenance of the child. In an action for the establishment of paternity pending before the court of first instance, a claim for the maintenance of the child may also be submitted subsequently.

Section 468 *[Procedure with regard to paternal acknowledgement]*

(1) If it would be possible for the defendant in the action brought for the establishment of paternity to acknowledge his paternity regarding the child with full effect, he shall be advised accordingly during the preparatory hearing and after taking evidence is completed.

(2) If the father acknowledges the child as his own, and those interested whose consent is needed for that declaration to be effective are present at the hearing, they shall be informed that they may also grant their consent orally during the hearing. The acknowledgement of the father and the consent of the other interested persons shall be recorded in separate written minutes and shall be signed by them.

(3) Simultaneously with being given the advice according to paragraphs (1) and (2), the father and the other persons interested shall be informed of the significance and consequences of the acknowledgement and the consent; the provision of such information shall be recorded in the minutes.

(4) Those interested who are not present at the hearing shall be called upon to present, within an appropriate time limit, their statement of consent in the requisite form, or to have it recorded in the minutes at the court.

(5) If a declaration of acknowledgement is made, the father shall be called upon to certify that the age difference prescribed by law persists. The guardianship authority shall be requested *ex officio* to provide the consent or confirmation that may be required from it.

(6) The written minutes of the acknowledgement, supplemented by the documents obtained in accordance with paragraph (5), shall be transferred to the competent civil registrar, and the proceedings shall be suspended simultaneously. If the father is registered in the civil register, the proceedings shall be terminated. If the father is not registered in the civil register on the basis of his declaration of acknowledgement, and the deficiency that serves as a reason for it cannot be remedied, the court shall terminate the suspension of the proceedings and shall continue the hearing.

Section 469 *[The hearing]*

(1) If a party fails to appear at the hearing, despite having been summoned, or he fails to make a statement despite having been called upon to do so by the court, he shall be subject to the coercive measures that may be applied against contributors.

(2) In an action for the establishment of paternity or for rebutting the presumption of paternity, the mother of the child shall be interviewed as a witness, if she is not a party or an intervener in the action; the interview of the mother shall not be omitted, unless she does not have capacity to act, or her interview is prevented by another unavertable obstacle.

(3) If the *ad hoc* guardian appointed by the guardianship authority for the minor child plaintiff fails to appear at the hearing, the proceedings shall not be terminated. In such an event, the court shall call upon the guardianship authority to take the necessary measures or appoint another *ad hoc* guardian.

Section 470 *[The taking of evidence]*

(1) If an expert medical examination, necessary for establishing parentage, is ordered by the court, any party may be obliged to tolerate an examination.

(2) If a party obliged to undergo an expert medical examination fails to appear before the designated expert for examination or for blood or other sampling, or he does not allow the performance of the examination or the taking of blood or other samples then, among the coercive measures that may be applied against contributors, the court may oblige him to reimburse the costs caused and may also impose a fine, but he may not be subjected to forced appearance. The same provision shall apply to the statutory representative of a minor child, if he fails to present the child for examination or blood or other sampling, or if he does not allow the performance of the examination or the taking of blood or other samples.

(3) The preliminary taking of evidence shall be allowed, even if the conditions specified in section 334 are not met.

(4) In an action for rebutting the presumption of paternity, the defendant shall not be obliged to reimburse the litigation costs, except for the cost of the expert medical examination needed to establish the origin.

Section 471 *[Retrial and review]*

Retrial or review shall not be admissible against a judgment rebutting the presumption of paternity, regarding the part rebutting the presumption of paternity, if, after the rebuttal of the presumption of paternity, a person acknowledges the child as his own with full effect, or paternity is established in a final and binding court judgment.

CHAPTER XXXV

ACTIONS RELATED TO PARENTAL CUSTODY

126. The common rules on actions related to parental custody

Section 472 *[The definition of the actions related to parental custody]*

An action related to parental custody means an action brought for settling the exercise of parental custody, for the placement of a child with a third party, or for the termination or restoration of parental custody.

Section 473 *[Interviewing the minor child]*

(1) If the court decides in the course of the action to interview a minor child as an interested person, in justified cases it shall simultaneously appoint *ex officio* a guardian *ad litem* for the minor. The court may interview the minor child in the absence of the parties or their representatives as well.

(2) The court shall summon a minor below the age of fourteen through his statutory representative, calling upon him to ensure that the minor will appear. If a minor above the age of fourteen is summoned, the court shall notify his statutory representative of the summons, even if the representative is also summoned to the hearing.

(3) The interview of the minor shall be conducted in a suitable atmosphere and in a manner that is understandable for him, taking his age and level of maturity into account. At the beginning of the interview, the minor shall be asked his name, place and date of birth, mother's name and domicile, and he shall be informed that all statements made during the interview must be in accordance with the truth, and that he may refuse to make a statement or answer individual questions. If the court appointed a guardian *ad litem* for the minor, the provided information shall also cover the procedural role, rights and obligations of the guardian *ad litem*.

(4) The minor child shall be interviewed by the chair. The parties may propose questions before the interview, even if the minor is interviewed in the absence of the parties. The guardian *ad litem* may propose questions during the interview of the minor. The chair may allow the guardian *ad litem* to ask the minor questions directly. The chair shall decide whether the proposed and the directly asked questions are admissible.

(5) At the end of the interview, while the minor is still present, the testimony recorded in the written minutes shall be read out, and if the minutes are recorded by making a sound recording of the contents of the minutes, it shall be recorded in the presence of the minor. The occurrence or omission of this shall be recorded in the minutes. The minor may correct or supplement his testimony while it is being read out or recorded. With the permission of the chair, the minutes may be supplemented or modified according to any remarks made by the guardian *ad litem* or the parties, if the interview is conducted in the presence of the parties. If it is dismissed, the respective request of the guardian *ad litem* or the parties shall be recorded in the minutes.

(6) If the minor is interviewed in the absence of the parties, the chair shall present the minutes of the interview to the parties.

127. Action brought for settling the exercise of parental custody

Section 474 *[The definition of the action brought for settling the exercise of parental custody]*

An action brought for settling the exercise of parental custody means an action for the exercise of parental custody, an action for the modification of parental custody or for the modification of exercising certain rights related to parental custody, an action for the authorisation of the separated parent to exercise certain rights related to parental custody, or an action brought for the termination of shared parental custody.

Section 475 *[Territorial jurisdiction]*

The action may also be brought before the court of the domicile or place of residence of the minor child.

Section 476 *[Bringing the action]*

An action for the maintenance of the child or for settling contact rights may be linked to the action.

Section 477 *[Decisions]*

If the parties concluded a settlement regarding the exercise of parental custody, it shall be approved by the court in an order. In the course of approving the settlement, or in its judgment, the court shall primarily take the interests of the parties' minor child into account.

128. Actions brought for the placement of a child with a third party

Section 478 *[The definition of the action brought for the placement of a child with a third party]*

An action brought for the placement of a child with a third party means an action brought for the placement of a child with a third party or an action for the modification of the placement.

Section 479 *[Territorial jurisdiction]*

The action may also be brought before the court of the domicile or place of residence of the minor child.

Section 480 *[Bringing the action]*

Only an action brought for the placement with a third party of another child of the same parent, an action for the termination of parental custody, or an action for the maintenance of the child may be linked to the action.

Section 481 *[The hearing]*

(1) The person requesting the child to be placed with him shall be interviewed as a witness in the action.

(2) The final and binding judgment delivered in the action shall be communicated by the court to the guardianship authority with a view to taking the necessary measures.

129. Actions brought for the termination or restoration of parental custody

Section 482 *[Territorial jurisdiction]*

(1) An action for the termination of parental custody may also be brought before the court of the domicile or place of residence of the minor child.

(2) An action brought for the restoration of parental custody shall fall within the exclusive territorial jurisdiction of the court that adopted the decision on the termination of parental custody.

Section 483 *[Bringing the action]*

(1) An action brought for the termination of parental custody may only be linked to an action brought for the termination of parental custody regarding another child of the same

parent, to an action brought for the maintenance of the child, to an action brought for settling the exercise of parental custody, to an action brought for the placement of the child with a third party or to an action brought for the placement of a parent under custodianship.

(2) An action for the restoration of parental custody shall not be linked to any other action.

Section 484 *[The parties; intervention]*

(1) The parent who is not a party to the action may join any party as an intervenor. This parent shall be informed by way of sending him the statement of claim, and he shall also be informed of his right to intervene.

(2) If an action for the restoration of parental custody is brought by a person other than the parent whose parental custody has been terminated, this parent shall have the procedural status of an intervenor on the side of the plaintiff, even in the absence of a specific request to this end. This parent shall be interviewed by the court in person, even if he does not wish to participate in the proceedings as an intervenor.

Section 485 *[Provisional measures]*

The court may order the termination of parental custody as a provisional measure, especially if the child is at serious risk.

CHAPTER XXXVI

ACTIONS BROUGHT FOR THE TERMINATION OF ADOPTION

130. Special rules on actions brought for the termination of adoption

Section 486 *[Territorial jurisdiction]*

The action may also be brought before the court of the domicile or place of residence of the minor child.

Section 487 *[Bringing the action]*

An action brought for the termination of adoption may be linked to an action for the continued use of the family name received by way of adoption.

CHAPTER XXXVII

ACTIONS BROUGHT FOR THE MAINTENANCE OF A MINOR CHILD

131. The definition of an action brought for the maintenance of a minor child

Section 488 § *[Actions brought for the maintenance of a minor child]*

An action brought for the maintenance of a minor child means an action brought for the establishment, modification or termination of a maintenance obligation toward a minor child.

Section 489 *[Applying the general rules]*

(1) The provisions of this Act shall apply to actions brought for the maintenance of a minor child, with the derogations specified in this Chapter.

(2) For the purposes of this Chapter, a minor child shall be construed to also mean a child of legal age before reaching the age of twenty who is pursuing studies in a secondary school and is eligible for maintenance.

132. Special rules on actions brought for the maintenance of a minor child

Section 490 *[Territorial jurisdiction]*

The action may also be brought before the court of the domicile or place of residence of the minor child.

Section 491 *[Bringing the action]*

(1) The action may be brought by either of the separated parents against the other parent.

(2) An action brought for the maintenance of a minor child may only be linked to an action for settling the exercise of parental custody over the same child of the same parents.

(3) If a matrimonial action is in progress between the parties, an action for the maintenance of the parent's common minor child may only be brought before the court proceeding in the matrimonial action.

Section 492 *[Provisional measures; taking evidence ex officio]*

(1) The court may decide to establish maintenance as a provisional measure if necessary, even in the absence of a corresponding request by any of the parties.

(2) The court may, *ex officio,* order any evidence it considers necessary to be taken.

CHAPTER XXXVIII

ACTIONS BROUGHT FOR THE ENFORCEMENT OF CERTAIN PERSONALITY RIGHTS

133. Common rules

Section 493 *[Actions brought for the enforcement of personality rights for the purposes of this Chapter]*

For the purposes of this Chapter, an action brought for the enforcement of personality rights means an action for press correction, an action brought for the enforcement of the right to the protection of image and recorded voice, or an action brought for asserting personality rights related to belonging to a community.

Section 494 *[Applying the general rules]*

The provisions of this Act shall apply in actions brought for the enforcement of personality rights, as regulated in this Chapter, with the derogations specified in this Chapter.

134. Action brought for press correction

Section 495 *[Mandatory preliminary procedure with a press organ]*

(1) The publication of a corrective statement in accordance with the Act on the freedom of the press and the fundamental rules on media content may be requested, in writing and within a thirty day term of preclusion after the publication of the disputed publication, from the media service provider, from the editorial office of the press product or from the news agency (hereinafter jointly "press organ") by the person or organisation concerned. The prejudicial publication and the false or misrepresented statements of fact shall be specified in the request, as well as the actual facts, if its publication is also requested.

(2) The publication of a corrective statement received in writing and in due time shall not be denied, unless

a) the correction was requested by a person other than the person entitled,

b) the request does not contain what is required under paragraph (1), or

c) the veracity of statements made in the request can be refuted immediately.

Section 496 *[Bringing the action]*

(1) If a press organ fails to perform its obligation to publish the corrective statement in due time, or performs it not in accordance with the request for correction, the person claiming correction may bring an action against the press organ for the publication of the corrective statement. If the action is brought without conducting the mandatory preliminary procedure before the press organ, the court shall reject the statement of claim and inform the plaintiff of the conditions for the preliminary procedure.

(2) The press organ shall participate in the proceedings as a party, even if otherwise it does not have the capacity to be a party. The regional court for the place where the defendant has its seat or domicile shall have material and exclusive territorial jurisdiction over the action.

(3) The statement of claim shall be submitted within fifteen days after the last day of the obligation to publish; an application for excuse may be submitted if this time limit is missed.

(4) In addition to those specified in section 170, the statement of claim shall include the following:

a) the corrective statement requested, including its explicit content,

b) the prejudicial publication and the false or misrepresented statements of fact, as well as the actual facts, if their publication is requested by the plaintiff, and

c) the presentation of the facts indicating that the plaintiff requested the defendant to publish the correction within the statutory time limit.

(5) In addition to those specified in section 171, the following shall be attached to the statement of claim:

a) a proof confirming that the plaintiff requested the defendant to publish the correction within the statutory time limit, and

b) the press product containing the contested publication, if available.

(6) The action for press correction shall not be linked to or joined to any other action.

Section 497 *[Preparatory stage]*

(1) If the statement of claim is suitable to commence proceedings, the court shall set and summon the parties to the preparatory hearing for a date not more than fifteen days after the submission of the statement of claim. If the statement of claim becomes suitable for a hearing only after a measure is taken by the court, the time limit for setting the hearing shall be calculated from that date. The summons period shall be at least three days.

(2) Simultaneously with summoning the parties to the preparatory hearing, the court shall also communicate the statement of claim to the defendant, and call upon the parties to bring to the hearing all documents and other means of evidence pertaining to the case, and the defendant shall also be called upon to make a statement during the hearing that corresponds to a written statement of defence.

(3) The defendant may submit a written statement of defence at least three days before the due date of the preparatory hearing, provided that he simultaneously sends it to the plaintiff as well by registered priority delivery, and he also certifies the fact of sending. Acts in the court proceedings performed in violation of these provisions shall be ineffective.

(4) If the defendant misses the preparatory hearing and does not submit a written statement of defence, the action shall be deemed undisputed, and the court shall close the preparatory hearing and find against the defendant in a judgment, unless the termination of the procedure is in order. If the defendant present did not submit a written statement of defence earlier, he shall present it orally at the preparatory hearing at the latest.

(5) The continuation of the preparatory stage may be ordered during the preparatory hearing, if closing the preparatory stage is prevented by an unavertable procedural obstacle or an objective obstacle pertaining to the circumstances or operation of the court or a party. The continued preparatory hearing shall be set for a date within fifteen days.

Section 498 *[The main hearing]*

(1) The court shall hold the main hearing immediately after adopting the order closing the preparatory stage. The taking of evidence shall be limited to evidence that is available at the hearing or was proposed by the parties before the order closing the preparatory stage was adopted. Taking evidence subsequently shall not be permitted in the action.

(2) The main hearing may be postponed if

a) it is requested by a party, while substantiating, through already discovered evidence or by other means, that the offered evidence would be suitable for and successful in confirming or refuting a statement made in the action or made for the purpose of defence, or

b) the taking of evidence ordered is prevented by an obstacle beyond the party's control, and the party requesting the taking of evidence maintains his request for the taking of evidence; the hearing shall not be postponed in order to obtain such a statement from an absent party.

(3) If the conditions specified in paragraph (2) are not met, the court shall not order or perform the taking of evidence.

(4) If the main hearing is postponed, the continued main hearing shall be set for a due date within fifteen days following the date of the postponed hearing, unless it is not possible under the circumstances of the case.

(5) If all parties miss the continued main hearing, or the party present does not request the hearing to be held, and the party on whose part the omission arose did not request the hearing to be held in his absence in either case, the proceedings may not be suspended and the court shall terminate the proceeding *ex officio*.

Section 499 *[The judgment]*

(1) If the claim is granted by the court, it shall oblige the defendant in its judgment to publish a corrective statement with the wording determined by the court, and in a manner and within the time limit determined by the court. If the press organ does not have the capacity to be a party, the natural or legal person with editorial responsibility for the press product shall be obliged to pay the litigation costs.

(2) The court shall lay down its judgment in writing within fifteen days after delivering and announcing it; the delivery and announcement of the judgment may be postponed for up to fifteen days.

Section 500 *[Other excluding and restricting provisions]*

(1) The court shall proceed as a matter of priority in each stage of the action, including the review procedure.

(2) In the course of the action, the following shall not be permitted:

a) an application for excuse, apart from the case referred to in section 496 (3),

b) a counter-claim,

c) a stay based on the agreement of the parties,

d) suspension,

e) issuing a court injunction,

f) extending the action,

g) amending the statement of claim or statement of defence, or

h) intervening.

(3) In the case specified in section 121 (1) *c)* to *f)*, the period of stay shall not exceed one month.

Section 501 *[Procedural remedies]*

(1) The appeal shall be adjudicated by the court of second instance within fifteen days after receipt of the documents of the case. The opposing party of the appellant may request a hearing within three days after the service of the appeal, and he shall submit his counter-appeal and any cross-appeal, if any, in writing within five days.

(2) The review application shall be adjudicated by the Curia within sixty days after receiving the documents of the case.

(3) Retrial shall not be granted against judgments delivered in actions for press correction.

135. Actions brought for enforcing the right to the protection of the image and recorded voice of a person

Section 502 *[Mandatory preliminary procedure for remedying the violation of law]*

(1) If an image or voice recording is made of a person without his permission, or an image or voice recording of a person made with or without his permission is used without his permission, he may request the producer or user, in a written request in which he sets a time limit in days and which is sent within a term of preclusion of thirty days calculated from the date of becoming aware of the making or use of the image or voice recording, to

a) cease the violation of law,

b) give appropriate satisfaction, and provide appropriate publicity for doing so at its own expense,

c) end the injurious situation, restore the situation existing prior to the violation, and destroy the thing produced through the violation of law or deprive it of its unlawful character.

(2) The injurious image or voice recording, the time and manner of use, if any, the time of becoming aware of the situation, and the sanction sought against the infringing party shall be specified in the request for remedy. No request for remedy shall be submitted if three months have passed after the time of making or using the image or voice recording.

(3) Fulfilment of the request for remedy received in writing and within the time limit shall not be denied, unless

a) it was not submitted by the person entitled,

b) the request does not contain the information required under paragraph (2), or

c) the veracity of statements made in the request can be refuted immediately.

Section 503 *[Bringing the action]*

(1) If the producer or user of the image or voice recording does not fulfil the specifications in the request for remedy within the time limit provided, or fulfils them not in accordance with the request for remedy, the person submitting the request may bring an action against him. If the action brought was not preceded by the mandatory preliminary procedure for remedying the infringement, the court shall reject the statement of claim and inform the plaintiff of the conditions for the preliminary procedure.

(2) The producer or user of the image or voice recording shall participate in the proceedings as a party, even if he does not otherwise have the capacity to be a party.

(3) The statement of claim shall be filed within fifteen days calculated from the last day of the time limit specified in the request for remedy; an application for excuse may be submitted if this time limit is missed. This shall not affect the right of the plaintiff to bring an action for the protection of his personality rights under the general rules.

(4) In his claim, the plaintiff may only request the application of section 2:51 (1) *a)* to *d)* of the Ptk. A separate action may be brought for applying any other sanction pertaining to the violation of personality rights. An action for enforcing the right to the protection of image and recorded voice of a person shall not be linked to or joined to any other action.

(5) Beyond those specified in section 170, the statement of claim shall include

a) the specific indication of the sanctions requested by the plaintiff from among those laid down in section 2:51 (1) *a)* to *d)* of the Ptk.,

b) the time and manner of the production or use, if any, of the injurious image or voice recording, and the time of becoming aware of the situation,

c) a statement indicating that the plaintiff submitted his request for remedy within the statutory time limit.

(6) In addition to those specified in section 171, the following shall be attached to the statement of claim:

a) certification that the remedy was requested by the plaintiff within the statutory time limit,

b) the image or voice recording, and documentary or physical evidence, if available, in accordance with the form used, if any.

504. § *[Reference to the rules on actions for press correction]*

(1) In an action brought for enforcing the right to the protection of a person's image and recorded voice, the provisions pertaining to actions brought for press correction shall apply to all matters that are not regulated in this Subtitle, except for the rule on territorial jurisdiction and with the addition specified in paragraph (2).

(2) The taking of evidence shall be permitted only with regard to evidence that may be suitable for the plaintiff to prove that the image or voice recording was made or used, or for the defendant to prove that the plaintiff consented to the production or use of the image or voice recording, or that the plaintiff's consent was not required by virtue of an Act. The taking of evidence shall also be permitted if it is necessary with a view to the application of objective legal consequences.

136. Action for enforcing personality rights existing by virtue of belonging to a community

Section 505 *[Bringing the action]*

(1) For the violations of the rights of a community according to section 2:54 (5) of the Ptk., an action for the enforcement of the personality rights in relation to membership in the community shall fall within the material and exclusive territorial jurisdiction of the regional court for the place where the defendant has his domicile in Hungary or, in the absence thereof, his place of residence in Hungary, or, if the defendant is an entity other than a natural person, where it has its seat in Hungary. If the defendant does not have any of these, or the competent court cannot be determined, the Budapest-Capital Regional Court shall have territorial jurisdiction over the action.

(2) Beyond those specified in section 170, the statement of claim shall include

a) the time and manner of the violation of law,

b) a statement by the plaintiff that he belongs to the community affected by the violation of law.

(3) In the statement of claim, the plaintiff may only seek the application of the sanctions for the violation of personality rights on the basis of the violation of the rights of the community, with the exception of relinquishing the financial gains realised through violation of law. The action may only be linked to another action for asserting personality rights related to belonging to a community and arising from the same factual basis.

Section 506 *[Joining]*

(1) The court shall order the joining of those actions pending before it in which the claim is directed at enforcing personality rights existing by virtue of belonging to a community and having arisen from the same factual situation. Such actions pending before different courts shall be joined before the court that received the statement of claim first. If the preparatory stage was already closed in any of the joined actions before their joining, the preparatory stage shall be re-opened by the court with respect to the case concerned.

(2) The parties shall give notice of the actions to be joined under paragraph (1) immediately after becoming aware of such event; the court shall impose a fine on the party failing to do so.

(3) If the plaintiff also claims compensation for any damage due to the violation of his personality rights existing by virtue of belonging to a community in an action joined under paragraph (1), the court shall order that matter to be heard as a separate case and it shall

suspend it until the action is adjudicated with final and binding effect. After the termination of the suspension, the case shall be heard by the court in accordance with the general rules.

Section 507 *[Other provisions]*

(1) The fact that the plaintiff belongs to the community affected by the violation of law shall be certified by a corresponding statement made by him in his statement of claim; no taking of evidence shall be necessary to establish this fact.

(2) With regard to a personality feature related to belonging to a community deemed significant, the court shall examine whether the violation of law offending the community is also capable of violating the personality rights of the person belonging to that community in general.

(3) No counter-claim or intervention shall be permitted in the action.

(4) The amount of the grievance award, determined with regard to the circumstances of the violation of law, including especially the weight and recurring nature of the violation, the extent of fault and the impact of the violation on the community, shall be awarded in one sum to which the plaintiffs seeking it shall be entitled jointly and severally.

CHAPTER XXXIX

LABOUR LAW ACTIONS

137. The definition of the labour law action and the application of the general rules

Section 508 *[Labour law action]*

(1) For the purposes of this Act, a labour law action means an action arising from a legal relationship established

a) on the basis of Act I of 2012 on the Labour Code (hereinafter the "Mt."),

b) for public employment,

c) for service, with the exceptions specified in an Act,

d) for community employment,

e) as an employment contract concluded on the basis of the Act on sports,

f) as a vocational training contract of employment concluded in the course of vocational training,

g) as a student employment contract, as defined in the Act on national higher education,

h) as a member's employment relationship with a social cooperative or employment cooperative

(hereinafter jointly "employment relationship").

(2) For the purposes of this Chapter, a labour law action means, in addition to the provisions laid down in paragraph (1), an action brought for the enforcement of other claims under labour law, as specified in section 285 (1) of the Mt.

(3) If any change occurs in the person of a party to the action due to assignment, assumption of debt, legal succession on the side of the employer or a change in the person of the employer, the action shall still qualify as a labour law action.

(4) An Act may require the application of the rules pertaining to labour law actions in matters other than those specified in paragraphs (1) and (2).

(5) A labour law action may only be linked to an action brought under this Act in a dispute arising between the employee and the employer in direct connection with their employment relationship.

(6) A party may also enforce a pecuniary claim by way of an order for payment, unless the subject matter of the action is the establishment, modification, change or termination of the legal relationship, or the culpable infringement of the employee's obligations arising from the employment relationship, or a legal consequence applied due to a disciplinary offence.

(7) After the commencement of an insolvency procedure, the employee may enforce, in a labour law action and against his insolvent employer, his pecuniary claim disputed by the insolvency administrator, arising from a claim under employment law and related to the assets forming part of the insolvency estate. The action shall be brought against the insolvent employer within thirty days of receiving the notice from the insolvency administrator on disputing the claim; under this Act, an application for excuse may be submitted if the time limit is missed. The time limit for submitting the statement of claim shall be deemed met if the submission addressed to the court is sent to its address as a registered delivery on the last day of the time limit. If a party seeks the amendment of his action in the labour law action, the submission of his request for the amendment of the action shall not relieve him from his obligation to give notice of his further pecuniary claims, as a creditor's claim, arising under employment law.

Section 509 *[Applying the general rules]*

(1) The provisions of this Act shall apply in labour law actions with the derogations specified in this Chapter and in Chapter XV. For the purposes of the provisions of Chapter XV, the district court shall be construed as the court proceeding in labour law actions.

(2) Joining the claim shall not be permitted in the proceedings.

138. Special rules on labour law actions

Section 510 *[Composition of courts proceeding in labour law actions]*

Unless otherwise provided by an Act, the court of first instance shall proceed in labour law actions with the participation of lay judges.

Section 511 *[Disqualification of judges]*

(1) Beyond the provisions laid down in sections 12 and 13, the following persons shall be disqualified from administering the action and shall not be allowed to participate in it as a judge:

a) the person who took or adopted the measure or decision challenged in the action,

b) a person who is a relative of the person subject to point *a)*, and

c) a person who was participating in the disciplinary or conciliation procedure, including participation as a witness or expert.

(2) The provisions laid down in paragraph (1) shall apply to the disqualification of the keeper of the minutes as well.

Section 512 *[The value of the subject matter of the action]*

(1) If the establishment, existence or termination of an employment relationship is disputed in the labour law action and the reinstatement of the employment relationship is sought, the sum payable as absentee pay for one year shall be taken into account as the value of the claim or other right enforced in the action, regardless of any amount that may actually be determined.

(2) If the subject matter of the action is a pecuniary claim or a wage differential, the claimed amount or the maximum wage differential payable during a period of one year, respectively, shall be taken into account as the value of the claim or other right enforced in the action.

Section 513 *[Material and territorial jurisdiction]*

(1) In the case of a joinder of parties or a joinder of claims, if

a) a claim falling within the material jurisdiction of a regional court is to be adjudicated in a labour law action, while the rest of the claims are to be adjudicated in an action other than a labour law action, or

b) a claim is to be adjudicated in a labour law action, while the rest of the claims fall within the material jurisdiction of a district court,

the action shall be adjudicated by the panel proceeding in labour law actions, provided that the joinder of parties or joinder of claims is permitted by an Act.

(2) In place of the court having general territorial jurisdiction over the defendant, an employee plaintiff may bring the action before a court proceeding in labour law actions that has territorial jurisdiction over the domicile or, in the absence thereof, place of residence in Hungary of the plaintiff.

(3) In place of the court having general territorial jurisdiction over the defendant, an employee plaintiff may bring the action also before the court proceeding in labour law actions within whose area of jurisdiction the plaintiff works or worked for a longer period.

(4) An employer plaintiff may bring the action exclusively before the court of the domicile or, in the absence thereof, place of residence in Hungary of the employee.

Section 514 *[Parties and representation]*

(1) A trade union, employers' representative organisation, works council or public employees' council may be a party to an action, even if it does not otherwise have the capacity to be a party.

(2) Unless otherwise provided by an Act, legal representation shall not be mandatory in the action, including any appeal or retrial procedure, as well as for the party submitting a statement of defence in the review procedure pertaining to the action.

(3) An employees' representative organisation may proceed as an agent in labour law actions related to its members.

Section 515 *[Measures taken on the basis of a statement of claim]*

(1) Upon request and in justified cases, the court may suspend the enforcement of the challenged decision or juridical act. A separate appeal may be filed against the order brought on the request.

(2) The court may also suspend *ex officio* the enforcement of the challenged decision or juridical act if, in connection with the legal dispute, it is justified by a person's interests of a special consideration requiring legal protection. A separate appeal may be filed against the order suspending enforcement.

Section 516 *[Proceeding as a matter of priority]*

(1) The court shall proceed as a matter of priority in an action for reinstating a terminated employment relationship and in the course of adjudicating a claim brought against an insolvent employer.

(2) In the event of proceeding as a matter of priority, during the preparatory stage,

a) the time limit for submitting a statement of defence or counter-claim shall be fifteen days,

b) the time limit applicable to the summons period shall be eight days,

c) the time limit for setting the preparatory hearing or continued preparatory hearing shall be one month.

(3) The time limit for setting the main hearing or the continued main hearing shall be one month.

Section 517 *[Proceedings of the court outside its seat]*

In justified cases, the court may set the hearing to be held in the official premises of a district court outside of its seat.

Section 518 *[Abandoning the action by the plaintiff]*

The plaintiff may abandon his action at any stage of the proceedings, without the consent of the defendant. If the plaintiff abandons his action after the conclusion of the first instance proceedings but before the judgment becomes final and binding, the judgment shall be set aside by the court of first instance, if the documents of the case have not yet been forwarded to the court of second instance, otherwise by the court of second instance.

Section 519 *[Special claim for legal protection]*

For the purposes of applying section 103 (1) *d)*, a request for the payment of wages or for a certificate of employment to be issued shall be deemed a ground deserving special consideration.

Section 520 *[Conciliation at the preparatory hearing]*

If the parties are present in person or by way of a representative at the preparatory hearing, the hearing shall commence with an attempt at conciliation to reach a settlement. To this end, the chair shall discuss the legal dispute with the parties in its entirety.

Section 521 *[Action brought for the legal consequences of unlawful termination of an employment relationship]*

(1) If, under section 82 (1) of the Mt., the plaintiff seeks to enforce a claim for income foregone as consideration for damages, the items of income foregone, broken down by titles and amounts, and, with regard to claiming damages for income foregone in an employment relationship, the amount corresponding to the absentee pay of the employee for a period of twelve months shall be indicated in the statement of claim, beyond the items required under section 170.

(2) If the plaintiff based his claim on section 82 (1) or 83 (3) of the Mt., the time limit for submitting a request for the amendment of the action, in the event of seeking to claim damages, wages foregone or other claims that occurred after the order closing the preparatory stage is adopted, shall be thirty days calculated from the date when the claim becomes due. With regard to a claim that becomes due after the first instance hearing is closed, the request for the amendment of the action may be submitted as part of the appeal and, with regard to a claim that becomes due after the appeal is submitted, the amendment of the action may be submitted within fifteen days after the claim becomes due.

(3) In a case specified in paragraph (2), a party may request the subsequent taking of evidence with regard to any part affected by the amendment of the action, provided that the amendment of the action is permitted by the court.

Section 522 *[The taking of evidence]*

(1) In a labour law action, the employer shall prove

a) the content of any collective agreement, any internal rules and instructions that are necessary for adjudicating the claim, and any document produced as part of the operation of the employer that is necessary for deciding on the legal dispute,

b) the correctness of calculations related to the claimed benefits, if disputed, and

c) the payment of any benefit, in the case of a wage dispute.

(2) If the substance of the interest to prove determined by the provisions of substantive labour law is in conflict with the provisions of this Act, the substantive provisions shall prevail.

Section 523 *[Review]*

(1) Review shall not be granted if the value disputed in the review application, or the value established by applying the provisions of section 21 (1) to (4) or section 21 (5) to joined actions accordingly, does not exceed five times the statutory minimum monthly wage prescribed for full time employment.

(2) If review would not be admissible under paragraph (1) while its possibility is not excluded by an Act for another reason, the Curia, with regard to the grounds specified in section 409 (2), may permit the acceptance of a review application as an exceptional measure.

Section 524 *[Retrial]*

If a request for retrial is submitted more than six months later, the employee

a) shall not claim the reinstatement of his employment relationship or the continuation of his employment in or at his original position or workplace, and

b) shall not raise a claim for wages for a period beyond six months prior to the submission of his request for retrial.

Section 525 *[Employee's legal aid]*

(1) If the absentee pay arising from the employment relationship subject to the labour law action does not exceed the amount specified by law, the employee participating in the procedure as a party shall be entitled to employee's legal aid.

(2) By virtue of employee's legal aid and unless otherwise provided by law, the party shall be entitled to cost exemption from the time of submitting the statement of claim and for the entire duration of the proceedings, including any enforcement procedure as well. Data pertaining to the employee's legal aid shall be indicated in, and the necessary documents shall be attached to the statement of claim. The court shall examine the party's entitlement *ex officio* on the basis of the attached documents.

(3) The court proceeding with respect to the appeal or review shall examine, *ex officio,* whether the conditions of entitlement to employee's legal aid have been met, regardless of the limits of the appeal or review application.

CHAPTER XL

ENFORCEMENT ACTIONS

139. Common rules

Section 526 *[The definition of enforcement actions]*

Enforcement action means an action brought for the termination or limitation of an enforcement procedure, an action of replevin, an action brought for acquiescing to seizure, an action brought for the recovery of claims, or an action brought for permission to participate in an enforcement procedure.

Section 527 *[Applying the general rules]*

The provisions of this Act shall apply in enforcement actions, with the derogations specified in this Chapter.

140. Action brought for the termination or limitation of an enforcement procedure

Section 528 *[The subject matter of the action]*

(1) The debtor may bring an action for the termination or limitation of an enforcement procedure ordered through a writ of enforcement or an equivalent enforceable document, if the fact to be presented in the action

a) occurred at a time when it was no longer possible to communicate it in the proceedings conducted prior to adopting the decision serving as the ground for issuing the enforceable document, or

b) occurred after the conclusion of the settlement serving as the ground for issuing the enforceable document.

(2) The debtor may bring an action for the termination or limitation of an enforcement procedure ordered through a document with an enforcement clause or an equivalent enforceable document, if

a) the limitation period regarding the claim to be enforced or the right to enforcement expired,

b) the claim ceased to exist in whole or in part,

c) the person seeking enforcement granted a moratorium for performance and the moratorium has not expired, or

d) the debtor seeks to enforce a claim that can be set off against the claim.

Section 529 *[Preliminary procedure]*

The action may be brought if, under the Act on judicial enforcement, the enforcement shall not be terminated or limited in the course of the enforcement procedure on the grounds to be presented in the action.

Section 530 *[Territorial jurisdiction; the value of the subject matter of the action]*

(1) The proceedings shall fall within the exclusive territorial jurisdiction of the district court that ordered the enforcement or, if the enforcement was not ordered by a district court, the district court of the domicile of the debtor.

(2) The value of the subject matter of the action shall be equal to the enforced amount, or to the part of it regarding which the termination of the right to enforcement is claimed.

Section 531 *[Bringing the action]*

(1) The action shall be brought against the person seeking enforcement.

(2) Beyond those specified in section 170, the statement of claim shall include

a) the name of the entity issuing the enforceable document, and the reference number of the enforceable document, and

b) the name and seat of the bailiff conducting the enforcement, and the enforcement case number.

(3) In addition to those specified in section 170 and in paragraph (2), the statement of claim launching the action for the limitation of the enforcement procedure shall also specify the part of the enforced claim regarding which the limitation is sought by the party.

(4) Beyond those specified in section 171, the document produced during the judicial enforcement procedure as the confirmation of meeting the condition specified in section 529 shall also be attached to the statement of claim.

Section 532 *[Stay of the proceedings]*

(1) The proceedings shall not be stayed in the cases described in section 121 (1) *a)* or *b)*. The court shall terminate the proceedings *ex officio* in the case described in section 121 (1) *b)*.

(2) In the cases specified in section 121 (1) *c)* to *f)*, the period of stay shall not exceed one month.

Section 533 *[Proceeding as a matter of priority]*

The court shall proceed in the action as a matter of priority.

Section 534 *[Suspension of enforcement]*

The proceeding court may suspend enforcement upon request until the action is completed with final and binding effect. A separate appeal may be filed against the decision on suspension. The related provisions of the Act on judicial enforcement shall apply to the suspension of enforcement.

Section 535 *[The communication of the statement of claim; the preparatory stage]*

(1) The statement of claim, in addition to being simultaneously served on the defendant, shall be sent by the court to the bailiff proceeding in the case, with a call to make a statement regarding the procedural acts taken by him, the costs incurred regarding the procedure, the fee

for the procedure, and the circumstances serving as the ground for his statement. The bailiff shall be notified of the due date of the hearing.

(2) The time limit for submitting a statement of defence or a counter-claim shall be fifteen days. The time limit for extending the time limit for submitting a written statement of defence shall be a maximum of fifteen days.

(3) At the preparatory stage, no further written preparation shall be ordered, and the summons period shall be eight days.

Section 536 *[Setting the date for the hearing]*

The time limit for setting the date for the hearing shall be one month.

Section 537 *[Decision on the costs of enforcement]*

If the bailiff presented his statement in the action, the court shall decide on the amount and bearing the costs of enforcement in its judgment delivered on terminating the enforcement procedure. With respect to the costs of enforcement, the bailiff may also file an appeal against the court's judgment.

141. Action of replevin

Section 538 *[The subject matter of the action]*

(1) A person may bring an action for the release of a seized asset from under seizure, if he claims the seized asset on the basis of his ownership right or another right that prevents the asset from being sold in the course of a judicial, administrative or tax enforcement proceedings.

(2) The person shall not claim the seized asset if he is responsible for the debt to be enforced to the same extent as the debtor. Nevertheless, if the responsibility of a spouse is limited only to his share of the common property, he may claim the item seized being his separate property.

(3) The person having the right of usufruct may not request the immovable property subject to his right of usufruct to be released from under seizure.

(4) Any of the co-owners may request independently the release of an asset in co-ownership from under seizure.

Section 539 *[Territorial jurisdiction; the value of the subject matter of the action]*

(1) With the exception specified in paragraph (2), the action shall fall within the exclusive territorial jurisdiction of the district court within whose area the seizure was performed.

(2) An action of replevin in relation to immovable property shall fall within the exclusive territorial jurisdiction of the district court for the location of the immovable property.

(3) The value of the subject matter of the action shall be equal to the value of the claim to be enforced, or to the value of the asset to be released from under seizure, if it is lower than the value of the claim.

Section 540 *[The bearing of litigation costs]*

The litigation costs incurred by the successful plaintiff shall not be reimbursed by the losing defendant, unless the losing defendant was present at the seizure and acted in bad faith. The general rules pertaining to bearing litigation costs shall apply with regard to litigation costs charged in the appeal proceedings.

Section 541 *[Suspension of enforcement]*

The proceeding court may suspend the enforcement upon request until the action is completed with final and binding effect, but only with regard to the claimed asset. A separate appeal may be filed against the decision on suspension. The related provisions of the Act on judicial enforcement shall apply to the suspension of enforcement.

Section 542 *[Bringing the action]*

(1) The action shall be brought against the person seeking enforcement. If the asset was seized with a view to enforcing the claims of multiple persons seeking enforcement, the action shall be brought against all persons seeking enforcement.

(2) In the event of the enforcement of a criminal claim imposed by a decision adopted in a criminal proceeding as specified in the Act on enforcement procedures applied by the tax authority, including any sequestration ordered in a criminal proceeding to secure such a claim, the action of replevin shall be brought against the person entitled to act on behalf of the State as the holder of the claim.

(3) If sequestration was ordered in a criminal proceeding to secure a civil claim, the action of replevin shall be brought against the aggrieved party or the civil party.

(4) The person seeking enforcement may be a party in the action, even if he otherwise does not have the capacity to be a party.

(5) Beyond those specified in section 170, the statement of claim shall specify the name and seat of the bailiff conducting the enforcement procedure, as well as the enforcement case number.

Section 543 *[The communication of the statement of claim; the counter-claim]*

(1) In an action of replevin of suspensive effect, the court shall proceed as a matter of priority regarding the examination of the statement of claim and the communication of the claim.

(2) At the time of serving the statement of claim on the defendant, the court shall simultaneously notify the bailiff of the action of replevin of suspensive effect, as well as the authority responsible for immovable property in the event of an action of replevin in relation to real estate.

(3) Counter-claim shall not be permitted in the proceedings.

Section 544 *[The decision of the court]*

(1) If the action of replevin is upheld by the court, the requested asset shall be released from under seizure. If the asset has been sold already and the amount of the purchase price is available on the deposit account of the bailiff, the court shall order that amount to be released.

(2) If an action of replevin brought by a person having the right of usufruct for the release of an asset subject to his right of usufruct is upheld by the court, the asset shall be released from under seizure only with regard to the person having the right of usufruct, with the proviso that the asset shall not be sold before the right of usufruct terminates.

(3) A final and binding decision adopted in an action of replevin shall be served on the plaintiff, and a final and binding decision adopted in an action of replevin in relation to real estate shall be served on the authority responsible for immovable property.

Section 545 *[Retrial]*

With regard to the main subject matter of the action, retrial shall not be brought against a judgment delivered in the action.

Section 546 *[The subject matter of the action of replevin related to matrimonial community of property]*

If an asset forming part of the matrimonial community of property is seized due to a debt that is borne by one of the spouses only, the other spouse may bring an action of replevin for the release of the asset from under seizure to the extent of his share of the common property.

Section 547 *[Territorial jurisdiction concerning an action of replevin related to matrimonial community of property]*

If multiple assets are seized from a matrimonial community of property during the enforcement proceedings, the plaintiff may bring the action before any of the courts being competent pursuant to section 539. In the course of the action, the proceeding court shall have

exclusive territorial jurisdiction over any other action of replevin related to matrimonial community of property and filed with regard to any asset belonging to the same matrimonial community of property.

Section 548 *[Bringing the action of replevin related to matrimonial community of property]*

The action for replevin related to matrimonial community of property shall be brought against the debtor (the spouse of the plaintiff bringing the action) as well.

Section 549 *[Decision on the merits of the action of replevin related to matrimonial community of property]*

(1) In an action of replevin related to matrimonial community of property, the court shall decide while taking into account all assets seized from the matrimonial community of property.

(2) If the action of replevin is upheld by the court, the specific items with a value corresponding to the share from the common property of the person claiming the assets shall be released from under seizure. If the person claiming the assets cannot be satisfied completely by this measure, the court shall release certain items from under seizure with the condition that the person claiming the assets shall pay any difference in value exceeding his share of the common property to the deposit account of the bailiff within fifteen days. If the person claiming the assets fails to do so or does not undertake this during the action, the court shall order the specific item to be sold, and the part of the purchase price corresponding to the share from the common property of that person to be released.

(3) The assets released from under seizure shall become part of the separate property of the spouse bringing the action of replevin, while the assets not released shall become part of the debtor's separate property.

Section 550 *[Action of replevin related to an asset under co-ownership]*

Section 549 shall apply in any action of replevin related to an asset in co-ownership.

142. Action for acquiescing to seizure

Section 551 *[Counter-claim]*

In an action brought by a person seeking enforcement under the Act on judicial enforcement against a third party for acquiescing to the seizure of movables in the ownership of the debtor, a counter-claim shall not be permissible.

Section 552 *[The bearing of litigation costs]*

If the third party omits to make the statement pertaining to the movables of the debtor despite being called upon to do so by the bailiff, he shall reimburse the litigation costs incurred by the person seeking enforcement, regardless of the outcome of the action.

143. Action for the recovery of claims

Section 553 *[Counter-claim]*

Counter-claim shall not be permissible in an action brought by a party seeking enforcement under the Act on judicial enforcement against a third party for the enforcement of the debtor's claim against that third party.

Section 554 *[The bearing of litigation costs]*

If, despite being called upon to do so by the bailiff, the third party omits to make the statement pertaining to the debtor's claim, to pay the claimed amount or to place the subject matter of the claim in deposit, he shall reimburse the litigation costs incurred by the person seeking enforcement, regardless of the outcome of the action.

144. Action for permission to participate in an enforcement procedure

Section 555 *[Preliminary procedure]*

The pledgee may bring an action for permission to participate in the enforcement procedure, if his request was dismissed by the court in a judicial enforcement procedure, conducted in accordance with the Act on judicial enforcement, because the debtor or the person seeking enforcement disputed the legal basis or amount of the claim secured by the lien, or disputed the legal basis or amount in the case of a seceded lien, and substantiated the veracity of his statements.

Section 556 *[Territorial jurisdiction]*

The court that dismissed the request of the pledgee in the judicial enforcement procedure shall have exclusive territorial jurisdiction over the action.

Section 557 *[Bringing the action]*

(1) The action shall be brought against the debtor or the person seeking enforcement who disputed the legal basis or amount.

(2) Beyond those specified in section 170, the statement of claim shall also specify the name and seat of the bailiff conducting the enforcement procedure, as well as the enforcement case number.

(3) Beyond those specified in section 171, the court decision confirming that the condition specified in section 555 with respect to bringing the action is met shall be attached to the statement of claim.

Section 558 *[Proceeding as a matter of priority]*

The court shall proceed in the action as a matter of priority.

Section 559 *[Suspension of enforcement]*

The proceeding court may suspend the enforcement until the action is completed with final and binding effect. A separate appeal may be filed against the decision on suspension. The related provisions of the Act on judicial enforcement shall apply to the suspension of enforcement.

Section 560 *[The communication of the statement of claim; the preparatory stage; setting the date for the hearing]*

(1) The time limit for submitting the statement of defence shall be fifteen days. The time limit for extending the time limit for submitting a written statement of defence shall be a maximum fifteen days.

(2) Counter-claim shall not be permitted in the action.

(3) At the preparatory stage, no further written preparations may be ordered, and the summons period shall be eight days.

(4) The time limit for setting a date for the hearing shall be one month.

Section 561 *[Decision on the merits]*

The provisions laid down in the Act on judicial enforcement regarding the establishment of the entitlement to the right to satisfaction shall apply in the course of adjudicating the action.

CHAPTER XLI

ACTION BROUGHT *FOR CHANGING THE DECISION OF A LOCAL GOVERNMENT CLERK ADOPTED IN A POSSESSORY MATTER*

145. Applying the general rules

Section 562 *[Applying the general rules]*

The provisions of this Act shall apply in an action brought for changing the decision of a local government clerk adopted in a possessory matter (hereinafter "possessory decision"), with the derogations specified in this Chapter.

146. Special rules on the action brought for changing the decision of a local government clerk adopted on a possessory matter

Section 563 *[Disqualification of judges]*

(1) Beyond the provisions laid down in sections 12 and 13, the following persons shall be disqualified from administering the action and shall not be allowed to participate in it as a judge:

a) a person who participated in adopting the possessory decision as an administrator,

b) a relative of the person specified in point *a)*,

c) a former employee of the office headed by the local government clerk adopting the possessory decision, for a period of two years after the termination of his employment, and

d) a person who was interviewed as a witness or expert during the proceedings concerning the adoption of the possessory decision.

(2) The provisions laid down in paragraph (1) shall also apply to the disqualification of the keeper of the minutes.

Section 564 *[The disqualification of an expert]*

A person subject to a ground for disqualification specified in section 563 (1) *a)* to *c)* shall not participate in the action as an expert.

Section 565 *[Territorial jurisdiction]*

The court of the seat of the local government clerk adopting the possessory decision shall have exclusive territorial jurisdiction over the action.

Section 566 *[Bringing the action]*

(1) Beyond those specified in section 170, the statement of claim shall include

a) the name of the office headed by the local government clerk adopting the possessory decision to be changed, and the reference number of the possessory decision, and

b) if applicable, a reference indicating that the authorisation submitted by the legal representative during the procedure for adopting the possessory decision extends to the action as well.

(2) The statement of claim shall be submitted to the local government clerk adopting the possessory decision. The local government clerk shall forward the statement of claim and the documents of the case to the court within eight days.

(3) An application for excuse may be submitted if a party misses the time limit for submitting the statement of claim. The court shall decide on the application for excuse. The local government clerk shall not dismiss a late statement of claim, but shall forward it to the court, even if the party did not submit an application for excuse.

(4) If the statement of claim is filed by the party with the court having material and territorial jurisdiction over the action, and the data required to identify the possessory procedure are available, the court, within eight days from receiving the statement of claim, shall request the local government clerk who conducted the proceedings to forward the

documents of the case. The local government clerk shall comply with the request of the court within eight days. The statement of claim shall be deemed submitted in due time, if it is submitted to the court within the time limit for bringing an action as specified in the Ptk. If the statement of claim was filed by the party with a court other than the court with material and territorial jurisdiction over the action, the court shall order the statement of claim to be transferred to the court with material and territorial jurisdiction over the action.

Section 567 *[Suspending the enforcement of a possessory decision]*

(1) A request for the suspension of the enforcement of the possessory decision shall be decided by the court as a matter of priority and after interviewing the parties, if necessary.

(2) A separate appeal may be filed against the order adopted by the court concerning the suspension of enforcement. The court's order suspending enforcement shall be enforceable, regardless of any appeal.

(3) The court shall send its order suspending enforcement to the local government clerk without delay.

Section 568 *[Prohibition of issuing a court injunction]*

A court injunction shall not be issued in an action brought for changing a possessory decision.

Section 569 *[The judgment]*

(1) The action shall be dismissed by the court if the possessory decision is correct on the merits, otherwise the possessory decision shall be changed in whole or in part.

(2) If the possessory decision is changed by the court, a decision shall also be made regarding any benefit, damage or costs covered by the possessory decision, even if the action brought by the party interested was limited to the matter of possession.

(3) Review shall not be granted against the judgment.

Section 570 *[The rules on electronic communication]*

(1) The provisions laid down in Chapter XLVI shall apply in an action brought for changing a possessory decision, with the derogations specified in this section.

(2) If the statement of claim is submitted by the party to the local government clerk adopting the possessory decision, the local government clerk adopting the possessory decision shall arrange for

a) the digitisation of the documents of the case serving as ground for the decision, if the statement of claim was submitted electronically, and

b) for the digitisation of the submitted statement of claim and its attachments submitted as paper-based documents, for the storage of the paper-based documents, and the digitisation of the documents of the case serving as ground for the decision, if the statement of claim was submitted as a paper-based document.

(3) If the statement of claim was brought by the party before the court having material and territorial jurisdiction over the action, the court, during its procedure specified in section 566 (4), shall call upon the local government clerk adopting the possessory decision to forward the documents in a digital format.

PART EIGHT

ACTIONS RELATING TO THE COLLECTIVE ENFORCEMENT OF RIGHTS

CHAPTER XLII

ACTION BROUGHT IN THE PUBLIC INTEREST

147. Applying the rules relating to actions brought in the public interest and the general rules

Section 571 *[Applying the rules relating to the actions brought in the public interest]*

The provisions laid down in this Chapter shall apply if an Act authorising the bringing of an action to protect the interests of the public provides that the action brought in the public interest (hereinafter "action in the public interest") is to be conducted in accordance with the provisions laid down in this Chapter.

Section 572 *[The application of the general rules]*

The provisions of this Act shall apply in actions in the public interest, with the derogations specified in this Chapter.

148. Special rules

Section 573 *[The composition of the court; parties; intervention]*

(1) If justified by the extraordinary complexity of the action in the public interest, a sole judge may order, before the order closing the preparatory stage is adopted, the case to be heard by a panel of three professional judges. A case referred to a panel shall not be conducted by a sole judge subsequently.

(2) In an action in the public interest, the persons for whose benefit, or enforcement of whose claim the action in the public interest is brought (hereinafter "beneficiaries") shall not be regarded as parties.

(3) Intervention shall not be permitted in an action in the public interest.

Section 574 *[Bringing the action]*

(1) Beyond those specified in section 170, the statement of claim shall also name the beneficiaries of the action in the public interest and the method of attesting that the individual beneficiaries belong to the respective group of beneficiaries, in order to entitle them to benefit from performances under the judgment or from the application of the judgment.

(2) The beneficiaries concerned shall be defined by presenting the facts and circumstances by which the relevant group of beneficiaries can be determined, and by which the identical nature of the beneficiaries' direct concern can be established.

(3) An action for declaratory judgment may be brought during the action, even if imposing a uniform obligation is not possible, because the amount to be awarded to the beneficiaries concerned or the facts serving as basis for such an award are not identical, but such uniformity exists concerning the rights, the declaration of which was sought.

Section 575 *[The termination of the procedure]*

The proceedings shall be terminated *ex officio*, if the concerns of the beneficiaries are not identical. The proceedings shall also be terminated *ex officio* if it is not possible to specify in a uniform manner the method of attesting the fact of belonging to the group of beneficiaries concerned, or if, in the opinion of the court, there is no uniform method of attestation that would be suitable for proving the fact of belonging to the group of beneficiaries concerned.

Section 576 *[Joining]*

If multiple plaintiffs brought multiple actions in the public interest, in which the group of beneficiaries, the right to be enforced and the defendants are identical, the court may or, at the

request of any party, shall order such actions in the public interest to be joined. Joining may also be ordered if the actions are pending before different courts with the same material jurisdiction. In such a situation, the court with exclusive territorial jurisdiction or, in the absence of such a court, the court of the domicile of the defendant shall be entitled to order the actions to be joined. Actions shall not be joined on any other ground.

Section 577 *[The content of the judgment]*

(1) In accordance with section 574 (1), the beneficiaries concerned and subject to the judgment, as well as the method of attesting that they belong to the group of beneficiaries concerned, shall be named in the judgment.

(2) If the plaintiff is successful in the action, the defendant shall be obliged by the judgment to perform towards the beneficiaries concerned. With regard to the litigation costs, the losing plaintiff shall be obliged to pay, and the succeeding plaintiff shall be entitled to the payment of the litigation costs, respectively.

Section 578 *[Res judicata effect]*

(1) A judgment delivered in an action in the public interest shall have *res judicata* effect regarding any new action that may be brought by the defendant, as well as any new action that may be brought by any of the beneficiaries concerned who meet the following conditions:

a) the defendant informs the beneficiary concerned, individually and in writing, of the final and binding judgment delivered in the action within thirty days after the communication of the judgment,

b) the defendant also indicated in the notice that the *res judicata* effect of the judgment extends to the beneficiary concerned, unless the beneficiary notifies the defendant within sixty days of receiving the notice of the reservation of his right to bring an individual action, and

c) the beneficiary concerned did not give the notice referred to in point *b)*.

(2) The beneficiaries concerned who are not notified by the defendant in the manner specified in paragraph (1) shall be deemed as having reserved their right to bring an individual action.

(3) If an individual or associated action brought by a person qualifying as a beneficiary concerned is not completed with final and binding effect before the judgment delivered in the action in the public interest becomes final and binding, the notice referred to in paragraph (1) shall be given by the defendant by way of making a statement during this action, and the plaintiff shall respond within thirty days. The court shall decide on the manner of continuing the proceedings on the basis of the response given by the plaintiff.

(4) If, on the basis of the response given by the plaintiff, the *res judicata* effect of the judgment delivered in the action in the public interest also extends to the individual or associated action, the proceedings shall be terminated by the court *ex officio*. If the defendant is the losing party in the public interest action, he shall be obliged to reimburse the litigation costs at the time of terminating the individual or associated action.

Section 579 *[The impact of an action in the public interest on the statute of limitations]*

For the purposes of section 6:25 (1) *c)* of the Ptk., bringing an action in the public interest shall be deemed as the enforcement of the claim with respect to the beneficiaries concerned. If the action is dismissed, the statute of limitations shall be suspended during the period between bringing and dismissing the action with regard to the beneficiaries who reserved their right to bring an individual action under section 578.

CHAPTER XLIII

ASSOCIATED ACTIONS

149. The definition of an associated action and the application of the general rules

Section 580 *[The definition of an associated action]*

An associated action means an action brought and conducted in accordance with the rules laid down in this Chapter.

Section 581 *[Applying the general rules]*

The provisions of this Act shall apply in associated actions, with the derogations specified in this Chapter.

150. Special rules

Section 582 *[The composition of the court; representation of the parties]*

(1) If justified by the extraordinary complexity or special social significance of an associated action falling within the material jurisdiction of a regional court, a sole judge may order, before the order closing the preparatory stage is adopted, that the case is to be heard by a panel of three professional judges. A case referred to a panel shall not be conducted by a sole judge subsequently.

(2) Legal representation in the proceedings shall be mandatory.

Section 583 *[Matters suitable for being adjudicated in an associated action]*

(1) At least ten plaintiffs may enforce one or more rights the content of which is identical regarding all plaintiffs (hereinafter "representative right") in an associated action, provided that the facts serving as grounds for the representative right are substantially identical regarding all plaintiffs (hereinafter "representative facts"), and the court permits the associated action.

(2) An associated action may be brought in the following cases only:

a) to enforce a claim arising from a consumer contract,

b) in a labour law action in accordance with Chapter XXXIX, or

c) to enforce claims or claims for compensation for damage arising from any damage to health directly caused by an unforeseeable pollution of the environment due to human activity or omission.

Section 584 *[Request for permission; the content of the statement of claim]*

(1) A request for permission to bring an associated action shall be submitted as part of the statement of claim. The request shall specify

a) the associated plaintiffs and the fact of their association,

b) the plaintiff who is to proceed individually on behalf of the associated plaintiffs during the action (hereinafter "representative plaintiff"), and the substitute representative plaintiff,

c) a reference to the authorisation granted by the representative plaintiff to the legal representative to litigate,

d) the representative right,

e) the representative facts,

f) the description of the means or method that can verify that each plaintiff is a person with regard to whom the representative facts exist and, on that basis, they are entitled to the representative right (for the purposes of this Chapter, hereinafter "linking"), and

g) a reference to the contract of associated litigation.

(2) The authorisation referred to in paragraph (1) *c)* and the contract of associated litigation referred to in paragraph (1) *g)* shall be attached to the request.

(3) The statement of claim launching the associated action and the request for permission may be submitted by the representative plaintiff.

(4) In an action to impose an obligation, the claims of each plaintiff shall be specified separately in the statement of claim.

Section 585 *[Decision on permission]*

(1) The court shall dismiss the request for permission to launch an associated action if it is finds at the preparatory stage that

a) the number of plaintiffs is less than ten,

b) the subject at issue is not a legal dispute as specified in section 583 (2),

c) the claimed right is not of representative character,

d) the facts serving as grounds for the claimed right are not of representative character,

e) the indicated means or method of verifying the link is unsuitable for this purpose,

f) permitting an associated action would be inexpedient, since the considerable time or effort needed to decide on a matter specified in points *c)* to *e)* or to verify the link would exceed the effectiveness related to the advantages of conducting an associated action.

(2) Permission shall be granted in cases not falling under paragraph (1).

(3) A decision on permission for an associated action shall be adopted within sixty days after submitting the statement of claim, but not later than the closing of the preparatory stage. In the order permitting the submission of an associated action, the court shall specify the representative right to be considered, the representative facts, the means of verifying the link, and the time limit open for actually verifying the link.

(4) If the request for permission is dismissed, the proceedings shall be terminated simultaneously. The legal effects of submitting the statement of claim shall persist regarding the plaintiffs who submit the statement of claim in the proper manner within thirty days after the final and binding date of the order either individually or in accordance with the rules on associated actions, or who enforce their claim by other regular means.

(5) A separate appeal may be filed against the order deciding on the request for permission or against the order terminating the proceedings. The appeal shall be adjudicated by the court of second instance within thirty days. The proceedings shall only be continued after the order becomes final and binding.

Section 586 *[Contract of associated litigation]*

(1) Before bringing an associated action, those seeking to enforce their rights by way of associated litigation shall enter into a contract of associated litigation in writing. The contract of associated litigation shall specify

a) the plaintiffs in the associated action (for the purposes of this section, hereinafter "parties"),

b) the representative plaintiff,

c) the substitute representative plaintiff,

d) the legal representative authorised to conduct the associated action,

e) the costs pertaining to the conclusion of the contract of associated litigation and to the preparation of the associated action, as well as the rules of advancing, bearing and sharing the litigation costs of the associated action,

f) the obligations of the parties pertaining to providing the litigation documents,

g) the rules concerning the liability of the representative plaintiff, including especially the manner and means of his liability for damages arising from unprofessional litigation,

h) the rules as to whether a new party may join the contract of associated litigation after the associated action is launched, and whether the contracting parties can terminate the contract of associated litigation unilaterally,

i) an express prohibition or entitlement to enter into a settlement, with the proviso that, with regard to any entitlement to settle, the minimum amount and other conditions to be included in the settlement shall be specified; the parties may also agree that their approval shall be sought for any settlement by sending them the draft settlement agreement,

j) whether or not the prior approval of the parties shall be required for the representative plaintiff to make certain statements or perform acts in the court proceedings,

k) the rules under which the representative plaintiff shall inform the parties of the progress of the case and the manner in which he shall allow the parties to obtain information on and monitor his conducting of the proceedings

l) the fact that any amount of money or other thing or right awarded or due to the parties in the associated action or in the approved settlement shall be divided among the plaintiffs in proportion to their original claims,

m) information pertaining to the *res judicata* effect of the judgment delivered in the associated action, specifying the factual basis and the rights covered,

n) the cases and conditions for dissolving the contract of associated litigation.

(2) The parties shall not agree to an allocation plan that is inconsistent with paragraph (1) *l)*.

(3) If the contract of associated litigation does not contain all the components required under paragraph (1), or the content of the contract is inconsistent with a mandatorily applicable provision, the statement of claim shall be rejected by the court. No notice to remedy deficiencies shall be issued before such rejection. A separate appeal may be filed against this order. The legal effects of submitting the statement of claim shall persist regarding those plaintiffs who submit their statement of claim within thirty days after the final and binding date of the order, either individually or in accordance with the rules on associated actions, or who enforce their claim by other proper means.

(4) The court shall not be responsible for monitoring whether the representative plaintiff acts in the action in accordance with the contract of associated litigation.

Section 587 *[Entry into the action, exiting the action, interruption]*

(1) A person may enter the associated action as a new plaintiff or may exit the associated action during the preparatory stage only and subject to the permission of the court. The representative plaintiff may seek the permission of the court to allow any entry into or exit from the action only once, in an aggregate manner. The court shall grant its permission, if the entry into or exit from the action does not result in a change to the circumstances taken into account when deciding to permit the associated litigation that would require the repetition or any significant modification of the content of any earlier preparatory acts. To confirm the entry into or exit from the action, a statement of joining the contract of associated litigation by the plaintiffs entering the action and a statement of unilateral termination by the plaintiffs exiting the action shall be submitted.

(2) If the representative plaintiff dies or terminates with or without succession, the substitute specified in the statement of claim shall continue to act as the representative plaintiff. The substitute representative plaintiff shall notify the court of this fact. The proceedings shall not be interrupted if any other plaintiff dies or is terminated with or without legal succession; if the legal successor is notified to the court by the representative plaintiff, the court shall rule to the benefit or against the legal successor of the respective plaintiff in its judgment.

Section 588 *[Inspection of documents]*

A defendant or intervenor shall not be allowed to inspect or make any copy of the contract of associated litigation.

Section 589 *[The uniformity of the procedural rights of the plaintiffs]*

(1) In an associated action, the rights of the plaintiffs may be exercised by the representative plaintiff exclusively, with the exception specified in paragraph (3). The contractual limitation

of this right of the representative plaintiff shall not affect the validity or effect of any statement or act made in the court proceedings by the representative plaintiff.

(2) The procedural rights of the plaintiffs shall be unitary and may be exercised in a uniform manner only.

(3) The plaintiffs may be present at the hearing, even if it is conducted with the exclusion of the public, and they may also inspect the documents of the case.

Section 590 *[The subject matter of the action; the content of the judgment; appeal; retrial]*

(1) In an associated action, the court shall adopt a single decision on the action of the plaintiffs; this single decision shall be adopted with respect to the representative right and on the basis of the facts established with regard to the representative facts.

(2) If the court finds against the defendant, it shall adopt its judgment for the benefit of those plaintiffs with regard to whom the linking was actually verified within the prescribed time limit.

(3) In a decision on litigation costs, it shall be the representative plaintiff who is obliged or benefitted.

(4) If the action of one or more plaintiffs is dismissed by the court due to their failure to verify the link, the representative plaintiff may file an appeal against the judgment on this ground even only on behalf of the plaintiffs concerned. This rule shall apply accordingly in retrials.

Section 591 *[The relationship between actions having identical subject matter]*

(1) If there are multiple associated actions in progress in which identical questions of law or fact need to be assessed, such associated actions shall not be suspended with regard to each other.

(2) If the subject matter of an action in the public interest and that of an associated action are identical, the court may, at the request of the representative plaintiff, suspend the associated action with regard to the action in the public interest until it is decided with final and binding effect. After the judgment delivered in the action in the public interest becomes final and binding, the provisions laid down in section 578 (3) shall apply.

(3) A judgment delivered in an associated action shall have no *res judicata* effect regarding another associated action pertaining to the same subject matter, regarding other individual actions brought by persons other than the associated plaintiffs pertaining to the same subject matter, or an action in the public interest pertaining to the same subject matter.

PART NINE

RULES ON INTERNATIONAL CIVIL PROCEDURES

CHAPTER XLIV

GENERAL RULES APPLICABLE IN CASES HAVING A FOREIGN ELEMENT

151. Introductory provisions

Section 592 *[Scope]*

The provisions laid down in this Chapter shall apply, unless otherwise provided by an international treaty or a binding legal act of the European Union.

152. The probative value of foreign documents in Hungarian proceedings

Section 593 *[Foreign public deeds]*

The provisions laid down in section 323 shall apply to foreign public deeds, provided that the foreign public deed was legalised by the competent Hungarian diplomatic mission of the

place of issue, unless another requirement is specified in an international treaty entered into with the country in which it was issued.

Section 594 *[Foreign private deeds]*

The provisions laid down in section 325 shall apply to foreign private deeds, with the proviso that

a) a deed issued as proof of a legal transaction shall retain its probative value according to the law of the country of issue, even if it does not meet the provisions laid down in section 325,

b) unless otherwise provided by an Act, an authorisation, and a statement issued for litigation purposes, or another private deed specified in a decree of the minister responsible for justice, as necessary, shall only have the probative value defined in section 325 if authenticated or legalised by the Hungarian diplomatic mission of the place of issue, unless another requirement is specified in an international treaty entered into with the country of issue.

153. Security for litigation costs and legal aid

Section 595 *[Security for litigation costs]*

(1) A plaintiff whose domicile, seat or habitual place of residence is not in a Member State of the European Union, in a state party to the Agreement on the European Economic Area, or in another country regarded as the same according to an international treaty, shall, at the request of the defendant, provide security covering the litigation costs of the defendant, unless

a) provided otherwise by an international agreement entered into by the Hungarian State,

b) the plaintiff was granted cost exemption due to personal circumstances, or

c) the plaintiff has a claim acknowledged by the defendant, an immovable property in Hungary or another asset registered in a register of certified authenticity that serves as appropriate security.

(2) If a counter-claim is submitted by the defendant, he shall not be obliged to provide security for covering the litigation costs.

(3) The defendant may submit a request for security in his written statement of defence at the latest only if he became aware of the conditions of the obligation to provide security subsequently and without any fault on his part.

(4) The value of assets serving as appropriate security shall be specified and substantiated by the plaintiff.

(5) If the request is granted by the court, it shall specify the amount of the security and call upon the plaintiff to deposit the specified amount with the court within an appropriate time limit. The court shall specify the amount of the security with regard to the expected litigation costs to be incurred by the defendant, the amount of any claim acknowledged by the defendant and the value of the assets specified in paragraph (1) *c)*.

(6) If any substantial change occurs subsequently with regard to the circumstances specified in paragraph (5), the court shall modify the amount of the security at the request of a party and after interviewing the opposing party. In the course of doing so, the court shall proceed in accordance with paragraph (5), or shall order the repayment of a specified part of the deposited amount. A separate appeal may be filed against an order on repayment.

(7) If the reason for providing security ceases to exist during the action, the court shall order the repayment of the entire deposited amount at the request of the plaintiff and after interviewing the defendant. A separate appeal may be filed against this order.

(8) The defendant may file a separate appeal against the order rejecting or dismissing the request for security.

Section 596 *[Security for litigation costs in second instance proceedings]*

(1) The plaintiff may be obliged to provide additional security in appeal proceedings at the request of the defendant, if the appeal was filed by the plaintiff and the defendant substantiates that the awarded part of the claim does not provide sufficient security.

(2) If the plaintiff does not provide any security despite an order adopted under paragraph (1), the chair of the second instance panel shall reject the appeal filed by the plaintiff at the request of the defendant requesting additional security.

Section 597 *[Cost exemption due to personal circumstances and cost deferral due to personal circumstances]*

(1) Cost exemption due to personal circumstances and cost deferral due to personal circumstances may be granted to a citizen of a Member State of the European Union and a citizen of a country outside the European Union who is staying in a Member State of the European Union legally, under the same conditions as those applicable to Hungarian citizens, while cost exemption due to personal circumstances and cost deferral due to personal circumstances shall be granted to citizens of any other country by virtue of international treaties.

(2) With regard to a citizen of a Member State of the European Union and a citizen of a country outside the European Union who is staying in a Member State of the European Union legally, the cost exemption shall also include the cost of travelling to the hearing, if the presence of the party at the hearing is mandatory by an Act.

(3) If the law of the foreign country affords a Hungarian party more extensive benefits before the foreign court than cost deferral due to the subject matter of the action, these more beneficial rules shall also apply during the proceedings with regard to a foreign party litigating before a Hungarian court.

CHAPTER XLV

SPECIAL RULES APPLICABLE IN CASES HAVING A FOREIGN ELEMENT

154. The European small claims procedure

Section 598 *[The application of the general rules]*

The provisions of this Act shall apply to matters not regulated by Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure (for the purposes of this Subtitle, hereinafter "Regulation"), with the derogations specified in this Subtitle.

Section 599 *[Material and territorial jurisdiction]*

The proceedings shall fall within the material and exclusive territorial jurisdiction of the district court operating at the seat of a regional court or, in Budapest, the Buda Central District Court.

Section 600 *[Bringing the action]*

(1) The plaintiff may also present his action orally at the district court with territorial jurisdiction over the action and the court shall record the action on a template form standard for such purposes.

(2) If the claim enforced in the action does not fall within the material scope of the Regulation, the court shall proceed according to the general rules, without applying the provisions laid down in this Part.

(3) If the value of the counter-claim, calculated as of the time of submitting the counter-claim to the court and according to the provisions of this Act on establishing the value of the subject matter of the action, exceeds the value limit specified in Article 2 (1) of the

Regulation, the court shall adjudicate the action and the counter-claim in accordance with the general rules.

(4) The provisions of the Regulation shall apply to the content of the statement of claim. All issues not regulated therein shall be subject to the provisions laid down in this Act regarding the statement of claim.

(5) The court shall not oblige the party to submit a certified translation of a document submitted by him, unless the factual situation cannot be established in any other way.

Section 601 *[Appeal]*

An appeal may be filed against the judgment, and it shall be adjudicated in accordance with the general rules.

Section 602 *[Review in accordance with the Regulation]*

(1) The provisions laid down in this Act regarding applications for excuse for omission shall apply to the review specified in Article 18 (1) *(a)* and *(b)* of the Regulation.

(2) No application for excuse shall be accepted for missing the time limit open for submitting a review application.

(3) No appeal can be filed against an order dismissing the review application *ex officio*.

155. The European order for payment procedure

Section 603 *[Specific procedural rules]*

(1) The provisions laid down in this Act shall apply with the derogations specified in this Subtitle, if a European order for payment procedure according to Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 on creating a European order for payment procedure (for the purposes of this Subtitle, hereinafter "Regulation") is transformed to a court action.

(2) If the application is rejected under Article 11 of the Regulation, the entitled person may bring an action before a court. In such an event, the legal effects of submitting an application for a European order for payment shall persist if the statement of claim is submitted to the court by the entitled person within thirty days of the service of the order on such rejection. No application for excuse shall be accepted for missing this time limit. The submission and service of an application for a European order for payment shall have the same effect as submitting and serving a statement of claim.

(3) In the case of transfer of a European order for payment procedure to a court action, the court, after receiving the notarial documents of the case, shall arrange for the notification, request, information and notice pursuant to the Fmhtv. to be communicated to the plaintiff, with the proviso that a time limit of thirty days shall be set for meeting the conditions defined in the request.

(4) Unless it follows otherwise from the provisions of the Regulation, the provisions pertaining to the examination of the admissibility of retrial shall apply to the review mentioned in Article 20 (2) of the Regulation.

PART TEN

THE APPLICATION OF ELECTRONIC TECHNOLOGIES AND DEVICES

CHAPTER XLVI

COMMUNICATION BY ELECTRONIC MEANS

156. Applying the provisions of this Act in the course of communication by electronic means; the use of communication by electronic means

Section 604 *[Cross-reference rule]*

For communication by electronic means, the provisions of this Act shall apply with the derogations specified in this Chapter.

Section 605 *[The option to communicate by electronic means]*

(1) If a party or his representative other than a legal representative is not obliged to engage in communication by electronic means during the action, he may submit the statement of claim or any other submission, attachment, or document (for the purposes of this Chapter, hereinafter "submission") by electronic means at his own discretion, in a manner specified in the Act on electronic administration and its implementing decrees, with the exception specified in paragraph (5).

(2) The notification pertaining to choosing communication by electronic means shall be given by the party or representative to the proceeding court at any stage of the proceedings. The filing of a submission by electronic means shall be deemed as accepting the use of electronic means as specified in paragraph (1).

(3) If communication by electronic means is chosen according to paragraph (1), the party and his representative shall communicate with the court by electronic means in the course of the action, including all stages of the proceedings and any extraordinary procedural remedy, and the court shall serve all judicial documents by electronic means.

(4) If a party or his representative other than a legal representative does not agree to the service of documents by electronic means then, while electronic service is mandatory for, or accepted by, the other party, all paper-based documents submitted by the party shall be digitised by the court and served on the other party by electronic means.

(5) If a party who is not obliged or did not accept to communicate by electronic means participates in the proceedings through a legal representative or another representative who accepts the use of electronic means of communication, judicial documents shall be served on the party as paper-based documents, if such documents are to be served on the party in place of the representative, or if such documents cannot be served on the representative. The court shall inform the party that he may use electronic means to communicate with the court.

Section 606 *[Converting to paper-based communication]*

(1) If a party acting without a legal representative or with a representative other than a legal representative accepted communicating with the court by electronic means, he may request the permission of the court to convert to paper-based proceedings subsequently at the time of filing the submission as a paper-based document. In the request, it shall be substantiated that a change occurred to the circumstances of the party, or his representative other than a legal representative, that would cause continued proceeding by electronic means to impose a disproportionate burden on him.

(2) No separate order shall be adopted if the court permits the conversion to paper-based communication. If the court rejects or dismisses the request for converting, it shall communicate its relevant order to the party or the representative other than a legal representative in a paper-based document. An appeal against the order may be filed as a paper-based document. A submission filed as a paper-based document according to

paragraph (1) shall be deemed submitted in a regular manner, even if the request for converting is rejected or dismissed, and the submission need not be filed by electronic means except if a request for converting is repeatedly submitted with a deficiency or without grounds.

(3) If a request for converting to paper-based communication is dismissed, another request for converting shall not be submitted again on the same ground, and a request submitted against this provision shall be rejected by the court. If a party acting without a legal representative submits a request for converting obviously without any ground, a fine may be imposed on him in the order on dismissal.

Section 607 *[Succession in the communication by electronic means]*

If a legal successor party acts without a legal representative, he shall not be affected by his legal predecessor's agreement to communicate by electronic means, or by any conversion to service by paper that occurred with regard to his legal predecessor.

Section 608 *[Mandatory communication by electronic means]*

(1) If a person is obliged under the Act on electronic administration to communicate by electronic means, he shall file all submissions with the court by electronic means only and in a manner specified in the Act on electronic administration and its implementing decrees, and all documents shall be served on him by the court by electronic means.

(2) For the purposes of this Chapter, the persons specified in section 75 (1), as well as junior attorneys-at-law or junior in-house legal counsels, shall be deemed legal representatives if they may proceed in the action under this Act.

157. Communication with an expert, the court, an administrative organ or other authority by electronic means

Section 609 *[Communication with an expert by electronic means]*

(1) Communication by electronic means may be undertaken by an expert who is not obliged to communicate by electronic means under the Act on electronic administration, by registering in the register of forensic experts, or by a state organ, institute or organisation that is not obliged to communicate by electronic means under the Act on electronic administration and authorised by law to conduct expert activities, not registered in the register of forensic experts (for the purposes of this Chapter, hereinafter jointly "organ entitled to perform expertise") by notifying the National Office for the Judiciary.

(2) If an expert or organ entitled to perform expertise is obliged under the Act on electronic administration or agrees according to paragraph (1) to communicate by electronic means, with the exceptions specified in paragraphs (3) and (4), the expert or organ shall send its expert opinion and other submissions to the court by electronic means in a manner specified in the Act on electronic administration and its implementing decrees, and all judicial documents shall be served on it by the court by electronic means.

(3) At the justified request of an expert or organ entitled to perform expertise, on the ground specified in section 613 (3), the court may permit, as an exceptional measure, the filing of an expert opinion, in whole or in part, as a paper-based document, even if communication is to be conducted by electronic means.

(4) An attachment to a judicial document shall be provided by the court to the expert or organ entitled to perform expertise as a paper-based document or on a data-storage medium, if digitisation is not possible due to the nature of the data-storage medium, if the authenticity of a paper-based document is disputed or if the inspection of a paper-based document is necessary for other reasons. If a judicial document sent by the court by electronic means is accompanied by an attachment pursuant to this section, the time limit shall be calculated from the receipt of the attachment.

(5) If an expert or organ entitled to perform expertise communicates by paper documents, it may be called upon by the court to submit its expert opinion using a data–storage medium if the expert opinion is to be served on a party communicating by electronic means. An expert or organ entitled to exercise expertise shall be responsible for ensuring that the content of its paper-based expert opinion is identical to the content of the document submitted on a data-storage medium.

Section 610 *[Communication by and between courts and other organs by electronic means]*

(1) Subject to the exception specified in paragraph (2), the court shall communicate by electronic means with other courts, organs providing electronic administration services under an Act and organs designated by the Government for the performance of public duties.

(2) Communication by electronic means shall not be applied if the presentation or inspection of a paper-based document to be served is necessary; such an event may occur where the authenticity of a paper-based document is disputed.

158. The special rules on communication by electronic means

Section 611 *[Rules on representation if communicating by electronic means]*

(1) If communicating by electronic means, the representative shall submit his authorisation, available as an electronic document or digitised by him, as an attachment to the statement of claim or first submission filed with the court, unless the authorisation of the representative is recorded in the client settings register in accordance with section 67 (3). If a digitised authorisation is submitted and any reasonable doubt arises in relation to it, the court shall call upon the representative to present the original authorisation in order to establish their similarity.

(2) If a party acts through a legal representative without being personally obliged to communicate by electronic means, he may also submit his statement on withdrawing his legal representation as a paper-based document. At the time of withdrawing his legal representation, the party shall also make a statement as to whether or not he intends to proceed with a legal representative following the submission of his statement.

(3) If the party intends to proceed with a legal representative after the withdrawal of his legal representation, he shall also submit, at the time of withdrawing his legal representation, the authorisation granted to the new legal representative to proceed after the submission of the statement.

Section 612 *[Provisions on submissions if communicating by electronic means]*

If communication is conducted during the action by electronic means, the consequences of missing a time limit specified in days, working days, months or years shall not apply, if the submission addressed to the court is filed by electronic means in accordance with the relevant information technology requirements on the last day of the time limit, at the latest.

Section 613 *[Paper-based documents if communicating by electronic means]*

(1) If a party or representative is obliged to or accepted communicating by electronic means (hereinafter jointly "person communicating by electronic means"), he shall, if the document attached to the submission is not available as an electronic document, arrange for the digitisation and safeguarding of the paper-based document attached to the submission.

(2) The court shall have five working days for the digitisation of the paper-based document in a manner specified by law. The time needed for the digitisation of a document, not more than five working days, shall not be taken into account when calculating the time limit.

(3) If a party is obliged to or accepted communicating by electronic means, communication by electronic means shall not apply if the presentation or inspection of a paper-based document is necessary; such an event may occur where the authenticity of a paper-based

document is in question. Submission in paper-based form may be ordered by the court *ex officio* or at the request of a party.

(4) The court shall serve on the defendant a paper-based copy of a statement of claim filed by electronic means in a manner specified by law if the defendant is not obliged to communicate by electronic means or, if the defendant is obliged to communicate by electronic means, his electronic contact details are unknown. The court shall inform the defendant that he may or, if he is obliged to do so, shall file his statement of defence, counter-claim or other submission by electronic means.

Section 614 *[Service if communicating by electronic means]*

(1) If a submission is filed by electronic means, and the procedural fee is to be paid by virtue of law in a manner that does not allow the court to learn of the payment of the procedural fee at the time when the statement of claim is submitted, the provisions laid down in section 115 (2), section 176 (1) *k)* and section 259 (1) *a)* shall not apply for a period of three working days after filing the submission.

(2) If the document cannot be served because the person communicating by electronic means did not enter into or terminated the service contract for the delivery system that is used to serve judicial documents, the court shall impose a fine upon the person communicating by electronic means and shall serve the judicial document as a paper-based document.

(3) Sending a submission from an electronic mail address shall not be deemed submission by electronic means, and the court may only send documents to the electronic mail address of the party in the cases specified in this Act.

Section 615 *[The IT system of the National Office for the Judiciary; data processing with regard to communication by electronic means]*

(1) By making available a designated computer system, the National Office for the Judiciary shall ensure that communication can be conducted with the court at any time through the system providing the delivery service.

(2) The National Office for the Judiciary and the court shall be entitled to process the data of persons communicating by electronic means necessary for the purpose of communication by electronic means.

Section 616 *[Electronic judicial documents]*

According to Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, a judicial document sent by the court by electronic means shall be affixed with an electronic seal meeting the corresponding requirements laid down in an Act or government decree. A document prepared by the court and affixed with an electronic seal meeting the corresponding requirements laid down in an Act or government decree shall be a public deed.

Section 617 *[The calculation of time limits in the event of malfunction or outage]*

The day during which at least four hours are affected by a malfunction or outage, as defined by law, shall not be counted in a statutory or other time limit set by the court in days or working days, and shall not be considered as the date of expiry if the time limit is set in months or years. If the time limit set in hours would expire during the period of a malfunction or outage, as defined by law, the time limit shall expire on the next working day, one hour after the commencement of the working hours.

Section 618 *[The consequences of violating the rules on communication by electronic means]*

(1) If a submission of a person communicating by electronic means is filed

a) by any other than electronic means, or

b) by electronic means, but not in a manner specified in the Act on electronic administration or its implementing decrees,

the statement of claim, the statement of opposition against a court injunction, the appeal, the review application or the request for retrial shall be rejected by the court, and any statement made in any other submission shall be ineffective, unless otherwise provided in this Act.

(2) If the claimant in an order for payment procedure is a person communicating by electronic means under this Act, but, following the submission of a statement of opposition, he fails to file the document containing the statement of claim with the court by electronic means, the procedure shall be terminated by the court *ex officio*.

(3) A separate appeal may be filed against the order on rejection referred to in paragraph (1) and against the order on termination referred to in paragraph (2).

Section 619 *[The transmission of a document available in electronic format]*

(1) With a view to exercising the rights specified in Subtitle 50, the party, the prosecutor or another person participating in the action, and the representative of any such person, may request the court in writing or during the hearing to send in an electronic format the document that can be released to him to an electronic mail address designated by him, if the document is available to the court

a) in an electronic format,

b) as an electronic document, or

c) as an electronic copy of a paper-based document.

(2) No procedural fee shall be paid for the transmission of a document in the case described in paragraph (1). The document shall be deemed available in an electronic format if the paper-based document was drafted by the court using a computer device; a document that is available in an electronic format shall not be considered as an authentic copy and shall not be used as evidence.

Section 620 *[Inspection of documents by way of allowing electronic access]*

With a view to exercising the rights specified in Subtitle 50, the court shall allow, by virtue of law, the persons entitled to inspect the documents of the case through access by electronic means.

Section 621 *[The legal effect of a statement made through electronic means ensuring voice transmission]*

Statements shall not be made through electronic means ensuring only voice transmission; statements made this way shall be ineffective.

CHAPTER XLVII

THE USE OF ELECTRONIC COMMUNICATIONS NETWORKS

159. Ordering the use of an electronic communications network; the place of conducting an interview through an electronic communications network

Section 622 *[Ordering an interview to be conducted through an electronic communications network]*

(1) The court may issue an order, at the request of a party or *ex officio*, that the interview of a party, another person participating in the action, a witness, or an expert, or the inspection, if not objected to by the holder of the object of the inspection, shall be conducted through an electronic communications network, if

a) it seems expedient, and especially if it accelerates the proceedings,

b) conducting the interview at the specified place of the hearing or of the personal interview would imply considerable difficulties or disproportionately high extra costs, or

c) it is justified by the personal protection of the witness.

(2) The order on conducting an interview through an electronic communications network shall be served by the court on all persons summoned together with the summons to the hearing, personal interview or inspection. The order on conducting an interview through an electronic communications network shall be sent by the court without delay to the court or other organ ensuring the separated premises for the purpose of conducting the interview through an electronic communications network.

Section 623 *[The place of conducting an interview through an electronic communications network]*

(1) In the course of conducting an interview through an electronic communications network, a direct and synchronised audio and video connection shall be established by technical means between the specified place of the hearing, personal interview or inspection and the place of the interview or inspection taken or conducted through an electronic communications network (hereinafter jointly "interview taken through electronic communications network").

(2) An interview conducted through an electronic communications network may be conducted at the specified place of the hearing, personal interview or inspection, and at multiple other locations used for conducting an interview through electronic communications network if a direct connection can be established between them.

(3) The place used for conducting an interview through an electronic communications network shall be provided by the court or another organ meeting all the requirements needed to provide for all the circumstances that are necessary for the operation of the electronic communications network and conducting the interview.

160. The process of conducting an interview through an electronic communications network

Section 624 *[Presence and identification during the interview]*

(1) A person interviewed through an electronic communications network and the holder of an object of the inspection (hereinafter jointly "person interviewed through an electronic communications network") shall appear and be present during the interview in the premises set up for the purpose of the interview within the building of the court or other organ.

(2) If an interview is conducted through an electronic communications network, the provisions pertaining to the publicity of the hearing shall apply, with the proviso that publicity shall be ensured at the specified premises of the hearing. In the premises set up for conducting an interview through an electronic communications network, the following persons may be present:

a) the person interviewed through the electronic communications network,

b) the person whose presence is permitted or required by an Act during the hearing, personal interview, or inspection with regard to the person interviewed through an electronic communications network,

c) a person operating and managing the technical means of conducting an interview through an electronic communications network.

(3) The identity of the person interviewed through an electronic communications network shall be established by the chair presiding over the hearing or conducting the personal interview, or by the junior judge, if the personal interview or inspection is conducted by a junior judge. The chair or junior judge shall also establish that only those persons whose presence is permitted by an Act are present in the place set up for taking the interview through electronic communications network, and that the interviewed person is not limited in exercising his procedural rights.

(4) The identity of the person interviewed through an electronic communications network shall be established

a) on the basis of data provided by him to confirm his identity and address, and

b) by presenting his official verification card or residence permit suitable for verifying the identity of the person through the technical means defined by law.

(5) If the court ordered the data of a witness to be processed in a confidential manner, it shall be ensured, at the time of presenting the official verification card or residence permit suitable for verifying the identity of the witness through technical means as defined by law, that the presented document can be inspected only by the presiding judge or junior judge, if the interview or inspection is conducted by a junior judge.

(6) The court shall use electronic means or access databases directly in order to confirm that

a) the data provided to certify the identity or address of the person interviewed through an electronic communications network are the same as those recorded in the registers, and

b) the official verification card or residence permit suitable for verifying the identity of the person interviewed through an electronic communications network is valid and reflects the same data as those recorded in registers.

Section 625 *[The method of conducting the interview]*

(1) At the beginning of the interview, the chair or the junior judge, if the personal interview or inspection is conducted by a junior judge, shall inform the person interviewed through an electronic communications network that the interview is conducted through an electronic communications network.

(2) In the course of conducting the interview through an electronic communications network, it shall be ensured that the persons present at the premises of the hearing, personal interview or inspection can see the interviewed person present in the premises set up for conducting the interview through an electronic communications network, as well as all other persons present in the same place as the interviewed person. It shall also be ensured that all parts of the place set up for conducting an interview through an electronic communications network are visible to the chair or junior judge present at the specified place of the hearing, personal interview or inspection.

(3) It shall also be ensured that the interviewed person present in the place set up for conducting the interview through an electronic communications network can follow the hearing.

Section 626 *[Covert interview]*

(1) The court may order the interview through an electronic communications network to be conducted in a manner that does not reveal the identity and location of the witness (hereinafter "covert interview").

(2) The manner of conducting the covert interview and the identification of the witness shall be in accordance with section 624 (5), and all unique features that might identify the witness shall be distorted by technical means during the transmission. In the course of the covert interview, the chair may prohibit any question that may identify the contributor or his location from being asked or answered.

Section 627 *[Minutes]*

If an interview is conducted through an electronic communications network, the minutes of the hearing, personal interview or inspection shall include a description of the circumstances of the interview taken through the electronic communications network, as well as a list of persons present in the premises set up for taking the interview through an electronic communications network.

PART ELEVEN

FINAL PROVISIONS

Section 628 *[Authorising provisions]*

(1) The Government shall be authorised to determine in a decree the detailed provisions concerning the tasks that may be performed by an administrative court officer in contentious or non-contentious proceedings.

(2) The minister responsible for justice shall be authorised to determine in a decree the detailed provisions concerning

a) the order of judicial case management, after seeking the opinion of the President of the National Office for the Judiciary,

b) the fee for guardians *ad litem*, in agreement with the minister responsible for state finances,

c) the management of judicial deposits,

d) the costs that may be charged by a witness in contentious or non-contentious proceedings,

e) the amount and reimbursement of costs incurred with regard to the enforcement of forced appearance,

f) the holding of a hearing (interview) through an electronic communications network, in agreement with the minister responsible for information technology and after seeking the opinion of the President of the National Office for the Judiciary,

g) the template forms prescribed to be used in civil actions,

h) communication with the courts by electronic means and electronic handling of judicial documents,

i) advancing and bearing of costs pertaining to the participation of the prosecutor, a person authorised to bring the action, and a guardian *ad litem* in the civil procedure, in agreement with the minister responsible for the supervision of national assets,

j) the contents, keeping, and submission of a bill of costs,

k) the payment of deferred fees and costs advanced by the State and incurred within the scope of interest of the court's organisation,

l) the charge payable to the court for an anonymised copy of a judgment or an order adopted in the course of procedural remedy proceedings against a judgment and instructing a lower court to conduct new proceedings and adopt a new decision, in agreement with the minister responsible for tax policy,

m) the amount specified in section 525 with regard to employee's legal aid, and the procedural rules of applying legal aid, in agreement with the minister responsible for employment policy,

n) authenticating, viewing, and listening to a recording of the proceedings, making and releasing a copy of such a recording, and storing, safekeeping and deleting it.

Section 629 *[Provision on entry into force]*

This Act shall enter into force on 1 January 2018.

Section 630 *[Transitional provisions]*

(1) The provisions of this Act shall apply to cases commenced on or after 1 January 2018.

(2) Subtitle 94 of this Act shall apply with regard to documents and copies produced on or after 1 January 2018.

(3) If collection through payment services has been initiated against the addressee under section 66 of Act LXXXV of 2009 on the provision of payment services, on the basis of a final and binding decision preceding the judicial enforcement proceedings, and the addressee

becomes aware of this, he may submit the complaint pursuant to section 140 within fifteen days after becoming aware of the collection through payment services.

(4) Until 31 December 2019, the provisions laid down in section 159 (4) shall apply with the derogation that the court, if the technical requirements are met, may order the minutes to be taken by continuous recording at the request of any of the parties, or *ex officio*.

(5) Where the law provides for the application of the rules pertaining to administrative actions of the Act on the Code of Civil Procedure, the rules of the Act on the Code of Administrative Court Procedure shall apply.

(6) In cases pending on 31 December 2017, the provisions of Act III of 1952 on the Code of Civil Procedure shall apply with the derogation under paragraph (7). For communication by electronic means in cases pending on 31 December 2017, sections 12, 20 and 57, as well as sections 101 to 103, and Chapters VII, VIII and XIV of the Act on electronic administration shall apply.

(7) In cases pending on 31 December 2017, the provision laid down in section 394/H (6) of Act III of 1952 on the Code of Civil Procedure shall apply with the derogation that the person communicating by electronic means, after the expiry of the period determined in the Act on electronic administration and its implementing decrees, shall receive via the delivery system notification to the electronic mail address indicated by him on the service and the placement of the judicial document at the host service provider.

(8) In cases pending on 31 December 2017, the court shall oblige in an order the person specified in the order on forced appearance to pay the costs of the forced appearance referred to in section 185 (1) of Act III of 1952 on the Code of Civil Procedure, while the costs of forced appearance referred to in section 309 (3) of Act III of 1952 on the Code of Civil Procedure shall be borne by the State.

(9) Having regard to the referral of cases, in labour law actions, with the exception of actions pending before the Curia, no hearing date may be set at the referring court to a date after 15 March 2020. Conclusive decisions adopted in labour law actions shall be put in writing by 31 March 2020, and appropriate measures shall be taken for them to be communicated.

(10) By 15 March 2020, the judges of administrative and labour courts shall forward the documents of cases of first instance not yet adjudicated, and the judges of regional courts the documents of cases of second instance not yet adjudicated, to the president of the regional court.

(11) After 1 April 2020, but no later than 15 April 2020, the president of the regional court shall, without delay, provide for the assignment of the cases of first instance referred to in paragraph (10) and forward the cases of second instance referred to in paragraph (10) to the competent regional court of appeal.

(12) A case referred to in paragraph (10) shall be handled by the judge who commenced the adjudication of the case prior to 1 April 2020, provided that he has been assigned to the court that has material and territorial jurisdiction over the matter.

(13) Sections 346 (5), 405 (3), 406 (1), 409, 410 (2) *c) cd)*, 413 (1) *c)* to *e)*, 423 (1), 424 (1) to (3) and 424 (7) as introduced by Act CXXVII of 2019 amending certain Acts in connection with the establishment of single-instance district office procedures shall apply to review procedures brought against a final and binding judgment, or a final and binding order on the merits of the case, adopted on or after 1 July 2020.

Section 631 *[Reference to European Union requirements]*

This Act serves the purpose of compliance with the following legal acts:

1. Council Directive of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents (86/653/EEC),

2. Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors,

3. Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts,

4. Directive 97/55/EC of European Parliament and of the Council of 6 October 1997 amending Directive 84/450/EEC concerning misleading advertising so as to include comparative advertising,

5. Directive 98/84/EC of the European Parliament and of the Council of 20 November 1998 on the legal protection of services based on, or consisting of, conditional access,

6. Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions,

7. Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes,

8. Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC,

9. Council Directive 2003/72/EC of 22 July 2003 supplementing the Statute for a European Cooperative Society with regard to the involvement of employees,

10. Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC,

11. Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council,

12. Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising,

13. Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests,

14. Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters,

15. Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals,

16. Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions,

17. Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010,

18. Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection,

19. Council Decision of 28 May 2001 establishing a European Judicial Network in civil and commercial matters (2001/470/EC),

20. Decision No 568/2009/EC of the European Parliament and of the Council of 18 June 2009 amending Council Decision 2001/470/EC establishing a European Judicial Network in civil and commercial matters,

21. Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings,

22. Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters,

23. Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000,

24. Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims,

25. Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure,

26. Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000,

27. Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure,

28. Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations,

29. Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession,

30. Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters,

31. Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings.

Section 632 *[Immunity]*

This Act shall not affect the scope of diplomatic or other immunity, or the specific procedural rules pertaining to diplomatic or other immunity.

Section 633