

**The Civil Procedure Law of the People's Republic of China (2017
Amendment)[Effective]**

中华人民共和国民事诉讼法(2017 修正) [现行有效]

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The Civil Procedure Law of the People's Republic of China
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Part One General Provisions

Chapter 1 Purposes, Scope of Application and Basic Principles

Article 1 The Civil Procedure Law of the People's Republic of China is formulated in accordance with the Constitution and in consideration of civil trial experience and actual circumstances of civil trials in China.

Article 2 The purposes of the Civil Procedure Law of the People's Republic of China are to protect the parties' exercise of procedural rights; ensure that a people's court finds facts, distinguishes right from wrong, applies law correctly and try civil cases in a timely manner; confirm civil rights and obligations; punish violations of civil law; protect the lawful rights and interests of the parties; educate citizens on consciously abiding by law; maintain the social and economic order; and guarantee smooth socialist development.

Article 3 The provisions of this Law shall apply to civil actions accepted by a people's court regarding property or personal relationships between citizens, between legal persons, between other organizations or between citizens and legal persons, citizens and other organizations or legal persons and other organizations.

Article 4 For all civil actions conducted within the territory of the People's Republic of China, this Law must be complied with.

Article 5 Foreign nationals, stateless persons and foreign enterprises and organizations which institute or respond to actions in the people's courts shall have equal procedural rights and obligations as citizens, legal persons and other organizations of the People's Republic of China. Where the courts of a foreign country impose any restrictions on the civil procedural rights of citizens, legal persons and other organizations of the People's Republic of China, the people's courts of the People's Republic of China shall apply the principle of reciprocity to the civil procedural rights of citizens, enterprises and organizations of such a foreign country.

Article 6 The power to try civil cases shall be exercised by the people's courts. The people's courts shall try civil cases independently in accordance with law, without interference from any government agency, social group or individual.

Article 7 When trying civil cases, the people's courts must regard facts as the basis and regard law as the yardstick.

Article 8 All parties to a civil action shall have equal procedural rights. When trying civil cases, the people's courts shall provide safeguards and facilitation for all parties to exercise their procedural rights, and apply law equally for all parties.

Article 9 When trying civil cases, the people's courts shall conduct mediation under the principles of free will of the parties and legality; and if mediation fails, shall enter a judgment in a timely manner.

Article 10 When trying civil cases, the people's courts shall apply the collegial bench, disqualification, open trial and "final after two trials" systems in accordance with law.

Article 11 Citizens of all ethnicities shall be entitled to use their native spoken and written languages in civil procedures.

In areas where an ethnic minority is concentrated or several ethnicities cohabit, the people's courts shall conduct trial and publish legal instruments in the spoken and written language commonly used by the local ethnicity or ethnicities.

The people's courts shall provide interpretation for litigation participants who are not familiar with the spoken or written language commonly used by the local ethnicity or ethnicities.

Article 12 When a people's court tries a civil case, the parties shall have the right to debate.

Article 13 In civil procedures, the principle of good faith shall be adhered to.

The parties shall be entitled to dispose of their respective civil rights and procedural rights within the extent as permitted by law.

Article 14 The people's procuratorates shall have the authority to exercise legal supervision over civil procedures.

Article 15 For conduct which infringes upon the civil rights and interests of the state, a collective or an individual, a state organ, a social group, an enterprise or a public institution may support the entity or individual which suffers infringement in instituting an action in a people's court.

Article 16 The people's congresses of ethnical autonomous areas may formulate provisions with necessary changes or supplementary provisions in accordance with the principles of the Constitution and this Law and in consideration of the specific circumstances of the local ethnicity or ethnicities. Such provisions formulated by an autonomous region shall be subject to the approval of the Standing Committee of the National People's Congress. Such provisions formulated by an autonomous prefecture or autonomous county shall be subject to the approval of the standing committee of the people's congress of the corresponding province or autonomous region and be filed with the Standing Committee of the National People's Congress.

Chapter 2 Jurisdiction

Section 1 Hierarchical Jurisdiction

Article 17 The basic people's courts shall have jurisdiction over civil cases as a court of first instance, except as otherwise provided for in this Law.

Article 18 The intermediate people's courts shall have jurisdiction over the following civil cases as a court of first instance:

- (1) Major foreign-related cases.
- (2) Cases which have a major impact within their respective jurisdictions.

(3) Cases which are under the jurisdiction of the intermediate people's courts as determined by the Supreme People's Court.

Article 19 The higher people's courts shall have jurisdiction over civil cases which have a major impact within their respective jurisdictions as a court of first instance.

Article 20 The Supreme People's Court shall have jurisdiction over the following civil cases as a court of first instance:

(1) Cases which have a major impact nationwide.

(2) Cases which the Supreme People's Court deems shall be tried by itself.

Section 2 Territorial Jurisdiction

Article 21 A civil action instituted against a citizen shall be under the jurisdiction of the people's court at the place of domicile of the defendant; or if the defendant's place of domicile is different from his or her place of habitual residence, the civil action shall be under the jurisdiction of the people's court at the place of habitual residence of the defendant.

A civil action instituted against a legal person or any other organization shall be under the jurisdiction of the people's court at the place of domicile of the defendant.

Where the places of domicile or places of habitual residence of several defendants in the same action are located within the jurisdictions of two or more people's courts, both or all of such people's courts shall have jurisdiction over the action.

Article 22 The following civil actions shall be under the jurisdiction of the people's court at the place of domicile of the plaintiff; or if the plaintiff's place of domicile is different from his or her place of habitual residence, the civil actions shall be under the jurisdiction of the people's court at the place of habitual residence of the plaintiff:

(1) An action regarding a personal relationship instituted against a person who does not reside within the territory of the People's Republic of China.

(2) An action regarding a personal relationship instituted against a person whose whereabouts is unknown or against a person who has been declared missing.

(3) An action instituted against a person who is subject to any compulsory correctional measure.

(4) An action instituted against a person who is incarcerated.

Article 23 An action instituted for a contract dispute shall be under the jurisdiction of the people's court at the place of domicile of the defendant or at the place where the contract is performed.

Article 24 An action instituted for an insurance contract dispute shall be under the jurisdiction of the people's court at the place of domicile of the defendant or at the place where the subject matter insured is located.

Article 25 An action instituted for a negotiable instrument dispute shall be under the jurisdiction of the people's court at the place of payment of the negotiable instrument or at the place of domicile of the defendant.

Article 26 An action instituted for a dispute arising from formation, shareholder eligibility confirmation, profit distribution, dissolution or any other matter of a company shall be under the jurisdiction of the people's court at the place of domicile of the company.

Article 27 An action instituted for a dispute arising from a railway, road, water, air, or multi-mode transportation contract shall be under the jurisdiction of the people's court at the place of departure or destination of transportation or at the place of domicile of the defendant.

Article 28 An action instituted for a tort shall be under the jurisdiction of the people's court at the place where the tort occurs or at the place of domicile of the defendant.

Article 29 An action instituted for damages for a railway, road, water or air transportation accident shall be under the jurisdiction of the people's court at the place where the accident occurs, where the vehicle or vessel first arrives or where the aircraft first lands or at the place of domicile of the defendant.

Article 30 An action instituted for damages for a vessel collision or any other maritime accident shall be under the jurisdiction of the people's court at the place where the collision occurs, where the colliding vessel first arrives or where the vessel at fault is detained or at the place of domicile of the defendant.

Article 31 An action instituted for maritime salvage shall be under the jurisdiction of the people's court at the place of salvage or at the place where the salvaged vessel first arrives.

Article 32 An action instituted for a general average shall be under the jurisdiction of the people's court at the place where the vessel first arrives, where the general average is adjusted or where the voyage ends.

Article 33 The following cases shall be under the exclusive jurisdiction of the people's courts as specified below:

(1) An action instituted for a real estate dispute shall be under the jurisdiction of the people's court at the place where the real estate is located.

(2) An action instituted for a dispute arising from harbor operations shall be under the jurisdiction of the people's court at the place where the harbor is located.

(3) An action instituted for an inheritance dispute shall be under the jurisdiction of the people's court at the place of domicile of the deceased upon death or at the place where the major part of estate is located.

Article 34 Parties to a dispute over a contract or any other right or interest in property may, by a written agreement, choose the people's court at the place of domicile of the defendant, at the place where the contract is performed or signed, at the place of domicile of the plaintiff, at the place where the subject matter is located or at any other place actually connected to the dispute to have jurisdiction over the dispute, but the provisions of this Law regarding hierarchical jurisdiction and exclusive jurisdiction shall not be violated.

Article 35 When two or more people's courts have jurisdiction over an action, the plaintiff may institute an action in one of such people's courts; and if the plaintiff institutes actions in two or more people's courts that have jurisdiction, the people's court which docketed the case first shall have jurisdiction over the action.

Section 3 Jurisdiction Transfer and Specified Jurisdiction

Article 36 Where a people's court discovers that a case accepted is not under its jurisdiction, it shall transfer the case to the people's court having jurisdiction, and the people's court to which the

case is transferred shall accept the case. If the people's court to which the case is transferred deems that the transferred case is not under its jurisdiction according to the relevant provisions, it shall report the case to its superior for specified jurisdiction and shall not transfer the case without direction.

Article 37 Where a people's court having jurisdiction is unable to exercise its jurisdiction for any special reasons, its superior shall specify jurisdiction.

Where there is any dispute over jurisdiction between the people's courts, the dispute shall be resolved by the disputing courts through consultations; or if such consultations fail, the disputing courts shall request their common superior to specify jurisdiction.

Article 38 A people's court at a higher level shall have the power to try a first instance civil case under the jurisdiction of a people's court at a lower level. If it is necessary to transfer a first instance civil case under its jurisdiction to a people's court at a lower level for trial, a people's court at a higher level shall file a report with its superior for approval of the transfer.

If a people's court at a lower level deems it necessary for a first instance civil case under its jurisdiction to be tried by a people's court at a higher level, it may request the people's court at a higher level to try the case.

Chapter 3 Trial Organization

Article 39 When a people's court tries a first instance civil case, a collegial bench consisting of judges and jurors or consisting of judges only shall be formed. The members of a collegial bench must be in an odd number.

Civil cases tried under summary procedure shall be tried by a sole judge.

When performing their juror's duties, jurors shall have equal rights and obligations as a judge.

Article 40 When a people's court tries a second instance civil case, a collegial bench consisting of judges only shall be formed. The members of a collegial bench must be in an odd number.

For a case remanded for retrial, the original trial people's court shall form a new collegial bench under the procedure at first instance.

If a case for retrial was originally tried by a court of first instance, a new collegial bench shall be formed under the procedure at first instance; or if the case for retrial was originally tried by a court of second instance or tried directly by a people's court at a higher level, a new collegial bench shall be formed under the procedure at second instance.

Article 41 The president of a people's court or a divisional chief of a people's court shall designate a judge as the presiding judge of a collegial bench; and if the president or divisional chief participates in the trial, the president or divisional chief shall be the presiding judge.

Article 42 When deliberating a case, a collegial bench shall adhere to the rule of majority.

Deliberation transcripts shall be prepared and be signed by the members of the collegial bench.

The dissenting opinions during deliberations shall be truthfully included in the transcripts.

Article 43 Judges shall handle cases impartially in accordance with law.

Judges shall not accept any treats or gifts from the parties or their litigation representatives.

Judges who commit embezzlement, accept bribes, practice favoritism for personal gains or adjudicate by bending the law shall be subject to legal liability; and those suspected of any crime shall be subject to criminal liability in accordance with law.

Chapter 4 Disqualification

Article 44 Under any of the following circumstances, a judge shall voluntarily disqualify himself or herself, and a party shall be entitled to request disqualification of such a judge verbally or in writing:

(1) The judge is a party to a case or is a close relative of a party to a case or a litigation representative thereof.

(2) The judge is an interested party to a case.

(3) The judge has any other relationship with a party to a case or a litigation representative thereof, which may affect the impartial trial of the case.

Where a judge accepts any treat or gift from a party to a case or a litigation representative thereof or meets with a party to a case in violation of legal provisions, a party shall be entitled to require disqualification of such a judge.

A judge who commits any conduct in the preceding paragraph shall be subject to legal liability in accordance with law.

The provisions of the preceding three paragraphs shall also apply to court clerks, interpreters, identification or evaluation experts, and surveyors.

Article 45 To request disqualification, a party shall state reasons and file a request at the beginning of the trial of a case; and a request may also be filed before the end of court debate if a party becomes aware of a reason for disqualification after the trial of a case begins.

Before the people's court decides whether to grant the request for disqualification, the person whose disqualification is requested shall be suspended from participating in the case, unless the case requires that emergency measures be taken.

Article 46 The disqualification of the presiding judge who is the president of a people's court shall be decided by the judicial committee of the people's court; the disqualification of judges shall be decided by the president of a people's court; and the disqualification of other persons shall be decided by the presiding judge.

Article 47 A people's court shall make a decision verbally or in writing on a party's request for disqualification within three days after the request is filed. Against the decision, a party may apply for reconsideration once when receiving the decision. During the period of reconsideration, the person whose disqualification is requested shall not be suspended from participating in the case. A people's court shall make a decision on an application for reconsideration within three days and notify the reconsideration applicant of the decision.

Chapter 5 Primary Litigation Participants

Section 1 Parties

Article 48 Citizens, legal persons and other organizations may act as the parties to civil actions. The legal representative of a legal person shall participate in an action on behalf of the legal person. The primary person in charge of any other organization shall participate in an action on behalf of the organization.

Article 49 The parties shall be entitled to retain representatives, file a request for disqualification, collect and provide evidence, debate, file a request for mediation, file an appeal, and apply for enforcement.

The parties may consult materials related to the case and copy materials and legal instruments related to the case. The scope of and measures for consulting and copying materials related to a

case shall be prescribed by the Supreme People's Court.

The parties must exercise their procedural rights in accordance with law, observe the order of litigation, and execute effective written judgments, rulings and consent judgments.

Article 50 Both sides of a civil action may reach a settlement themselves.

Article 51 The plaintiff may relinquish or modify its claims. The defendant may admit or repudiate the plaintiff's claims and shall have the right to file a counterclaim.

Article 52 A joint action means that one side or both sides of a civil action consist of two or more persons, the subject matter of action for each party is same or is of the same kind and the people's court deems that the disputes of all the parties may be tried concurrently, to which all the parties agree.

Where the parties on one side of a joint action have common rights and obligations regarding the subject matter of action, the litigation conduct of any of such parties shall bind the rest of such parties if the conduct is recognized by the rest of such parties; or where the parties on one side of a joint action have no common rights and obligations regarding the subject matter of action, the litigation conduct of any of such parties shall not bind the rest of such parties.

Article 53 Where the parties on one side of a joint action is numerous, such parties may recommend a representative or representatives to participate in the action. The litigation conduct of such representatives shall bind all the parties represented; however, to modify or relinquish any claims, admit any claims of the opposing party or reach a settlement, such representatives must obtain a consent from the parties represented.

Article 54 Where the subject matter of action for each party is of the same kind, the parties on one side of an action are numerous, but the exact number of such parties is uncertain when the action is instituted, the people's court may publish a notice to describe the case and claims and notify right holders to register with the people's court within a certain period of time.

The right holders which have registered with the people's court may recommend a representative or representatives to participate in the litigation; and if no representative is recommended, the people's court may determine a representative or representatives in consultation with the right holders which have registered with the people's court.

The litigation conduct of such representatives shall bind all the parties represented; however, to modify or relinquish any claims, admit any claims of the opposing party or reach a settlement, such representatives must obtain a consent from the parties represented.

The judgment or ruling issued by the people's court shall bind all right holders which have registered with the people's court. Such a judgment or ruling shall also apply to actions instituted during the time limitation by rights holders which have not registered with the people's court.

Article 55 For conduct that pollutes environment, infringes upon the lawful rights and interests of vast consumers or otherwise damages the public interest, an authority or relevant organization as prescribed by law may institute an action in a people's court.

Where the people's procuratorate finds in the performance of functions any conduct that undermines the protection of the ecological environment and resources, infringes upon consumers' lawful rights and interests in the field of food and drug safety or any other conduct that damages social interest, it may file a lawsuit with the people's court if there is no authority or organization prescribed in the preceding paragraph or the authority or organization prescribed in

the preceding paragraph does not file a lawsuit. If the authority or organization prescribed in the preceding paragraph files a lawsuit, the people's procuratorate may support the filing of a lawsuit.

Article 56 A third party which deems that it has an independent claim regarding the subject matter of an action between two parties shall have the right to institute an action.

Where a third party does not have an independent claim regarding the subject matter of an action between two parties but is an interested party in law to the outcome of the case, the third party may apply to participate in the action or the people's court may notify the third party to participate in the action. If the third party assumes any civil liability according to the judgment entered by the people's court, the third party shall have the procedural rights and obligations as a party to the action.

Where a third party as mentioned in the preceding two paragraphs fails to participate in an action, which is not attributable to the third party's fault, and there is evidence that an effective judgment, ruling or consent judgment is entirely or partially erroneous and causes damage to the third party's civil rights and interests, the third party may, within six months from the day when the third party knows or should have known that the third party's civil rights and interests have been damaged, institute an action in the people's court which entered the judgment, ruling or consent judgment. If, after trial, the third party's claims are supported, the people's court shall modify or revoke the original judgment, ruling or consent judgment; or if the third party's claims are not supported, the claims shall be dismissed.

Section 2 Litigation Representatives

Article 57 The guardian of a person without competency to participate in an action shall participate in the action on behalf of the person as the person's legal representative. If the legal representatives of a person shift their duty of representation onto each other, the people's court shall specify one of them to participate in the action on behalf of the person.

Article 58 A party or a legal representative may retain one or two persons as litigation representatives.

The following persons may serve as a litigation representative:

- (1) A lawyer or legal service worker at the basic level.
- (2) A close relative or staff member of a party.
- (3) A citizen recommended by the community of or the entity employing a party or recommended by a relevant social group.

Article 59 To participate in an action on behalf of a party or a legal representative, a litigation representative must submit to the people's court a power of attorney, to which the signature or seal of the party or legal representative is affixed.

The power of attorney must state the authorized matters and the extent of authority. To admit, relinquish or modify any claims, reach a settlement, or file a counterclaim or an appeal on behalf of a party or a legal representative, a litigation representative must have a special authorization from the party or legal representative.

Where a citizen of the People's Republic of China who is residing in a foreign country posts a power of attorney or delivers through another person a power of attorney to China, the power of attorney must be authenticated by the embassy or consulate of the People's Republic of China in that country. If there is no such an embassy or consulate in that country, the power of attorney

shall be first authenticated by an embassy or consulate of a third country which has a diplomatic relationship with the People's Republic of China in that country and then be authenticated by the embassy or consulate of the People's Republic of China in the third country or be authenticated by the local patriotic overseas Chinese organization.

Article 60 Where the authority of a litigation representative of a party has changed or has been revoked, the party shall notify the people's court in writing and the people's court shall notify the opposing party of the change or revocation.

Article 61 Lawyers serving as litigation representatives and other litigation representatives shall have the right to investigate and collect evidence and may consult materials related to the case. The scope of and measures for consulting materials related to a case shall be prescribed by the Supreme People's Court.

Article 62 Where a party to a divorce case has appointed a litigation representative, the party shall still appear in court unless the party is unable to express his or her ideas; and if the party is unable to appear in court under special circumstances, the party must submit a written opinion to the people's court.

Chapter 6 Evidence

Article 63 Evidence includes:

- (1) statement of a party;
- (2) documentary evidence;
- (3) physical evidence;
- (4) audio-visual recordings;
- (5) electronic data;
- (6) witness testimony;
- (7) expert opinion; and
- (8) transcripts of survey.

Evidence must be verified before being used as a basis for deciding a fact.

Article 64 A party shall have the burden to provide evidence for its claims.

A people's court shall investigate and collect evidence which a party and its litigation representative are unable to collect for some objective reasons and evidence which the people's court deems necessary for trying a case.

A people's court shall, under statutory procedures, verify evidence comprehensively and objectively.

Article 65 A party shall provide evidence for its claims in a timely manner.

A people's court shall, according to the claims of a party and the circumstances of trial of a case, determine the evidence to be provided by a party and the time limit for provision of evidence.

Where it is difficult for a party to provide evidence within the time limit, the party may apply to the people's court for an extension, and the people's court may appropriately extend the time limit upon application of the party. Where a party provides any evidence beyond the time limit, the people's court shall order the party to provide an explanation; and if the party refuses to explain or the party's explanation is not acceptable, the people's court may, according to different

circumstances, deem the evidence inadmissible or adopt the evidence but impose an admonition or a fine on the party.

Article 66 A people's court shall issue receipts for evidentiary materials submitted to the court by a party, indicating the name of evidence, number of pages, number of copies, original or photocopy, time of receipt, and other matters, to which the signatures or seals of the court personnel receiving the same shall be affixed.

Article 67 A people's court shall have the authority to investigate and collect evidence from the relevant entities and individuals, and the relevant entities and individuals shall not refuse such investigation and collection of evidence.

A people's court shall identify the authenticity and examine and determine the validity of documentary evidence provided by the relevant entities and individuals.

Article 68 Evidence shall be presented in court and cross-examined by the parties. Evidence which involves any state secret, trade secret or individual privacy shall be kept confidential, and if it is necessary to present such evidence in court, such evidence shall not be presented in open court.

Article 69 A people's court shall regard legal facts and documents notarized under statutory procedures as a basis for deciding facts, unless there is any evidence to the contrary which suffices to overturn the notarization.

Article 70 The originals as documentary evidence shall be submitted. The originals as physical evidence shall be submitted. If it is difficult to submit the originals, replicas, photographs, copies or extracts may be submitted.

Documentary evidence in a foreign language must be submitted with Chinese versions.

Article 71 The people's court shall identify the authenticity of audio-visual recordings and, in consideration of other evidence in the case, examine and determine whether the audio-visual recordings may serve as a basis for deciding facts.

Article 72 Any entity or individual which knows any circumstances of a case shall have the obligation to testify in court. The person in charge of a relevant entity shall support a witness in testifying.

A person who is unable to appropriately express his or her ideas shall not testify.

Article 73 Upon notice by a people's court, a witness shall testify in court. Under any of the following circumstances, a witness may testify by written testimony, audio-visual transmission technology, audio-visual recordings or any other means as permitted by a people's court:

- (1) The witness is unable to appear in court for health reasons.
- (2) The witness is unable to appear in court for remote residence and travel difficulty.
- (3) The witness is unable to appear in court for a force majeure such as a natural disaster.
- (4) The witness is unable to appear in court for any other justifiable reason.

Article 74 The travel, room and board, and other necessary expenses of a witness for performing his or her obligation of testifying in court, as well as loss of working time, shall be assumed by the losing party. A party which applies for a witness to testify shall advance the same; or if no party

applies and the people's court notifies a witness to testify, the people's court shall advance the same.

Article 75 A people's court shall, in consideration of other evidence in the case, examine and determine whether the statements of a party may serve as a basis for deciding facts. The deciding of facts of a case by a people's court based on evidence shall not be affected by a party's refusal to provide a statement.

Article 76 A party may apply to the people's court for identification regarding a specialized issue for ascertaining the facts of a case. Where a party applies for identification, the parties on both sides shall determine a qualified identification expert by consultation; or if such consultation fails, the people's court shall specify one for them.

Where no party applies for identification but the people's court deems it necessary to conduct identification regarding a specialized issue, the people's court shall employ a qualified identification expert to conduct identification.

Article 77 An identification expert shall have the right to access the case file needed for conducting identification and, when necessary, may interview a party or a witness. An identification expert shall issue a written identification opinion and affix his or her signature or seal to the identification document.

Article 78 Where a party raises any objection to an identification opinion or a people's court deems it necessary to require an identification expert to testify in court, the identification expert shall testify in court. If, upon notice by the people's court, the identification expert refuses to testify in court, the identification opinion shall not be used as a basis for deciding facts; and the party which has paid the identification fees may require that the identification fees be refunded.

Article 79 A party may apply to the people's court for notifying a person with expertise to appear in court to offer an opinion regarding an identification opinion issued by an identification expert or regarding a specialized issue.

Article 80 When surveying any physical evidence or a site, the surveyors must produce their credentials issued by a people's court and invite the local grassroots organization or the entity employing a party to send personnel to participate in the survey. The party or an adult family member of the party shall be present; and the survey shall not be affected by the refusal of the party or the adult family member to appear on site.

Upon notice by the people's court, the relevant entities and individuals shall have the obligations to protect the site and assist in the survey.

The surveyors shall prepare transcripts of the process and results of survey, to which the surveyors, the party and the invited participants shall affix their signatures or seals.

Article 81 Where any evidence may be extinguished or may be hard to obtain at a later time, a party may, in the course of an action, apply to the people's court for evidence preservation, and the people's court may also take preservation measures on its own initiative.

Where any evidence may be extinguished or may be hard to obtain at a later time, if the circumstances are urgent, an interested party may, before instituting an action or applying for arbitration, apply for evidence preservation to a people's court at the place where the evidence is located or at the place of domicile of the respondent or a people's court having jurisdiction over the case.

Other procedures for evidence preservation shall be executed by reference to the relevant provisions of Chapter IX of this Law regarding preservation.

Chapter 7 Periods and Service of Process

Section 1 Periods

Article 82 Periods include statutory periods and periods prescribed by a people's court. Periods shall be calculated by hour, day, month and year. The beginning hour and day of a period shall not be counted in the period.

If the expiration date of a period falls on a holiday, the first day after the holiday shall be the expiration date of the period.

A statutory period shall not include the time en route. A litigation document posted before the expiration date of a period shall not be regarded as past due.

Article 83 Where a party fails to comply with a period for reasons beyond the party's control or for any other justifiable reasons, the party may apply for an extension of the period within ten days after the impediment is eliminated, and the people's court shall decide whether to permit such an extension.

Section 2 Service of Process

Article 84 Service of process must be accompanied with a service acknowledgement, to which the person to be served shall affix a date of receipt and his or her signature or seal.

The date of receipt affixed to the service acknowledgement by the person to be served shall be the date of service.

Article 85 Process shall be served directly on the person to be served. If the person to be served, who is a citizen, is absent, a cohabiting adult family member of the person to be served shall sign for the service of process. If the person to be served is a legal person or any other organization, the legal representative of the legal person, the primary person in charge of the organization or the employee of the legal person or organization responsible for receiving process shall sign for the service of process. If the person to be served has a litigation representative, the litigation representative may sign for the service of process. If the person to be served has informed the people's court of a designated person to receive process, the designated person shall sign for the service of process.

The date of receipt affixed to the service acknowledgment by the cohabiting adult family member of the person to be served, the employee of the legal person or organization responsible for receiving process, the litigation representative or the designated person to receive process shall be the date of service.

Article 86 Where the person to be served refuses to receive or his or her cohabiting adult family member refuses to receive process, the process server may invite the representatives of relevant grassroots organizations or the entity employing the person to be served to be present, provide an explanation on the refusal, record the cause of refusal and date on the service acknowledgement, to which the process server and witnesses shall affix their signatures or seals, and drop process at the domicile of the person to be served; and may also drop process at the domicile of the person to be served and record the service of process by photograph, video and other means, and process shall be deemed served.

Article 87 With the consent of the person to be served, a people's court may serve process by fax, email and other means capable of confirming receipt by the person to be served, except a judgment, ruling and consent judgment.

Where a means in the preceding paragraph is adopted, the date when a fax, an email or any other means reaches the specific system of the person to be served shall be the date of service of process.

Article 88 Where direct service of process is difficult, service of process may be entrusted to another people's court or be conducted by post. If process is served by post, the date of receipt stated on the service acknowledgement shall be the date of service.

Article 89 Where the person to be served is in the military service, process shall be served on the person through the political office of the unit at or above the regiment level of the armed force where the person serves.

Article 90 Where the person to be served is incarcerated, process shall be served on the person through the incarceration facility.

Where the person to be served is subject to any compulsory correctional measure, process shall be served on the person through the compulsory correctional facility.

Article 91 The office or entity through which process is served must, immediately after receiving process, deliver the same to the person to be served, the person to be served shall sign for the service of process, and the date of receipt on the service acknowledgement shall be the date of service.

Article 92 Where the whereabouts of the person to be served is unknown or service of process is not possible by other means set out in this Section, process may be served by public announcement. Process shall be deemed served sixty days after the date of public announcement.

The reasons for and the course of service of process by public announcement shall be recorded in the case file.

Chapter 8 Mediation

Article 93 When trying civil cases, a people's court shall, under the principle of free will of the parties, conduct mediation by distinguishing between right and wrong based on clear facts.

Article 94 When a people's court conducts mediation, mediation may be conducted by one judge or by the collegial bench, and mediation shall be conducted on the spot as much as possible. When a people's court conducts mediation, it may notify by simple means the parties and witnesses to appear in court.

Article 95 When a people's court conducts mediation, it may invite relevant entities and individuals to provide assistance. The invited entities and individuals shall assist the people's court in mediation.

Article 96 A mediation agreement must be based on the free will of both sides, and the parties shall not be forced to reach a mediation agreement. The content of a mediation agreement shall not violate any legal provisions.

Article 97 When a mediation agreement is reached, the people's court shall prepare a consent judgment. A consent judgment shall state the claims, facts of the case and results of mediation.

The judges and court clerk shall affix their signatures and the people's court shall affix its seal to a consent judgment, which shall be served on both sides.

Once a consent judgment is signed by both sides, it shall become legally binding.

Article 98 A consent judgment of a people's court is not required for mediation agreements reached in the following cases:

- (1) Divorce cases where both parties have reconciled through mediation.
- (2) Adoption cases where an adoptive relationship has been maintained through mediation.
- (3) Cases where performance on the spot is possible.
- (4) Other cases where a consent judgment is not required.

A mediation agreement which does not require a consent judgment shall be recorded in the transcripts and become legally binding immediately after both sides and the judges and court clerk affix their signatures or seals to the transcripts.

Article 99 Where no mediation agreement is reached or one party retracts before a mediation agreement is served on the party, the people's court shall enter a judgment in a timely manner.

Chapter 9 Preservation and Advance Enforcement

Article 100 For a case where, for the conduct of a party or for other reasons, it may be difficult to execute a judgment or any other damage may be caused to a party, a people's court may, upon application of the opposing party, issue a ruling on preservation of the party's property, order certain conduct of the party or prohibit the party from certain conduct; and if no party applies, the people's court may, when necessary, issue a ruling to take a preservative measure.

A people's court may order the applicant to provide security for taking a preservative measure and, if the applicant fails to provide security, shall issue a ruling to dismiss the application.

After accepting an application, a people's court must, if the circumstances are urgent, issue a ruling within 48 hours; and if it rules to take a preservative measure, the measure shall be executed immediately.

Article 101 Where the lawful rights and interests of an interested party will be irreparable damaged if an application for preservation is not filed immediately under urgent circumstances, the interested party may, before instituting an action or applying for arbitration, apply to the people's court at the place where the property to be preserved is located or at the place of domicile of the respondent or a people's court having jurisdiction over the case for taking preservative measures. The applicant shall provide security and, if the applicant fails to provide security, the people's court shall issue a ruling to dismiss the application.

After accepting an application, a people's court must issue a ruling within 48 hours; and if it rules to take a preservative measure, the measure shall be executed immediately.

Where the applicant fails to institute an action or apply for arbitration in accordance with law within 30 days after the people's court takes a preservative measure, the people's court shall remove preservation.

Article 102 Preservation shall be limited to the extent specified in an application or the property in connection with the case.

Article 103 Property shall be preserved by seizure, impoundment, freezing of account or any other means prescribed by law. After preserving any property, a people's court shall immediately notify

the person whose property is preserved.

Property which has already been seized or frozen shall not be repeatedly seized or frozen.

Article 104 Where, in a property dispute case, the respondent has provided security, the people's court shall issue a ruling to remove preservation.

Article 105 Where an application is erroneous, the applicant shall compensate the respondent for any loss incurred from preservation.

Article 106 A people's court may, upon application of a party, issue a ruling on advance enforcement for the following cases:

- (1) Cases to recover support for elderly parents, support for other adult dependants, child support, consolation money or medical expenses.
- (2) Cases to recover labor remuneration.
- (3) Cases requiring advance enforcement under urgent circumstances.

Article 107 For a people's court to issue a ruling on advance enforcement, both of the following conditions shall be met:

- (1) The rights and obligations between the parties are clear, and a denial of advance enforcement will seriously affect the life or business operation of the applicant.
- (2) The respondent is capable of performance.

The people's court may order the applicant to provide security; and if the applicant fails to provide security, shall dismiss the application. If the applicant loses the action, the applicant shall compensate the respondent for any property loss incurred from advance enforcement.

Article 108 Against a ruling on preservation or advance enforcement, a party may apply for reconsideration once. The enforcement of the ruling shall not be suspended during the period of reconsideration.

Chapter 10 Compulsory Measures against Obstruction of Civil Procedures

Article 109 Where a defendant who must appear in court refuses to appear in court without justifiable reasons after being summonsed twice by a people's court, the people's court may summons the defendant by force.

Article 110 Litigation participants and other persons shall abide by court rules.

A people's court may admonish persons who violate court rules, order such persons to leave the court, or impose a fine or detention on such persons.

For persons who clamor in a courtroom, attack a courtroom, or insult, defame, threaten or assault judges, seriously disrupting the order of the courtroom, the people's court shall investigate their criminal liability in accordance with law; or if the circumstances are not serious, impose a fine or detention on them.

Article 111 Where a litigation participant or any other person commits any of the following conduct, the people's court may impose a fine or detention on the litigation participant or person according to the severity of the circumstances; and if suspected of any crime, the litigation participant or person shall be subject to criminal liability in accordance with law.

- (1) Forging or destroying any material evidence, which obstructs the trial of the case by the people's court.

(2) Preventing a witness from testifying by violence, threat or bribery or instigating, bribing or coercing any other person to commit perjury.

(3) Concealing, transferring, selling or destroying any seized or impounded property or any inventoried property under the custody of the litigation participant or person as ordered or transferring any frozen property.

(4) Insulting, defaming, falsely incriminating, assaulting or retaliating any judge, primary litigation participant, witness, interpreter, identification expert, surveyor or person assisting in enforcement.

(5) Obstructing judicial personnel from performing their duties by violence, threat or any other means.

(6) Refusing to execute any effective judgment or ruling of a people's court.

Where an entity commits any of the conduct in the preceding paragraph, the people's court may impose a fine or detention on the primary person in charge or directly liable persons of the entity; and if suspected of any crime, such persons shall be subject to criminal liability in accordance with law.

Article 112 Where the parties, maliciously in collusion, attempt to infringe upon the lawful rights and interests of other persons by litigation, mediation or any other means, a people's court shall dismiss their claims and impose a fine or detention on the parties according to the severity of the circumstances; and if suspected of any crime, they shall be subject to criminal liability in accordance with law.

Article 113 Where the party against whom enforcement is sought, maliciously in collusion with other persons, evades performance of obligations determined in a legal instrument by litigation, arbitration, mediation or any other means, a people's court shall impose a fine or detention on them according to the severity of the circumstances; and if suspected of any crime, they shall be subject to criminal liability.

Article 114 Where an entity with an obligation to assist in investigation or enforcement commits any of the following conduct, the people's court may, in addition to ordering the entity to perform the obligation of assistance, impose a fine on the entity:

(1) The relevant entity refuses or obstructs investigation or collection of evidence by the people's court.

(2) The relevant entity refuses to assist in property inquiry, seizure, freezing, transfer or sale, after receiving a notice of enforcement assistance from the people's court.

(3) The relevant entity refuses to assist in withholding the income of the party against whom enforcement is sought, handling the transfer of a relevant property right certificate, or delivering a relevant bill, certificate or license or any other relevant property, after receiving a notice of enforcement assistance from the people's court.

(4) The relevant entity otherwise refuses to assist in enforcement.

Where an entity commits any of the conduct in the preceding paragraph, the people's court may impose a fine on the primary person in charge or directly liable persons of the entity; and if the entity still fails to perform its obligation to provide assistance, may detain such persons and offer judicial recommendations to the supervisory authority or other relevant authorities regarding disciplinary actions against such persons.

Article 115 The amount of a fine on an individual shall not be more than 100,000 yuan. The amount of a fine on an entity shall not be less than 50,000 yuan but not be more than 1 million yuan.

The period of detention shall not be longer than 15 days.

A people's court shall deliver a detainee to a public security authority for custody. If the detainee admits and corrects his or her wrongdoing during the period of detention, the people's court may decide to discharge the detainee early.

Article 116 A summons by force, a fine or detention must subject to the approval of the president of a people's court.

A warrant shall be issued for a summons by force.

A written decision shall be made to impose a fine or detention. Against such a decision, a party may apply to the people's court at the next higher level for reconsideration once. The enforcement of the decision shall not be suspended during the period of reconsideration.

Article 117 Any compulsory measure against obstruction of civil procedures must be taken upon decision of a people's court. Any entity or individual which recovers a debt by illegally withholding another person against the person's will or illegally seizing another person's property shall be subject to criminal liability in accordance with law or subject to detention or a fine.

Chapter 11 Litigation Expenses

Article 118 A party instituting a civil action shall pay a case acceptance fee according to the relevant provisions. In property cases, a party shall pay other litigation expenses, in addition to a case acceptance fee.

Where it is difficult for a party to pay any litigation expenses, the party may, according to the relevant provisions, apply to the people's court for payment postponement, reduction or waiver. Procedures for collection of litigation expenses shall be formulated separately.

Part Two Trial Procedure

Chapter 12 Formal Procedure at First Instance

Section 1 Instituting and Accepting an Action

Article 119 An action to be instituted must meet all of the following conditions:

- (1) The plaintiff is a citizen, legal person or any other organization with a direct interest in the case.
- (2) There is a clear defendant.
- (3) There are specific claims, facts and reasons.
- (4) The case is within the scope of civil actions accepted by the people's courts and under the jurisdiction of the people's court in which the action is instituted.

Article 120 A plaintiff shall submit a written complaint to the people's court and provide copies of it according to the number of defendants.

Where it is difficult for a plaintiff to write a complaint, the plaintiff may institute an action verbally, and the people's court shall record it in the transcripts and notify the opposing party.

Article 121 A written complaint shall state:

(1) the name, gender, age, ethnicity, occupation, employer, domicile and contact methods of the plaintiff; or the name and domicile of a legal person or any other organization and the name, title and contact methods of the legal representative or primary person in charge thereof;

(2) information on the defendant, including but not limited to name, gender, employer and domicile; and information on a legal person or any other organization, including but not limited to name and domicile;

(2) claims and supporting facts and reasons; and

(3) evidence, sources of evidence, and names and domiciles of witnesses.

Article 122 Where mediation is appropriate for the civil dispute involved in an action instituted by a party in a people's court, mediation shall be conducted first, unless the parties refuse mediation.

Article 123 A people's court shall protect the right to sue enjoyed by a party in accordance with law. A people's court must accept an action instituted under Article 119 of this Law. A people's court shall, within seven days, docket a case which meets the conditions for instituting an action and notify the party; or issue a ruling within seven days to refuse to accept an action which fails to meet the conditions for instituting an action, and the plaintiff may appeal against the ruling.

Article 124 A people's court shall handle the following actions according to different circumstances:

(1) Notifying the plaintiff to file an administrative lawsuit, if the case is within the scope of administrative lawsuits in accordance with the Administrative Litigation Law.

(2) Notifying the plaintiff to apply to an arbitral institution for arbitration, if, in accordance with law, both parties shall apply for arbitration under a written arbitration agreement reached between them and are prohibited from instituting an action in a people's court.

(3) Notifying the plaintiff to apply to a relevant authority for settlement of a dispute, if, in accordance with law, the dispute shall be handled by other authorities.

(4) Notifying the plaintiff to institute an action in a people's court having jurisdiction, if the case is not within its jurisdiction.

(5) Notifying the plaintiff to petition for retrial, except for a ruling of a people's court which allows withdrawal of an action, if a party institutes an action again for a case for which a judgment, ruling or consent judgment has come into force.

(6) Refusing to accept an action instituted during a period of prohibition from instituting an action, if, in accordance with law, the action shall not be instituted during a certain period.

(7) Refusing to accept an action instituted by the plaintiff without new developments or new reasons within six months for a divorce case where dissolution of marriage is not granted by a judgment or both parties have reconciled through mediation or for a case where an adoptive relationship is maintained by a judgment or through mediation.

Section 2 Pretrial Preparations

Article 125 A people's court shall, within five days after docketing a case, serve a copy of the written complaint on the defendant, and the defendant shall submit a written statement of defense within 15 days after receiving the complaint. The written statement of defense shall state the name, gender, age, ethnicity, occupation, employer, domicile and contact methods of the

defendant; or the name and domicile of a legal person or any other organization and the name, title and contact methods of the legal representative or primary person in charge thereof. The people's court shall, within five days after receiving the written statement of defense, serve a copy of it on the plaintiff.

The defendant's failure to submit a written statement of defense shall not affect the trial of the case by the people's court.

Article 126 After deciding to accept a case, a people's court shall notify the parties, verbally or in a notice of case acceptance or a notice of response to an action, of their relevant procedural rights and obligations.

Article 127 Where a party raises any objection to jurisdiction after a case is accepted by a people's court, the party shall file the objection with the people's court during the period of submitting a written statement of defense. The people's court shall examine the objection. If the objection is supported, the people's court shall issue a ruling to transfer the case to the people's court having jurisdiction; or if the objection is not supported, the people's court shall issue a ruling to dismiss the objection.

Where a party raises no objection to jurisdiction and responds to the action by submitting a written statement of defense, the people's court accepting the action shall be deemed to have jurisdiction, unless the provisions regarding hierarchical jurisdiction and exclusive jurisdiction are violated.

Article 128 The parties shall be notified of the composition of a collegial bench within three days after the composition is determined.

Article 129 Judges must carefully examine case materials and investigate and collect necessary evidence.

Article 130 The personnel assigned by a people's court to conduct investigation shall produce their credentials to the person under investigation.

The investigation transcripts shall be checked by the person under investigation and be signed or sealed by the person under investigation and the investigators.

Article 131 A people's court may, when necessary, entrust investigation to a people's court in a different place.

The entrusting people's court must specify the investigated matters and the investigation requirements. The entrusted people's court may conduct additional investigation on its own initiative.

The entrusted people's court shall complete investigation within 30 days after receiving a letter on entrusted investigation. If the entrusted people's court is unable to complete investigation for certain reasons, it shall notify the entrusting people's court in a letter within the aforesaid period.

Article 132 Where a party who must participate in a joint action fails to participate in the action, the people's court shall notify the party to participate in the action.

Article 133 A people's court shall handle accepted cases according to different circumstances:

(1) Initiating the procedure for urging debt repayment at the court's discretion, if the parties are not in dispute and the prescribed conditions are met for initiating the procedure for urging debt repayment.

(2) Resolving disputes in a timely manner through mediation, if pre-trial mediation is allowed.

(3) Determining the application of summary procedure or formal procedure according to the circumstances of a case.

(4) Clarifying the focus of disputes by requiring the parties to exchange evidence and other means, if it is necessary to hold a court session.

Section 3 Court Trial

Article 134 A people's court shall try civil cases openly, except those involving any state secret or individual privacy or as otherwise provided by law.

Divorce cases and cases involving any trade secret may be tried in camera upon application of the parties.

Article 135 A people's court may, as needed, try civil cases in a circuit manner and on the spot.

Article 136 A people's court shall notify the parties and other litigation participants of the trial of a civil case three days before holding a court session. If the case is to be tried openly, the names of parties, cause of action, and time and location of court session shall be published.

Article 137 Before a court session begins, the court clerk shall check whether the parties and other litigation participants are present and announce court rules.

When a court session begins, the presiding judge shall check the identity of each party, announce the cause of action, announce the names of judges and court clerk, notify the parties of their relevant procedural rights and obligations, and ask the parties whether they file any requests for disqualification.

Article 138 Court investigation shall be conducted in the following order:

- (1) The parties each present a statement.
- (2) Witnesses are notified of their rights and obligations, witnesses testify, and the statements of absent witnesses are read.
- (3) Documentary evidence, physical evidence, audio-visual recordings, and electronic data are adduced.
- (4) Expert opinions are read.
- (5) Transcripts of survey are read.

Article 139 The parties may adduce new evidence in court.

As permitted by the court, a party may question a witness, identification expert or surveyor.

A party's request for reinvestigation, re-identification or resurvey shall be subject to the decision of the people's court.

Article 140 The added claims of a plaintiff, the counterclaim of a defendant, and a third party's claims related to the case may be tried concurrently.

Article 141 Court debate shall be conducted in the following order:

- (1) The plaintiff and the litigation representative thereof present their case.
- (2) The defendant and the litigation representative thereof present their arguments.
- (3) A third party and the litigation representative thereof present their case or their arguments.

(4) Debate among the parties.

At the end of court debate, the presiding judge shall ask each side's final statement in the order of plaintiff, defendant and third party.

Article 142 After the end of court debate, a judgment shall be entered in accordance with law. Where mediation is possible before a judgment is entered, mediation may be conducted; and if mediation fails, a judgment shall be entered in a timely manner.

Article 143 Where a plaintiff refuses to appear in court without justifiable reasons after being summonsed or leaves the courtroom during a court session without permission from the court, the court may deem that the plaintiff has withdrawn the action; and if the defendant has filed a counterclaim, the court may enter a default judgment.

Article 144 Where a defendant refuses to appear in court without justifiable reasons after being summonsed or leaves the courtroom during a court session without permission from the court, the court may enter a default judgment.

Article 145 Where a plaintiff requests withdrawal of the action before a judgment is pronounced, the people's court shall issue a ruling on whether to grant such a request.

If the people's court decides not to grant the request and the plaintiff refuses to appear in court without justifiable reasons after being summonsed, the people's court may enter a default judgment.

Article 146 Under any of the following circumstances, a court session may be postponed:

(1) A party or any other litigation participant which must appear in court fails to appear in court for justifiable reasons.

(2) A party files an unexpected request for disqualification.

(3) It is necessary to notify a new witness to appear in court, collect new evidence, conduct re-identification or resurvey, or conduct further investigation.

(4) Other circumstances requiring postponement.

Article 147 The court clerk shall record all court trial activities in transcripts, to which the judges and court clerk shall affix their signatures.

The court transcripts shall be read out in court, and the parties and other litigation participants may be notified to read the court transcripts in court or within five days. If the parties and other litigation participants deem that there are any omissions or errors in the court transcripts regarding their respective statements, they shall be entitled to request supplementation or correction. If no supplementation or correction is permitted, their requests shall be on record. The parties and other litigation participants shall affix their signatures or seals to the court transcripts. The court transcripts shall record any refusals to affix signatures or seals and be attached to the case file.

Article 148 Whether a case is tried openly or in camera, a people's court shall, without exception, pronounce its judgment publicly.

If a judgment is pronounced in court, a written judgment shall be issued within ten days; or if a judgment is pronounced later on a fixed date, a written judgment shall be issued immediately after pronouncement.

When a judgment is pronounced, the parties must be notified of their right to appeal, the time limit

for appeal, and the appellate court.

When a divorce judgment is pronounced, the parties must be notified that neither of them may marry another person before the judgment takes effect.

Article 149 A people's court shall complete the trial of a case under formal procedure within six months after the case is docketed. If an extension of the period is necessary under special circumstances, the period may be extended for six months with the approval of the president of the people's court; and any further extension shall be subject to the approval of the superior of the people's court.

Section 4 Suspension and Termination of an Action

Article 150 Under any of the following circumstances, an action shall be suspended:

(1) A party dies and it is necessary to wait for his or her successors to indicate whether they will participate in the action.

(2) A party loses his or her litigation competency and his or her legal representative has not been determined.

(3) A party which is a legal person or any other organization is terminated and the successors to the rights and obligations of the party have not been determined.

(4) A party is unable to participate in the action for reasons beyond the party's control.

(5) The action must depend on the results of the trial of another case which has not been concluded.

(6) Other circumstances requiring suspension.

The action shall resume after the cause of suspension is eliminated.

Article 151 Under any of the following circumstances, an action shall be terminated:

(1) The plaintiff dies without successors or all of his or her successors waive their procedural rights.

(2) The defendant dies without estate and without any person which shall assume the defendant's obligations.

(3) In a divorce case, either party dies.

(4) In a case to recover support for elderly parents, support for other adult dependants or child support or to rescind an adoptive relationship, either party dies.

Section 5 Judgments and Rulings

Article 152 A written judgment shall state the results of judgment and reasons for entering the judgment. The content of a written judgment includes:

(1) the cause of action, claims, facts in dispute, and reasons;

(2) the facts found and reasons and the laws applied and reasons in the judgment;

(3) the results of judgment and the assumption of litigation expenses; and

(4) the time limit for filing an appeal and the appellate court.

The judges and court clerk shall affix their signatures and the people's court shall affix its seal to the written judgment.

Article 153 Where a portion of the facts of a case tried by a people's court has been ascertained, the people's court may first enter a judgment regarding such facts.

Article 154 The scope of application of a ruling shall include:

- (1) Refusing to accept an action;
- (2) Objection to jurisdiction;
- (3) Dismissing an action;
- (4) Preservation and advance enforcement;
- (5) Granting or not granting the withdrawal of an action;
- (6) Suspension or termination of an action;
- (7) Correcting typos in a written judgment;
- (8) Suspension or termination of enforcement;
- (9) revoking or not enforcing an arbitration award;
- (10) Refusing to enforce a debt instrument with enforceability legally granted by a notary office;
and
- (11) Other issues to be resolved by a ruling.

A ruling in items (1) to (3) of the preceding paragraph is appealable.

A written ruling shall state the results of ruling and reasons for issuing the ruling. The judges and court clerk shall affix their signatures and the people's court shall affix its seal to a written ruling. A verbal ruling shall be recorded in transcripts.

Article 155 The judgments and rulings of the Supreme People's Court and the judgments and rulings not appealable in accordance with law or not appealed during the prescribed time limit shall be effective judgments and rulings.

Article 156 The public may consult effective written judgments and rulings, except content involving any national secret, trade secret or individual privacy.

Chapter 13 Summary Procedure

Article 157 Where a basic people's court and its detached tribunals try simple civil cases with clear facts, unambiguous rights and obligations and minor disputes, the provisions of this Chapter shall apply.

Where a basic people's court and its detached tribunals try civil cases other than those in the preceding paragraph, the parties may agree on the application of summary procedure.

Article 158 In simple civil cases, the plaintiff may institute an action verbally.

Both sides may appear at the same time before a basic people's court or its detached tribunal for resolution of a dispute. The basic people's court or its detached tribunal may try the case immediately or schedule the trial for another day.

Article 159 When trying simple civil cases, a basic people's court and its detached tribunals may, in simple manners, summon the parties and witnesses, serve process and try cases but shall protect the parties' right to present a statement.

Article 160 Not subject to Articles 136, 138 and 141 of this Law, a simple civil case shall be tried by a sole judge.

Article 161 A people's court which tries a case under summary procedure shall complete the trial of the case within three months after the case is docketed.

Article 162 Where a basic people's court or its detached tribunal tries a simple civil case as described in paragraph 1 of Article 157 of this Law, if the amount of subject matter is lower than 30 percent of the previous year's average annual wages of workers in a province, autonomous region or municipality directly under the Central Government, the adjudication of the basic people's court or detached tribunal shall be final.

Article 163 A people's court which discovers during the trial of a case that the application of summary procedure is not appropriate for the case shall issue a ruling to transfer the case into formal procedure.

Chapter 14 Procedure at Second Instance

Article 164 Against a first instance judgment of a local people's court, a party shall have the right to file an appeal with the people's court at the next higher level within 15 days from the date of service of the written judgment.

Against a first instance ruling of a local people's court, a party shall have the right to file an appeal with the people's court at the next higher level within 10 days from the date of service of the written ruling.

Article 165 An appellant shall submit a written appeal. The written appeal shall include the names of the parties which are natural persons, names of a legal person and its legal representative or names of any other organization and its primary person in charge; the name of the original trial people's court, case number and cause of action; and the claims in appeal and reasons for appeal.

Article 166 An appellant shall submit a written appeal through the original trial people's court and provide copies of it according to the number of the opposing parties or the representatives of the opposing parties.

Where a party appeals directly to a people's court of second instance, the people's court of second instance shall, within five days, transfer the written appeal to the original trial people's court.

Article 167 The original trial people's court shall, within five days after receiving a written appeal, serve the copies of the written appeal on the opposing parties, and the opposing parties shall, within 15 days after receiving the copies, submit their written statements of defense. The original trial people's court shall, within five days after receiving the written statements of defense, serve the copies of the written statements of defense on the appellant. The trial of the case by a people's court shall not be affected by an opposing party's failure to submit a written statement of defense.

After receiving both the written appeal and the written statements of defense, the original trial people's court shall, within five days, transfer them along with the entire case file and evidence to the people's court of second instance.

Article 168 The people's court of second instance shall review the facts and application of law in relation to the claims in appeal.

Article 169 The people's court of second instance shall form a collegial bench to try an appeal case in a court session. Where, after consultation of the case file, investigation and questioning of the parties, no new fact, evidence or reason is submitted, the collegial bench may decide not to hold a court session if deeming a court session unnecessary.

The people's court of second instance may try an appeal case in its own courtroom or at the place where the case occurred or where the original trial people's court is located.

Article 170 After trial, the people's court of second instance shall handle appeal cases according to the following different circumstances:

(1) Dismissing an appeal and sustaining the original judgment or ruling in the form of a judgment or ruling, if the original judgment or ruling is clear in fact finding and correct in application of law.

(2) Reversing, revoking or modifying the original judgment or ruling in accordance with law in the form of a judgment or ruling, if the original judgment or ruling is erroneous in fact finding or application of law.

(3) Issuing a ruling to revoke the original judgment and remand the case to the original trial people's court for retrial or reversing the original judgment after ascertaining facts, if the original judgment is unclear in finding the basic facts.

(4) Issuing a ruling to revoke the original judgment and remand the case to the original trial people's court, if the original judgment seriously violates statutory procedures, such as omitting a party or illegally entering a default judgment.

Where, after the original trial people's court enters a judgment for a case remanded for retrial, a party appeals the judgment, the people's court of second instance shall not remand the case again for retrial.

Article 171 The people's court of second instance shall, without exception, issue a ruling after trial of an appeal against a ruling of the people's court of first instance.

Article 172 When trying an appeal case, the people's court of second instance may conduct mediation. If a mediation agreement is reached, a consent judgment shall be prepared, to which the judges and court clerk shall affix their signatures and the people's court shall affix its seal. Upon service of the consent judgment, the judgment of the original trial people's court shall be deemed revoked.

Article 173 Where an appellant requests withdrawal of its appeal before the people's court of second instance pronounces its judgment, the people's court of second instance shall issue a ruling on whether to grant such a request.

Article 174 Subject to the provisions of this Chapter, a people's court of second instance shall try appeal cases under the formal procedure at first instance.

Article 175 The judgments and rulings of a people's court of second instance shall be final.

Article 176 A people's court shall complete the trial of an appeal case against a judgment within three months after the appeal is docketed. Any extension of the aforesaid period under special circumstances shall be subject to the approval of the president of the people's court.

A people's court shall issue a final ruling for an appeal case against a ruling within 30 days after the appeal is docketed.

Chapter 15 Special Procedures

Section 1 General Provisions

Article 177 The people's courts shall try voter eligibility cases, missing person declaration and death declaration cases, cases of determining civil incompetency or limited civil competency of citizens, cases of determining unclaimed property, cases of confirming mediation agreements and cases of security interest realization in accordance with the provisions of this Chapter. Where this Chapter is silent, the relevant provisions of this Law and other laws shall apply.

Article 178 For cases tried under procedures in this Chapter, the trial results are not appealable. A collegial bench consisting of judges only shall be formed to try a voter eligibility case or a significant or difficult case; and any other case shall be tried by a sole judge.

Article 179 A people's court which discovers during the trial of a case under a procedure in this Chapter that the case involves a dispute over civil rights and interests shall issue a ruling to terminate the special procedure and notify the interested parties that they may institute a separate action.

Article 180 A people's court shall complete the trial of a case under a special procedure within 30 days after the case is docketed or within 30 days after the period of public announcement expires. Any extension of the aforesaid trial period under special circumstances shall be subject to the approval of the president of the people's court. This article is not applicable to the trial of voter eligibility cases.

Section 2 Voter Eligibility Cases

Article 181 Against an election committee's decision on a petition regarding voter eligibility, a citizen may, five days before the election day, institute an action in the basic people's court at the place where the electoral district is located.

Article 182 After accepting a voter eligibility case, a people's court must complete the trial of the case before the election day.

The plaintiff, the representative of the election committee and the relevant citizen must participate in the trial.

The written judgment of the people's court shall be served on the election committee and the plaintiff before the election day, and the relevant citizen shall be notified.

Section 3 Missing Person Declaration and Death Declaration Cases

Article 183 Where the whereabouts of a citizen has been unknown for two years and an interested party applies for declaration of the citizen to be missing, the application shall be filed with the basic people's court at the place of domicile of the citizen whose whereabouts is unknown.

The written application shall state the fact and time of disappearance and claims, to which a written certificate issued by a public security authority or any other relevant authority regarding the fact that citizen's whereabouts is unknown shall be attached.

Article 184 Where the whereabouts of a citizen has been unknown for four years, has been unknown for involvement in an accident for two years, or has been unknown for involvement in an accident which the citizen cannot survive according to a certificate issued by a relevant authority, if an interested party applies for declaration of the citizen to be dead, the application shall be filed with the basic people's court at the place of domicile of the citizen whose whereabouts is unknown.

The written application shall state the fact and time of the citizen's whereabouts being unknown and claims, to which a written certificate issued by a public security authority or any other relevant authority regarding the fact that the citizen's whereabouts is known shall be attached.

Article 185 After accepting a missing person declaration or death declaration case, a people's court shall issue a public announcement to search for the missing person. The period of public announcement for declaring a person to be missing shall be three months, and the period of public announcement for declaring a person to be dead shall be one year. Where a citizen's whereabouts has been unknown for his or her involvement in an accident which the citizen cannot survive according to a certificate issued by a relevant authority, the period of public announcement for declaring the citizen to be dead shall be three months.

Upon expiration of the aforesaid period of public announcement, the people's court shall, according to whether the missing or death of the citizen to be declared has been confirmed as a fact, enter a judgment to declare that the person is missing or dead or enter a judgment to dismiss the application.

Article 186 Where a citizen who has been declared to be missing or dead reappears, the people's court shall, upon application of the citizen or an interested party, enter a new judgment to revoke the original one.

Section 4 Cases of Determining Civil Incompetency or Limited Civil Competency of Citizens

Article 187 For the determination of a citizen's civil incompetency or limited civil competency, an application shall be filed by a close relative of the citizen or any other interested party with the basic people's court at the place of domicile of the citizen.

The written application shall state the facts and basis regarding the citizen's civil incompetency or limited civil competency.

Article 188 After accepting an application, a people's court shall, when necessary, conduct identification of the citizen's civil incompetency or limited civil competency to be determined upon application. If the applicant has provided an expert opinion, the people's court shall examine the expert opinion.

Article 189 Where a people's court tries a case of determining a citizen's civil incompetency or limited civil competency, a close relative, other than the applicant, of the citizen shall serve as the citizen's representative. If the close relatives of the citizen shift their duty of representation onto each other, the people's court shall specify one of them as the representative of the citizen. If the citizen's health status allows, the people's court shall also solicit the opinion of the citizen. If, upon trial, the people's court holds that the application is supported by facts, it shall enter a judgment to determine that the citizen is a person without civil competency or with limited civil competency; otherwise, it shall enter a judgment to dismiss the application.

Article 190 Upon application of a person who has been determined as a person without civil competency or with limited civil competency or application of his or her guardian, a people's court shall enter a new judgment to revoke the original one if it is evidenced that the cause of the person's civil incompetency or limited civil competency has been eliminated.

Section 5 Cases of Determining Unclaimed Property

Article 191 For the determination of unclaimed property, a citizen, a legal person or any other organization shall file an application with the basic people's court at the place where the property

is located.

The written application shall state the kind and quantity of property and the grounds for requesting determination of unclaimed property.

Article 192 After accepting an application, the people's court shall conduct examination and verification and issue a public announcement on claiming the property. If no one claims the property upon one year from the date of public announcement, the people's court shall enter a judgment to determine that the property is unclaimed property and therefore owned by the state or a collective.

Article 193 Where, after any property is determined as unclaimed property in a judgment, the original owner of the property or the successor thereto appears, the original owner or successor may claim the property within the time limitation prescribed in the General Principles of Civil Law, the people's court shall, after examination and verification, enter a new judgment to revoke the original one.

Section 6 Cases of Confirming Mediation Agreements

Article 194 To apply for judicial confirmation of a mediation agreement, both parties to the mediation agreement shall, in accordance with the People's Mediation Law and other laws, jointly file an application with the basic people's court of the place where the mediation organization is located within 30 days from the effective date of the mediation agreement.

Article 195 After accepting an application, if the application complies with legal provisions upon examination, the people's court shall issue a ruling to affirm the validity of the mediation agreement, and if one party refuses to perform or fails to fully perform the mediation agreement, the opposing party may apply for enforcement to the people's court; or if the application does not comply with legal provisions upon examination, the people's court shall issue a ruling to dismiss the application, and the parties may, through mediation, modify the mediation agreement or reach a new mediation agreement and may also institute an action in a people's court.

Section 7 Cases of Security Interest Realization

Article 196 To apply for realization of a security interest, the security interest holder or any other party entitled to request realization of the security interest shall, in accordance with the Property Law and other laws, file an application with the basic people's court at the place where the property posted as security is located or at the place of registration of the security interest.

Article 197 After accepting an application, if the application complies with legal provisions upon examination, the people's court shall issue a ruling to auction or sell the property posted as security, and the parties may, based on the ruling, apply for enforcement to the people's court; or if the application does not comply with legal provisions, the people's court shall issue a ruling to dismiss the application, and the party may institute an action in a people's court.

Chapter 16 Trial Supervision Procedure

Article 198 Where the president of a people's court at any level discovers any error in any effective judgment, ruling or consent judgment of the court and deems a retrial necessary, the president shall submit it to the judicial committee for deliberation and decision.

Where the Supreme People's Court discovers any error in any effective judgment, ruling or consent judgment of a local people's court at any level or a people's court at a higher level discovers any error in any effective judgment, ruling or consent judgment of a people's court at a

lower level, the Supreme People's Court or the court at a higher level shall have the power to directly retry the case or specify a people's court at a lower level to retry the case.

Article 199 A party which deems that an effective judgment or ruling is erroneous may file a petition for retrial with the people's court at the next higher level; and if the parties on one side are numerous or the parties on both sides are citizens, the parties may file a petition for retrial with the original trial people's court. Where a party files a petition for retrial, the execution of the judgment or ruling shall not be discontinued.

Article 200 Where a petition for retrial filed by a party falls under any of the following circumstances, the people's court shall conduct a retrial:

- (1) There is any new evidence which suffices to overturn the original judgment or ruling.
- (2) The basic facts found in the original judgment or ruling are not evidenced.
- (3) The primary evidence admitted in the original judgment or ruling for finding facts is forged.
- (4) The primary evidence admitted in the original judgment or ruling for finding facts has not been cross-examined.
- (5) For objective reasons, a party is unable to gather any primary evidence necessary for the trial of a case and applies in writing for the people's court to investigate and gather the evidence, but the people's court has not investigated and gathered the evidence.
- (6) There is any erroneous application of law in the original judgment or ruling.
- (7) The composition of the trial organization is illegal or any judge who shall be disqualified in accordance with law fails to be disqualified.
- (8) The legal representative of a person without competency to participate in the action fails to participate in the action on behalf of the person or a party which shall participate in the action fails to participate in the action, which is not attributable to the fault of the party or the litigation representative thereof.
- (9) A party's right to debate is illegally denied.
- (10) A default judgment is entered against a party which has not been summonsed.
- (11) The original judgment or ruling has omitted any claims or exceeded the claims of the parties.
- (12) The legal instrument on which the original judgment or ruling is based has been revoked or modified.
- (13) When trying the case, a judge commits embezzlement, accepts bribes, practices favoritism for personal gains, or adjudicates by bending the law.

Article 201 Where, against an effective consent judgment, a party adduces any evidence that the mediation has violated the principle of free will of the parties or any content of the mediation agreement has violated law, the party may petition for retrial. The people's court shall, upon examination and verification, conduct a retrial.

Article 202 A party shall not file a petition for retrial against an effective judgment or consent judgment which dissolves a marital relationship.

Article 203 A party which petitions for retrial shall submit a written retrial petition and other materials. The people's court shall, within five days after receiving the written retrial petition, serve the copies of the written retrial petition on the opposing parties. The opposing parties shall submit their written opinions within 15 days after receiving the copies of the written retrial petition; and any opposing party's failure to submit a written opinion shall not affect the examination of the petition by the people's court. The people's court may require the petitioner and the opposing parties to provide relevant supplements and may question them on relevant matters.

Article 204 A people's court shall, within three months after receiving a written retrial petition, examine the petition and, if the petition complies with the provisions of this Law, issue a ruling to retry the case; or if the petition does not comply with the provisions of this Law, issue a ruling to dismiss the petition. Where, under special circumstances, an extension of the aforesaid period is necessary, the extension shall be subject to the approval of the president of the people's court. A case to be retried according to a ruling issued upon petition of a party shall be retried by a people's court at or above the level of an intermediate people's court, except a case to be retried by a basic people's court upon petition as chosen by the parties under Article 199 of this Law. A case to be retried according to a ruling issued by the Supreme People's Court or a higher people's court shall be retried by the court issuing the ruling, and the court issuing the ruling may transfer the case to any other people's court including the original trial people's court for retrial.

Article 205 A party which petitions for retrial shall file a petition for retrial within six months from the effective date of a judgment or ruling; or under the circumstances of item (1), (3), (12) or (13) of Article 200 of this Law, file a petition for retrial within six months from the day when the party knows or should have known.

Article 206 For a case retried according to a decision made under the trial supervision procedure, a ruling shall be issued to suspend the execution of the original judgment, ruling or consent judgment, but suspension of execution is not required for cases to recover support for elderly parents, support for other adult dependants, child support, consolation money, medical expenses, and labor remuneration, among others.

Article 207 For a case to be retried by a people's court under the trial supervision procedure, if the effective judgment or ruling was entered by a court of first instance, the people's court shall retry the case under the procedure at first instance, and the judgment or ruling entered by the people's court is appealable; if the effective judgment or ruling was entered by a court of second instance, the people's court shall retry the case under the procedure at second instance, and the judgment or ruling entered by the people's court shall be immediately effective; or if the case is directly retried by a people's court at a higher level, the people's court at a higher level shall retry the case under the procedure at second instance, and the judgment or ruling entered by the people's court at a higher level shall be immediately effective.

A people's court shall form a new collegial bench to retry a case.

Article 208 Where the Supreme People's Procuratorate discovers that any effective judgment or ruling of a people's court at any level falls under any of the circumstances set out in Article 200 of this Law or any effective consent judgment thereof causes any damage to the national interest or public interest, or a people's procuratorate at a higher level discovers that any effective judgment or ruling of a people's court at a lower level falls under any of the circumstances set out in Article 200 of this Law or any effective consent judgment thereof causes any damage to the national interest or public interest, the Supreme People's Procuratorate or the people's procuratorate at a

higher level shall file an appeal.

Where a local people's procuratorate at any level discovers that any effective judgment or ruling of a people's court at the same level falls under any of the circumstances set out in Article 200 of this Law or discovers that any consent judgment thereof causes any damage to the national interest or public interest, the people's procuratorate may offer procuratorial recommendations to the people's court at the same level and file a report with the people's procuratorate at the next higher level; and may also request the people's procuratorate at the next higher level to file an appeal with the people's court at the corresponding level.

A people's procuratorate at any level shall have the authority to offer procuratorial recommendations to the people's court at the same level regarding violations of law by judges in trial procedures other than the trial supervision procedure.

Article 209 Under any of following circumstances, a party may apply to a people's procuratorate for procuratorial recommendations or appeal:

- (1) A people's court dismisses a petition for retrial.
- (2) A people's court fails to issue a ruling regarding a petition for retrial within the prescribed time limit.
- (3) The judgment or ruling entered after retrial is clearly erroneous.

The people's procuratorate shall, within three months, examine the party's application and make a decision to offer or not to offer procuratorial recommendations or a decision to file or not to file an appeal. The party shall not apply again to the people's procuratorate for offering procuratorial recommendations or filing an appeal.

Article 210 A people's procuratorate may, as necessary for offering procuratorial recommendations or filing an appeal to perform its duty of legal supervision, investigate and verify relevant information from the parties or those who are not parties to a case.

Article 211 For a case where a people's procuratorate files an appeal, the people's court accepting the appeal shall issue a ruling on retrial within 30 days after receiving the written appeal; and under any of the circumstances set out in items (1) to (5) of Article 200 of this Law, may transfer the case to the people's court at the next lower level for retrial unless the case has been retried by the people's court at the next lower level.

Article 212 A people's procuratorate which files an appeal against a judgment, ruling or consent judgment of a people's court shall prepare a written appeal.

Article 213 When a people's court retries a case upon appeal of a people's procuratorate, the people's court shall notify the people's procuratorate to send personnel to be present in court.

Chapter 17 Procedure for Urging Debt Repayment

Article 214 A creditor which requests a debtor to repay money or negotiable securities may apply to the basic people's court having jurisdiction to issue an order for payment if the following conditions are met:

- (1) There are no other debt disputes between the creditor and the debtor.
- (2) The order for payment can be served on the debtor.

The creditor's written application shall state the amount of money or negotiable securities to be repaid and the facts and evidence on which the application is based.

Article 215 After a creditor files an application, the people's court shall, within five days, notify the creditor whether the application is accepted.

Article 216 After accepting an application, the people's court shall examine the facts and evidence provided by the creditor and, if the creditor-debtor relationship is clear and legal, issue an order for payment to the debtor within 15 days after accepting the application; or if the application is not supported, issue a ruling to dismiss the application.

The debtor shall, within 15 days after receiving the order for payment, repay the debt or submit a written objection to the people's court.

If the debtor has neither submitted an objection nor complied with the order for payment during the period prescribed in the preceding paragraph, the creditor may apply to the people's court for enforcement of the order for payment.

Article 217 After receiving a written objection from a debtor, if the objection is supported upon examination, a people's court shall issue a ruling to terminate the procedure for urging debt repayment, and the order for payment shall be automatically invalidated.

Where an order for payment is invalidated, the litigation procedure shall be initiated, unless the party applying for the order for payment disagrees to institute an action.

Chapter 18 Procedure for Announcement to Urge Declaration of Claims

Article 218 The holder of an instrument negotiable by endorsement according to the relevant provisions may, if the instrument is stolen, lost or extinguished, apply to the basic people's court at the place of payment of the instrument for an announcement to urge declaration of claims. The provisions of this Chapter shall also apply to other matters regarding which an announcement to urge declaration of claims may be applied for according to legal provisions.

The applicant shall file a written application with the people's court, which shall state the main content of the instrument, such as the face value, issuer, holder and endorser, as well as the grounds and facts for the application.

Article 219 Where a people's court decides to accept an application, the people's court shall, at the same time, notify the drawee to stop payment and, within three days, issue an announcement to urge interested parties to declare their claims. The period of declaration of claims shall be decided by a people's court according to the specific circumstances but shall not be less than sixty days.

Article 220 The drawee shall, upon receiving a notice of stopping payment from a people's court, stop payment until the termination of the procedure for announcement to urge declaration of claims.

During the period of declaration of claims, any transfer of rights under the instrument shall be void.

Article 221 Interested parties shall declare their claims to the people's court during the period of declaration of claims.

After receiving claims from interested parties, the people's court shall issue a ruling to terminate the procedure for announcement to urge declaration of claims and notify the applicant and the drawee.

The applicant or a claimant may institute an action in the people's court.

Article 222 Where no one declares a claim, the people's court shall enter a judgment according to the application to declare the instrument to be void. The judgment shall be publicly announced, and the drawee shall be notified. From the date of announcement of the judgment, the applicant shall be entitled to require payment from the drawee.

Article 223 Where, for any justifiable reasons, any interested party is unable to declare its claims to the people's court before a judgment is entered, the interested party may, within one year from the day when the interested party knows or should have known the public announcement of the judgment, institute an action in the people's court which entered the judgment.

Part Three Enforcement Procedure

Chapter 19 General Provisions

Article 224 An effective civil judgment or ruling or the property portion of a criminal judgment or ruling shall be enforced by the people's court of first instance or the people's court at the same level as the people's court of first instance at the place where the property under enforcement is located.

Other legal instruments enforced by a people's court as prescribed by law shall be enforced by the people's court at the place of domicile of the party against whom enforcement is sought or at the place where the property under enforcement is located.

Article 225 Where a party or an interested party deems that enforcement has violated any legal provisions, the party or interested party may file a written objection with the people's court in charge of enforcement. Where a party or an interested party files a written objection, the people's court shall examine the written objection within 15 days after receiving it and, if the objection is supported, issue a ruling to revoke or correct enforcement; or if the objection is not supported, issue a ruling to dismiss the objection. Against such a ruling, the party or interested party may apply for reconsideration to the people's court at the next higher level within ten days after the ruling is served.

Article 226 Where a people's court fails to conduct enforcement within six months after receiving a written application for enforcement, the applicant for enforcement may apply for enforcement to the people's court at the next higher level. Upon examination, the people's court at the next higher level may order the original people's court to conduct enforcement within a certain time limit or decide to conduct enforcement by itself or order another people's court to conduct enforcement.

Article 227 Where, during enforcement, a person which is not a party to the case files a written objection regarding the subject matter of enforcement, the people's court shall examine the written objection within 15 days after receiving it and, if the objection is supported, issue a ruling to suspend enforcement against the subject matter; or if the objection is not supported, issue a ruling to dismiss the objection. If the person which is not a party to the case or a party disagrees on such a ruling and deems that the original judgment or ruling is erroneous, the trial supervision procedure shall apply; or if such disagreement is irrelevant to the original judgment or ruling, the person or the party may institute an action in a people's court within 15 days after the aforesaid ruling regarding objection is served.

Article 228 Enforcement shall be conducted by enforcement personnel.

When taking enforcement measures, the enforcement personnel shall produce their credentials. After completion of enforcement, the enforcement personnel shall prepare enforcement

transcripts, to which the relevant persons on the site shall affix their signatures or seals.
A people's court may, as needed, establish an enforcement department.

Article 229 Where the party against whom enforcement is sought or the property under enforcement is in a different place, enforcement may be entrusted to the people's court in the different place. The entrusted people's court must begin enforcement within 15 days after receiving a letter of entrustment and shall not refuse enforcement. After completion of enforcement, the entrusted people's court shall notify in a letter the entrusting people's court of the results of enforcement; or if enforcement cannot be completed within 30 days, the entrusted people's court shall also notify in a letter the entrusting people's court of the status of enforcement.

If the entrusted people's court fails to begin enforcement within 15 days after receiving a letter of entrustment, the entrusting people's court may request the superior of the entrusted people's court to order the entrusted people's court to conduct enforcement.

Article 230 Where, during enforcement, both sides reach a settlement agreement, the enforcement personnel shall record the provisions of the settlement agreement in the enforcement transcripts, to which both sides shall affix their signatures or seals.

Where the applicant for enforcement reaches a settlement agreement as a victim of a fraud or under duress with the party against whom enforcement is sought or a party fails to perform a settlement agreement, the people's court may, upon application of a party, resume the enforcement of the original effective legal instrument.

Article 231 Where, during enforcement, the party against whom enforcement is sought provides security to the people's court, the people's court may, with the consent of the applicant for enforcement, decide to suspend enforcement and decide a period of suspension. If the party against whom enforcement is sought fails to perform its obligations within the aforesaid period, the people's court shall have the power to conduct enforcement against the property posted as security by the party against whom enforcement is sought or the property of any guarantor.

Article 232 Where a citizen as the party against whom enforcement is sought dies, his or her debts shall be repaid with his or her estate. Where a legal person or any other organization as the party against whom enforcement is sought is terminated, the successors to the rights and obligations of the legal person or organization shall perform the obligations of the legal person or organization.

Article 233 Where, after completion of enforcement, the judgment, ruling or any other legal document on which enforcement is based is revoked by a people's court for any errors, the people's court shall issue a ruling on the property which has undergone enforcement to order the party which has acquired the property to return the property; and if the party refuses to return the property, the people's court shall conduct enforcement.

Article 234 The provisions of this Part shall also apply to the enforcement of a consent judgment of a people's court.

Article 235 The people's procuratorates shall have the authority to conduct legal supervision over civil enforcement.

Chapter 20 Application and Transfer for Enforcement

Article 236 The parties must comply with an effective civil judgment or ruling. If a party refuses to comply, the opposing party may apply to the people's court for enforcement, and the judges may also transfer the case to the enforcement personnel for enforcement.

The parties must comply with a consent judgment and other legal instruments enforced by a people's court. If a party refuses to comply, the opposing party may apply to the people's court for enforcement.

Article 237 Where a party refuses to comply with an award rendered by a legally established arbitral institution, the opposing party may apply for enforcement to the people's court having jurisdiction. The people's court accepting the application shall enforce the award.

Where the respondent adduces evidence that the arbitration award falls under any of the following circumstances, the people's court shall, upon examination and verification by a collegial bench, issue a ruling not to enforce the arbitration award:

(1) The contract between the parties does not include an arbitration clause or the parties have not reached any written arbitration agreement after a dispute arose.

(2) The matters arbitrated are outside the scope of an arbitration agreement or the arbitral institution has no arbitration power.

(3) The composition of the arbitration tribunal or the arbitration procedure has violated the statutory procedures.

(4) The evidence for rendering the award is forged.

(5) The opposing party withholds any evidence to the arbitral institution, which suffices to affect an impartial award.

(6) When arbitrating the case, any arbitrator commits embezzlement, accepts bribes, practices favoritism for personal gains, or renders the award by bending the law.

If a people's court holds that the enforcement of an arbitration award is contrary to the public interest, the people's court shall issue a ruling not to enforce the award.

Such a ruling shall be served on both sides and the arbitral institution.

Where an arbitration award is not enforced according to a ruling of a people's court, the parties may, according to a written arbitration agreement reached by them, apply again to an arbitral institution for arbitration or institute an action in a people's court.

Article 238 Where a party fails to comply with a debt instrument with enforceability legally granted by a notary office, the opposing party may apply to the people's court having jurisdiction for enforcement, and the people's court accepting the application shall conduct enforcement.

If the notarized debt instrument is erroneous, the people's court shall issue a ruling not to enforce the debt instrument and serve a written ruling on both sides and the notary office.

Article 239 The period for applying for enforcement shall be two years. The suspension or interruption of the time limitation for applying for enforcement shall be governed by legal provisions regarding the suspension or interruption of the time limitations for instituting an action. The period in the preceding paragraph shall begin from the last day of the performance period specified in a legal instrument; begin from the last day of each specified performance period if a legal instrument requires performance in installments; or begin from the effective date of a legal instrument if the legal instrument does not specify a period of performance.

Article 240 Enforcement personnel receiving a written application for enforcement or a letter of transfer for enforcement shall issue a notice of enforcement to the party against whom enforcement is sought and may immediately take enforcement measures.

Chapter 21 Enforcement Measures

Article 241 Where the party against whom enforcement is sought fails to perform obligations determined in a legal instrument as required by a notice of enforcement, the party shall report its current property status and its property status for one year before receiving the enforcement notice. If the party refuses to report or submits a false report, the people's court may, according to the severity of the circumstances, impose a fine or detention on the party which is a natural person or her or her legal representative or the primary person in charge or directly liable persons of the relevant entity.

Article 242 Where the party against whom enforcement is sought fails to perform obligations determined in a legal instrument as required by a notice of enforcement, the people's court shall have the right to inquire the relevant entities about the deposits, bonds, stocks, fund shares and other property of the party against whom enforcement is sought. The people's court shall have the right to seize, freeze, transfer or sell the property of the party against whom enforcement is sought according to different circumstances. The aforesaid property inquiry and seizure, freezing, transfer and sale by the people's court shall not exceed the extent of obligations that the party against enforcement is sought shall perform.

The people's court shall issue a ruling on seizure, freezing, transfer or sale of property, as well as a notice of enforcement assistance, and the relevant entities must assist.

Article 243 Where the party against whom enforcement is sought fails to perform obligations determined in a legal instrument as required by a notice of enforcement, the people's court shall have the right to withhold or withdraw a portion of the party's income corresponding to the party's obligations to be performed. However, the people's court shall ensure that necessary living expenses for the party and his or her dependent family members are retained by the party. The people's court shall issue a ruling on withholding or withdrawing income, as well as a notice of enforcement assistance, and the entity employing the party, banks, credit unions and other entities engaged in savings must assist.

Article 244 Where the party against whom enforcement is sought fails to perform obligations determined in a legal instrument as required by a notice of enforcement, the people's court shall have the right to seize, impound, freeze, auction or sell a portion of the party's property corresponding to the party's obligations to be performed. However, the people's court shall ensure that necessities of life for the party and his or her dependent family members are retained by the party.

The people's court shall issue a ruling to take a measure in the preceding paragraph.

Article 245 When a people's court seizes or impounds any property, if the party against whom enforcement is sought is a citizen, the people's court shall notify the party or his or her adult family members to appear on the site; or if the party against whom enforcement is sought is a legal person or any other organization, the people's court shall notify its legal representative or primary person in charge to appear on the site. Their refusals to appear on the site shall not affect the enforcement. If the party against whom enforcement is sought is a citizen, the entity employing the citizen or the grassroots organizations at the place where the property is located shall send

personnel to the site.

The enforcement personnel must prepare an inventory of the seized or impounded property, to which the persons on the site shall affix their signatures or seals, and a copy of the inventory shall be provided to the party against whom enforcement is sought. If the party against whom enforcement is sought is a citizen, a copy of the inventory may also be provided to his or her adult family members.

Article 246 The enforcement personnel may specify the party against whom enforcement is sought to be responsible for the safekeeping of the seized property. The party against whom enforcement is sought shall assume any losses incurred for the fault of the party against whom enforcement is sought.

Article 247 After any property is seized or impounded, the enforcement personnel shall order the party against whom enforcement is sought to perform obligations determined in a legal instrument during a specified period. If the party against whom enforcement is sought fails to do so within the specified period, the people's court shall auction the seized or impounded property; and if auction is not appropriate or both parties disagree on auction, the people's court may authorize a relevant entity to sell or may directly sell the property. Property prohibited by the state from being sold freely shall be delivered to the relevant entities for purchase at a price prescribed by the state.

Article 248 Where the party against whom enforcement is sought fails to perform obligations determined in a legal instrument and conceals property, the people's court shall have the right to issue a search warrant to search the party, the residence of the party or a place where property may be concealed.

To take the measure in the preceding paragraph, the president of the people's court shall sign and issue a search warrant.

Article 249 The property, bill or certificate to be delivered as specified in a legal instrument shall be delivered in the presence of both sides as summoned by the enforcement personnel or be delivered through the enforcement personnel, and the party accepting delivery shall sign for it. Where a relevant entity holds the property, bill or certificate, the entity shall deliver it according to the notice of enforcement assistance from the people's court, and the party accepting delivery shall sign for it.

Where a relevant citizen holds the property, bill or certificate, the people's court shall notify the citizen to surrender it. If the citizen refuses to do so, the people's court shall conduct enforcement.

Article 250 For a compulsory eviction from a building or land, the president of a people's court shall sign and issue a public announcement to order the party against whom enforcement is sought to perform the obligation within a specified period. If the party against whom enforcement is sought fails to do so within the specified period, the enforcement personnel shall conduct enforcement.

When conducting enforcement, if the party against whom enforcement is sought is a citizen, the people's court shall notify the party or his or her adult family members to appear on the site; or if the party against whom enforcement is sought is a legal person or any other organization, the people's court shall notify its legal representative or primary person in charge to appear on the site. Their refusals to appear on the site shall not affect the enforcement. If the party against whom enforcement is sought is a citizen, the entity employing the citizen or the grassroots organizations at the place where the building or land is located shall send personnel to the site. The enforcement personnel shall include enforcement information in the transcripts, to which the

persons on the site shall affix their signatures or seals.

The people's court shall assign personnel to transport the property removed from a building as a result of compulsory eviction to a designated location and deliver the property to the party against whom enforcement is sought. If the party against whom enforcement is sought is a citizen, the property may also be delivered to his or her adult family member. Any losses incurred due to refusal to accept delivery shall be assumed by the party against whom enforcement is sought.

Article 251 Where, during enforcement, the formalities for transferring any property right certificate is required, the people's court may issue a notice of enforcement assistance to the relevant entities, and the relevant entities must assist.

Article 252 Where the party against whom enforcement is sought fails to perform any conduct specified in a judgment, ruling or any other legal instrument as required by a notice of enforcement, the people's court may conduct enforcement or authorize a relevant unit or any other person to complete the conduct at the expense of the party against whom enforcement is sought.

Article 253 Where the party against whom enforcement is sought fails to perform any obligation of pecuniary payment during a period specified in a judgment, ruling or any other legal instrument, the party against whom enforcement is sought shall pay double interest for the debt for the period of deferred performance. If the party against whom enforcement is sought fails to perform any other obligation during a period specified in a judgment, ruling or any other legal instrument, the party against whom enforcement is sought shall pay a late fee for deferred performance.

Article 254 Where, after a people's court takes the enforcement measures in Articles 242, 243 and 244 of this Law, the party against whom enforcement is sought is still unable to repay debts, the party against whom enforcement is sought shall continue to perform obligations. Once the creditor discovers that the party against whom enforcement is sought has any other property, the creditor may, at any time, apply to the people's court for enforcement.

Article 255 Where the party against whom enforcement is sought fails to perform obligations determined in a legal instrument, the people's court may take or notify a relevant entity to assist in taking the measure of restricting exit from China, the measure of recording the failure in the credit system, the measure of publishing information on the failure on media and other measures prescribed by law.

Chapter 22 Suspension and Termination of Enforcement

Article 256 Under any of the following circumstances, the people's court shall issue a ruling to suspend enforcement:

- (1) The applicant indicates that enforcement may be deferred.
- (2) A person which is not a party to the case raises any justified objection to the subject matter of enforcement.
- (3) A citizen as one of the parties dies, and it is necessary to wait for his or her successors to succeed to his or her rights or obligations.
- (4) A legal person or any other organization as one of the parties is terminated, and the successors to its rights and obligations have not been determined.

(5) Other circumstances under which the people's court deems that enforcement shall be suspended.

Enforcement shall be resumed after the circumstances causing suspension have disappeared.

Article 257 Under any of the following circumstances, the people's court shall issue a ruling to terminate enforcement:

(1) The applicant withdraws the application for enforcement.

(2) The legal instrument on which enforcement is based has been revoked.

(3) The citizen as the party against whom enforcement is sought dies, without any estate for enforcement, and no one succeeds to his or her obligations.

(4) The person entitled to recover support for elderly parents, support for other adult dependants or child support dies.

(5) The citizen as the party against whom enforcement is sought is unable to repay his or her borrowings for living in hardship, has no source of income, and has lost his or her ability to work.

(6) Other circumstances under which the people's court deems that enforcement shall be terminated.

Article 258 A ruling to suspend or terminate enforcement shall be effective immediately after being served on a party.

Part Four Special Provisions on Foreign-Related Civil Procedures

Chapter 23 General Principles

Article 259 The provisions of this Part shall apply to foreign-related civil actions within the territory of the People's Republic of China. Where this Part is silent, other relevant provisions of this Law shall apply.

Article 260 Where there is any discrepancy between an international treaty concluded or acceded to by the People's Republic of China and this Law, the provisions of the international treaty shall prevail, except clauses to which the People's Republic of China has declared reservations.

Article 261 Civil actions instituted against foreign nationals, foreign organizations or international organizations which enjoy diplomatic privileges or immunities shall be governed by the relevant laws of the People's Republic of China and the international treaties concluded or acceded to by the People's Republic of China.

Article 262 When trying foreign-related civil cases, a people's court shall use the spoken and written languages commonly used in the People's Republic of China. Upon request of the parties, interpretation may be provided at the expense of the parties.

Article 263 A foreign national, a stateless person or a foreign enterprise or organization which needs to be represented by a lawyer in instituting or responding to an action in a people's court must retain a lawyer of the People's Republic of China.

Article 264 Where a foreign national, a stateless person or a foreign enterprise or organization without a domicile within the territory of the People's Republic of China needs to be represented by a lawyer or any other person of the People's Republic of China in an action, the power of attorney posted or forwarded from outside the territory of the People's Republic of China is valid

only after it has been legalized by a notary office in the home country and authenticated by the Chinese embassy or consulate stationed in that country or has undergone the legalization formalities prescribed in the relevant treaty concluded by the People's Republic of China and that country.

Chapter 24 Jurisdiction

Article 265 Where an action is instituted against a defendant which has no domicile within the territory of the People's Republic of China for a contract dispute or any other property right or interest dispute, if the contract is signed or performed within the territory of the People's Republic of China, the subject matter of action is located within the territory of the People's Republic of China, the defendant has any impoundable property within the territory of the People's Republic of China, or the defendant has any representative office within the territory of the People's Republic of China, the people's court at the place where the contract is signed or performed, where the subject matter of action is located, where the impoundable property is located, where the tort occurs or where the domicile of the representative office is located may have jurisdiction over the action.

Article 266 Actions instituted for disputes arising from the performance of contracts for Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures or Chinese-foreign cooperative exploration and exploitation of natural resources in the People's Republic of China shall be under the jurisdiction of the people's courts of the People's Republic of China.

Chapter 25 Service of Process and Periods

Article 267 A people's court may serve process on a party which has no domicile within the territory of the People's Republic of China in the following manners:

- (1) Process is served in the manners specified in the international treaty concluded or acceded to by the home country of the person to be served and the People's Republic of China.
- (2) Process is served through diplomatic channels.
- (3) If the person to be served is a citizen of the People's Republic of China, service of process may be entrusted to the embassy or consulate of the People's Republic of China stationed in the country where the person to be served resides.
- (4) Process is served on a litigation representative authorized by the person to be served to receive service of process.
- (5) Process is served on the representative office or a branch office or business agent authorized to receive service of process established by the person to be served within the territory of the People's Republic of China.
- (6) Service of process by post is allowed if the law of the home country of the person to be served permits service of process by post, and if, three months after the postmark date, the service acknowledgement is not returned, but based on all circumstances, it may be determined that process has been served, process shall be deemed served on the expiration date of the aforesaid period.
- (7) Process is served by fax, email or any other means capable of confirming receipt by the person to be served.

(8) If service of process by the aforesaid means is not possible, process shall be served by public announcement, and process shall be deemed served three months after the date of public announcement.

Article 268 Where a defendant has no domicile within the territory of the People's Republic of China, the people's court shall serve a copy of the written complaint on the defendant and notify the defendant to a written statement of defense within 30 days after receiving the copy of the written complaint. If the defendant applies for an extension of the aforesaid period, the extension shall be subject to the decision of the people's court.

Article 269 A party which has no domicile within the territory of the People's Republic of China shall have the right to appeal against a judgment or ruling of a people's court of first instance within 30 days from the date of service of the written judgment or ruling. The appellee shall submit a written statement of defense within 30 days after receiving a copy of the written appeal. If a party is unable to file an appeal or submit a written statement of defense within the statutory period and applies for an extension of the period, the application shall be subject to the decision of the people's court.

Article 270 The period for a people's court to try a foreign-related civil case shall not be limited by the provisions of Article 149 and 176 of this Law.

Chapter 26 Arbitration

Article 271 Where, for disputes arising from foreign economic and trade activities or international transportation or maritime activities, the parties have included an arbitration clause in the contracts or have reached a written arbitration agreement after a dispute arose to refer such disputes to an international arbitral institution of the People's Republic of China or any other arbitral institution for arbitration, the parties shall not institute an action in a people's court. If the parties have not included any arbitration clauses in the contracts or have not reached a written arbitration agreement after a dispute arose, the parties may institute an action in a people's court.

Article 272 Where a party applies for a preservation measure, the international arbitral institution of the People's Republic of China shall submit the party's application to the intermediate people's court at the place of domicile of the respondent or at the place where the respondent's property is located.

Article 273 Where an international arbitral institution of the People's Republic of China has rendered an award for a dispute, the parties shall not institute an action in a people court for the dispute. If a party fails to comply with the arbitration award, the opposing party may apply for enforcement of the award to the intermediate people's court at the place of domicile of the respondent or at the place where the respondent's property is located.

Article 274 Where the respondent adduces evidence that an arbitration award of an international arbitral institution of the People's Republic of China falls under any of the following circumstances, a people's court shall, upon examination and verification by a collegial bench, issue a ruling not to enforce the award:

(1) The contract between the parties does not include an arbitration clause or the parties have not reached any written arbitration agreement after a dispute arose.

(2) The respondent is not notified to appoint an arbitrator or of the conduct of arbitration procedure or fails to present its case, which is not attributable to the fault of the respondent.

(3) The composition of the arbitration tribunal or the arbitration procedure is not in conformity with arbitration rules.

(4) The matters arbitrated are outside the scope of an arbitration agreement or the arbitral institution has no arbitration power.

If a people's court holds that the enforcement of an arbitration award is contrary to the public interest, the people's court shall issue a ruling not to enforce the award.

Article 275 Where an arbitration award is not enforced according to a ruling of a people's court, the parties may, according to a written arbitration agreement reached by them, apply again for arbitration or institute an action in a people's court.

Chapter 27 Judicial Assistance

Article 276 In accordance with an international treaty concluded or acceded to by the People's Republic of China or under the principle of reciprocity, a people's court and a foreign court may request each other to provide judicial assistance in service of process, investigation and collection of evidence and other litigation activities.

If any matter requested by a foreign court for assistance is detrimental to the sovereignty, security or public interest of the People's Republic of China, the people's court shall not grant the request.

Article 277 Judicial assistance shall be requested and provided through the channels prescribed in an international treaty concluded or acceded to by the People's Republic of China; or in the absence of such a treaty, shall be requested and provided through diplomatic channels.

A foreign embassy or consulate to the People's Republic of China may serve process on and investigate and collect evidence from its citizens but shall not violate the laws of the People's Republic of China and shall not take compulsory measures.

Except for the circumstances in the preceding paragraph, no foreign authority or individual shall, without permission from the competent authorities of the People's Republic of China, serve process or conduct investigation and collection of evidence within the territory of the People's Republic of China.

Article 278 The written request of a foreign court for the provision of judicial assistance by a people's court and the annexes thereto shall be accompanied with Chinese versions or versions in other languages specified in the relevant international treaty.

A letter of request and its annexes submitted to a foreign court by a people's court for judicial assistance shall also be appended with the translations in the language of the country or the texts in the language specified in the relevant international treaty.

Article 279 The people's courts shall provide judicial assistance under the procedures prescribed by the laws of the People's Republic of China. If a foreign court requests that judicial assistance be provided in a special manner, it may be provided in the special manner requested, but the special manner requested shall not violate the laws of the People's Republic of China.

Article 280 Where a party applies for enforcement of an effective judgment or ruling of a people's court, if the party against whom enforcement is sought or the property thereof is not within the territory of the People's Republic of China, the applicant may apply directly to the foreign court having jurisdiction for recognition and enforcement or apply to a people's court for the people's

court to request recognition and enforcement by the foreign court in accordance with the provisions of an international treaty concluded or acceded to by the People's Republic of China or under the principle of reciprocity.

Where a party applies for enforcement of an effective arbitration award of an international arbitral institution of the People's Republic of China, if the party against whom enforcement is sought or the property thereof is not within the territory of the People's Republic of China, the applicant shall apply directly to the foreign court having jurisdiction for recognition and enforcement.

Article 281 Where an effective judgment or ruling of a foreign court requires recognition and enforcement by a people's court of the People's Republic of China, a party may apply directly to the intermediate people's court of the People's Republic of China having jurisdiction for recognition and enforcement or apply to the foreign court for the foreign court to request recognition and enforcement by the people's court in accordance with the provisions of an international treaty concluded or acceded to by the People's Republic of China or under the principle of reciprocity.

Article 282 After examining an application or request for recognition and enforcement of an effective judgment or ruling of a foreign court in accordance with an international treaty concluded or acceded to by the People's Republic of China or under the principle of reciprocity, a people's court shall issue a ruling to recognize the legal force of the judgment or ruling and issue an order for enforcement as needed to enforce the judgment or ruling according to the relevant provisions of this Law if the people's court deems that the judgment or ruling does not violate the basic principles of the laws of the People's Republic of China and the sovereignty, security and public interest of the People's Republic of China. If the judgment or ruling violates the basic principles of the laws of the People's Republic of China or the sovereignty, security or public interest of the People's Republic of China, the people's court shall not grant recognition and enforcement.

Article 283 Where an arbitration award of a foreign arbitral institution requires recognition and enforcement by a people's court of the People's Republic of China, a party shall apply directly to the intermediate people's court at the place of domicile of the party against whom enforcement is sought or at the place where the property thereof is located, and the people's court shall process the application in accordance with an international treaty concluded or acceded to by the People's Republic of China or under the principle of reciprocity.

Article 284 This Law comes into force on the date of issuance, and the Civil Procedure Law of the People's Republic of China (for Trial Implementation) shall be repealed simultaneously.

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