

# THE CIVIL PROCEDURAL CODE OF THE AZERBAIJAN REPUBLIC

## SECTION I GENERAL PROVISIONS

### CHAPTER 1. Principal rules

#### **Article 1. Legislation on civil court procedure**

1.1 Court proceeding rules in respect of civil cases and economical disputes in courts of the Azerbaijan Republic shall be defined by the Constitution of the Azerbaijan Republic, Law of the Azerbaijan Republic On Courts and Judges, this Code, other laws, as well as international treaties which the Azerbaijan Republic is a party to.

1.2 Provisions of the Constitution of the Azerbaijan Republic shall have supreme legal force and direct application throughout the territory of the Azerbaijan Republic. In the event of discrepancy between provisions of the Constitution of the Azerbaijan Republic and norms regulating court proceeding rules, norms of the Constitution of the Azerbaijan Republic shall prevail.

1.3 It shall not be permitted to issue legal acts terminating or restricting rights and freedoms of persons and individuals in area of civil procedure action, as well as violating court independence and principle of contentiousness in the course of execution of justice, and granting evidence preliminarily determined force.

1.4 Norms of civil procedural law contained in other laws shall be brought into correspondence with this Code.

1.5 Where international treaties which the Azerbaijan Republic is a party to establish rules different from rules specified by the civil procedural legislation of the Azerbaijan Republic, rules of the international treaty shall prevail.

#### **Article 2. Tasks of civil court proceeding**

2.1 Tasks of court proceeding in respect of civil cases and economic disputes shall consist of endorsement of rights and privileges of any physical person and legal entity rising out of the Constitution of the Azerbaijan Republic, laws and other normative legal acts of the Azerbaijan Republic.

2.2 Civil court proceeding shall conduce to strengthening legality and public order, education of persons in spirit of strict respect to laws.

#### **Article 3. Application of civil procedural legislation in time and space**

3.1 Court proceeding shall be carried out in accordance with civil procedural law in force at the time of case hearing, enforcement of various procedural actions or execution of court resolution.

3.2 Civil procedural legislation of the Azerbaijan Republic shall always have effect throughout the territory of the Azerbaijan Republic.

3.3 Outside the territory of the Azerbaijan Republic, norms of civil procedural legislation of the Azerbaijan Republic shall apply on board of sea, river or air vessels carrying the flag of the Azerbaijan Republic or distinction signs or in ports of location thereof.

3.4 International treaties of the Azerbaijan Republic may establish other rules of application of the norms of the civil procedural legislation of the Azerbaijan Republic in terms of territory.

#### **Article 4. Right to appeal to court for protection**

4.1 All physical persons and legal entities shall, in accordance with procedure specified by law, be entitled to exercise the right to appeal to court for protection of their rights and freedoms, as well as for protection of guaranteed by law interests.

4.2 Waiver of the right of appeal to court shall be null and void.

4.3 In the event law provides, with respect to certain classes of economic disputes, for certain pre-court settlement or where such procedure has been stipulated by agreement between parties, such dispute shall be submitted for resolution to economic court upon compliance with the said procedure.

#### **Article 5. Commencement of civil case in court**

5.1 Case shall be commenced in court upon petition of physical person or legal entity for protection or endorsement of his rights and interests protected by law.

5.2 In circumstances stipulated by law, civil case may also be commenced upon petition of individuals or institutions acting for protection of rights and interests of other person or persons as well as state interests.

5.3 Said persons shall be entitled to commence case via petition or complaint in accordance with legislation.

5.4 They may end court proceeding through amicable settlement, acknowledge or reject claim, unless provided otherwise by law.

5.5 Case in proceeding in court of any instance shall not be claimed, unless provided otherwise by this Code.

#### **Article 6. Effectuation of justice by court**

Justice in respect of civil cases and economical disputes shall be under the sole competence of courts and shall be carried out by courts in order provided in law.

#### **Article 7. Independence of judges**

7.1 Judges shall be independent in course of execution of justice.

7.2 Judges shall resolve civil cases and economic disputes without any outside interference.

7.3 Direct or indirect limitation of court proceeding, illegal pressure, exercise of threats, interference by any person shall not be permitted and shall result in liability specified by law.

#### **Article 8. Equality of all before law and court**

8.1 Justice in respect of civil cases and economical disputes shall be carried out in accordance with the principle of equality of all before law and court.

8.2 Court shall exercise identical approach towards all persons participating in case irrespective of race, religion, gender, origin, property status, business position, beliefs, appurtenance to political parties, trade unions and other social associations, place of location, subordination, type of ownership, as well as any other grounds not specified by legislation.

**Article 9. Exercise of justice based on facts, principle of contentions and equality of parties**

9.1 Justice shall be exercised based on facts, principle of contentions and equality of parties.

9.2 Except as otherwise specified by this Code, dispute in court may not be heard if persons participating in case have not been called to, and heard in, court. Persons participating in case shall, for the purposes of ensuring opposite party's ability to prepare its own defence, be obligated to inform each other of reasons, proofs and legal consequences of their claims.

9.3. Judge shall always secure compliance with the principle of contentions. Judge shall base his decision solely upon reasons discussed in compliance with the principle of contentions, explanations and documentation submitted by parties. Court shall not be entitled to make its decision based upon reasoning put forward by the court in virtue of its professional status.

**Article 10. Openness of court hearing**

10.1 Courts shall consider cases in accordance with the principle of openness.

10.2 All courts shall hear cases in open hearings, except for instances of disclosure of state, professional, commercial secret, dissemination of personal and family secrets, pursuing interests of minors.

10.3 Court hearing or any portion thereof may be conducted in a close session in the event open hearing of case affects purposes of justice due to ethics principles of a democratic society, public order, state security, as well as other reasons.

10.4 Person participating in case shall be entitled to request court to hold close session for the purposes of protection of secrecy of fostering, inheritance, commerce, invention or taxation, as well as other secrets protected by law and intimacy aspects of his personal and family life.

10.5 Court shall issue an order on close court hearing following initial hearing of persons participating in case.

10.6 Close court hearing shall involve persons participating in case and representatives thereof. Where necessary, their witnesses, experts, specialists and interpreters shall be requested.

10.7 Close court hearing shall be conducted with compliance with all rules applicable to civil court proceeding.

10.8 Persons below the age of sixteen not being persons participating in case or witnesses called to court shall not be permitted to enter into courtroom.

10.9 Persons participating in case and other persons present during open court session shall have the right to take notes of course of court hearing from their places in court room. Any recording or videotaping of, taking photographs during, as well as live radio and television broadcasts of court session shall be exercised only upon receipt of

permission of court to be issued with consideration of opinions of persons participating in case.

10.10 Personal correspondence and personal telegraphic information shall be revealed in course of open court session only upon consent of recipient of such correspondence and information. Said provisions shall also apply to voice and video recording of a private nature.

10.11 Acts of courts shall always be open to the public.

### **Article 11. Language of court proceeding**

11.1 Language of court proceeding in respect of civil cases and economic disputes shall be the Azerbaijani language - the official state language of the Azerbaijan Republic or the language of the majority of population of a particular region.

11.2 Persons not knowing language of proceeding shall be explained about and provided with the right to get familiar with all case materials, give explanations, testimonies and opinions, appear before court, make motions, submit complaints in their native language, as well as to use free of charge interpreter's services in order specified by this Code.

11.3 Court documents shall be presented to persons participating in case in language of proceeding.

### **Article 12. Unilateral or collegial review of case by judge**

12.1 Civil cases and economic disputes in courts of first instance shall be review by judge unilaterally.

12.2 Cases on appeal shall be reviewed by chairman and two other judges, whereas cases on cassation shall be reviewed by a chairman and two or more judges.

### **Article 13. Normative legal acts applied by court in the course of resolution of civil cases**

13.1 Court shall resolve dispute in accordance with the Constitution of the Azerbaijan Republic, legal acts adopted through referendum, laws, decrees of the President of the Azerbaijan Republic, resolutions of the Cabinet of Ministers of the Azerbaijan Republic, normative legal acts of bodies of central executive authorities, as well as international treaties of the Azerbaijan Republic.

13.2 In the event of conflict between normative legal acts, court shall apply normative legal act of higher legal force.

13.3 In the event of conflict between normative legal acts comprising legislative system of the Azerbaijan Republic (except for the Constitution of the Azerbaijan Republic and acts adopted through referendum) and international treaties of the Azerbaijan Republic, provisions of international treaties shall prevail.

13.4 In the event of absence of any norm of law regulating disputed legal relationships, court shall apply norms of law regulating analogous relationships.

13.5 In the event such rules are also absent, court shall base its decision upon idea and general principles of legal rules of the Azerbaijan Republic.

13.6 In the event of violation by normative legal acts in legal force of rights and freedoms, the Supreme Court of the Azerbaijan Republic shall address the Constitutional Court of the Azerbaijan Republic in order stipulated in this Code.

#### **Article 14. Principles of court hearing in respect of case**

14.1 Court shall create necessary conditions for all-faceted, complete and fair hearing of case for the purposes of finding truth. For those purposes court shall explain to persons participating in case their procedural rights and obligations, warn them of consequences of actions or inaction and provide assistance in exercise of their procedural rights.

14.2 Court shall examine and use evidence submitted only by parties.

14.3 Court shall be under an obligation to suggest parties to end dispute through amicable agreement, and parties may acknowledge or refuse to accept claims, unless provided otherwise by law.

14.4 Persons participating in case shall have the right to exercise personal defence of their rights and interests except for the cases of obligatory representation. Persons participating in case shall be free to choose their attorneys for the purposes of such persons being represented or assisted in exercise of their procedural rights.

#### **Article 15. Obligatory nature of court actse**

15.1 Court shall render its acts in form of resolutions, ruling, decision, and decree.

15.2 Resolution, ruling, decision and order of courts entered into legal force shall be obligatory for any and all state authorities, local self-regulating bodies, their officials, political parties, trade unions, their officials, as well as for physical persons and legal entities and shall be executed in compulsory manner throughout the territory of the Azerbaijan Republic.

15.3 Non-execution of court act, as well as any other form of disrespect to court shall result in liability stipulated by law.

15.4 Where court acts affect interests of interested parties, obligatory nature of acts of court shall not deprive interested persons not participating in case of the right to appeal to court for protection of their rights and interests protected by law.

15.5 Obligatory nature of court acts of foreign countries, international courts and economic courts on the territory of the Azerbaijan Republic shall be determined by international agreements which the Azerbaijan Republic is party to and this Code.

#### **Article 16. Competence of international courts**

Where parties to international treaties which the Azerbaijan Republic is a party to, as well as other persons have exhausted remedies specified by this Code, such parties and persons shall be entitled to apply to international courts for protection of human rights and freedoms.

### **CHAPTER 2.**

Court composition. Objections

#### **Article 17. Court composition**

17.1 Justice in respect of civil cases and economic disputes shall be exercised by judges elected to court in order specified by law.

17.2 A single judge or collegiate court board considering case or resolving any other procedural matter shall do so on court's behalf. Judge hearing case unilaterally shall preside over court proceeding.

17.3 All judges shall have equal rights in the course of case hearing.

**Article 18. Order of resolution of matter in courts in collegial composition**

18.1 All matters arising in course of hearing and resolution of case by court in collegial composition shall be decided by judges<sup>1</sup> simple majority votes. In no event shall any of judges have the right to abstain from voting. Presiding judge shall be the last one to vote.

18.2 Judge not agreeing with majority decision shall be obligated to sign decision. Such judge shall have the right to express his opinion in a written form, with such opinion being attached to the case file but not announced in course of court session.

18.3 Judges shall be obligated to keep secrecy of consultations and voting during consultations and voting, as well as until expiry of their professional duties.

**Article 19. Grounds for non-permission of case review by judge and for expression to judge of objections**

19.1 Judge shall not be permitted to consider case in the following circumstances:

19.1.1 where he has not been appointed to the position of judge in accordance with legislation of the Azerbaijan Republic;

19.1.2 where he is not the judge contemplated for case hearing pursuant to legislation of the Azerbaijan Republic;

19.1.3 where previously he participated in the case as judge of court of first instance, appellate and cassational courts, as well as in course of case re-hearing upon establishment of new circumstances.

19.2 Judge shall not be permitted to participate in case and may be objected in the following circumstances:

19.2.1 where in course of previous hearing of case he has been appointed as representative of one of the parties or has acted as witness, expert, specialist, interpreter, secretary to court session;

19.2.2 where he is one of the parties or if he was or is a direct relative of any of persons participating in case or of their representative, or in a family relationships with such persons and representative;

19.2.3 where he is directly or indirectly interested in proceeding<sup>1</sup> s outcome, or there exist other circumstances giving rise to doubts in respect of his impartiality and fairness.

19.3 No persons being relatives to each other shall be permitted to participate in court board examining a case.

**Article 20. Grounds for objections against expert, specialist, interpreter, court secretary**

20.1 Grounds for objection specified by Article 19 of this Code shall also apply equally to expert, specialist, interpreter and court secretary.

20.2 Moreover, expert or specialist, shall not participate in the course of hearing of case under the following circumstances:

20.2.1 where he was or is under service or any other kind of subordination to persons participating in case or their representatives;

20.2.2 where he carried out inspection, materials of which have been employed as grounds for court appeal or are used in course of hearing of civil case;

20.2.1 where there are circumstances causing doubts in respect of their authority.

20.3 Participation of expert, specialist, interpreter and court secretary in course of preceding hearing of the particular case as an expert, specialist, interpreter, court secretary shall not be considered a ground for objection.

#### **Article 21. Petitions relating to self-disqualification and objection**

21.1 In the event of existence of circumstances mentioned in Articles 19 and 20 of this Code, judge, expert, specialist, interpreter, court secretary shall declare about his disqualification. Persons participating in case shall also have the right to submit objections on same grounds.

21.2 Self-disqualification or filing of complaint shall be justified in written form and shall be done prior to commencement of hearing of case on merits. Any late objection or self-disqualification shall be only permitted where court and person filing complaint became aware of reasons for objection after commencement of case hearing.

21.3 Party objecting to court shall prove grounds for objection.

21.4 Where an objection is filed following presentations of parties in court, objecting party shall prove that reasons for the challenge became known later.

21.5 Where an objection is submitted for the purpose of delaying course of the court proceeding or where grounds for the objection are false and do not correspond to the actual state of affairs, objecting party may be fined in the amount of 100 minimum salaries.

#### **Article 22. Procedure for settlement objection**

22.1 Court shall, in the event there is filed objection, hear opinion of persons participating in case, as well as hear explanations of person being objected if person is willing to provide such.

22.2 Matter of objection in respect of judge hearing case individually shall be considered by court chairman.

22.3 In case of collegiate procedure of hearing of case, matter of objection in respect of judge shall be considered by all other judges without objected judge being present. In case of tie vote in respect of objection, the objected judge shall be deemed dismissed. Objection in respect of several judges or entire court board hearing case under on appeal or cassation shall be settled by chairmen of courts of Appellate or Cassational instance.

22.4 Matter of objection in respect of expert, specialist, interpreter and court secretary shall be settled by judge and court hearing case.

22.5 Where objection is filed against entire board of court of first instance or chairman of court, or against a court panel composed of a single judge, such objection shall be submitted for consideration to court of appellate instance.

22.6 Matters of self-disqualification or objection shall be settled by issuance of court ruling, which shall not be subject to any further appeal.

#### **Article 23. Consequences of satisfaction of self-disqualification or objection**

23.1 In case of satisfaction of self-disqualification or objection in respect of judge hearing case in court of first instance, the case shall be reviewed in the same court by other judges.

23.2 In case of satisfaction of self-disqualification or objection in respect of entire board of court of first instance or a single-judge court, the case shall be transferred by appellate

court to another court of first instance.

23.3 In case of satisfaction of self-disqualification or objection in respect of entire board of court considering case in a collegiate order, the case shall be submitted to some other board of the same court.

23.4 Where objection or self-disqualification is filed in respect of judge on court of first instance or in respect of entire composition of judges of the Supreme Court of the Nakhchivan Autonomous Republic, the case shall be reviewed by some other judge or board of the same court.

## CHAPTER 3.

### Jurisdiction

#### **Article 24. Jurisdiction of court in respect of disputes**

24.1 Courts of the Azerbaijan Republic shall guarantee and protect violated and disputed rights and freedoms, except in the event their protection is to be carried out in an out-of-court order pursuant to this Code and other laws.

24.2 Relevance of dispute to general court or economic court shall be established, in accordance with this Code, further to composition of the parties participating in case, subject matter of dispute or nature of legal relationships.

#### **Article 25. Jurisdiction of general court in respect of disputes**

25.1 Disputes arising out of, or related to, civil, family, labour, residential, land relationships, relationships on use of natural resources and protection of environment, tax, administrative and other types of relationships, where at least one party to such dispute is physical person and does not have status of entrepreneur, or where person has status of entrepreneur and the dispute has not been caused by his entrepreneurial activities, shall be within the jurisdiction of general courts.

25.2 General courts shall review cases on special claim proceeding specified by Chapters 24 – 29 of this Code.

25.3 General courts shall review cases on special proceeding specified by Article 305 of this Code.

25.4 General courts shall also review cases referred by law to their jurisdiction.

#### **Article 26. Jurisdiction of the Economic Court in respect of disputes**

26.1 Economic disputes arising out of civil, administrative and other legal relationships of legal entities, irrespective of type of ownership and nature of subordination, and physical persons exercising entrepreneurial activities without establishment of legal entity and with acquisition of status of private entrepreneur in a manner determined by the law shall be within the civil procedural jurisdiction of the Economic Court.

26.2 The following disputes between the parties specified in Article 26.1 of this Code shall be within the jurisdiction of the Economic Court:

26.2.1 disputes relating to conflicts in respect of contracts stipulated by the law or conflicts submitted by parties for consideration of the Economic Court;

26.2.2 disputes relating to modification or termination of contract;

26.2.3 disputes relating to confirmation of execution executive and other papers in



respect of fines paid in uncontested manner (without accepting);

26.2.4 disputes raised by state authorities, local self-regulating bodies and institutions authorised to exercise control with respect to payment of fines, except for uncontested payment of fines further to the requirements of the law;

26.2.5 disputes relating to recovery of cash written off to the budget in an uncontested order with breach of provisions of laws or other normative acts by institutions authorised to exercise control;

26.2.6 disputes relating to declaration as invalid of legal entity's foundation documents;

26.2.7 disputes relating to declaration of physical persons and legal entities insolvent;

26.2.8 disputes relating to payment of taxes.

26.3 Economic courts shall also have the right to review other cases referred by law to their jurisdiction.

### **Article 27. Jurisdiction of the Economic Court of the Azerbaijan Republic on Disputes Arising out of International Agreements in respect of disputes**

The Economic Court of the Azerbaijan Republic on Disputes Arising out of International Agreements shall have jurisdiction over cases with participation of physical persons and legal entities of the Azerbaijan Republic, as well as foreign legal entities, legal entities with foreign investment, international legal entities, foreign citizens exercising entrepreneurial activities, stateless persons.

### **Article 28. Jurisdiction in respect of cases with participation of foreigners, stateless persons, foreign legal entities**

Except as otherwise provided by the inter-governmental agreements, international agreements or agreement of parties, court shall hear cases with participation of foreigners, stateless persons and foreign legal entities.

### **Article 29. Transfer of dispute to arbitration tribunal**

In cases specified by laws, international agreements or agreement of parties, dispute falling within court's jurisdiction shall, upon written consent of the persons participating in case, be transferred for review to arbitration tribunal.

### **Article 30. Jurisdiction in respect of several interrelated claims**

In case of incorporation of several interrelated claims some of which are under the jurisdiction of general courts while others under the jurisdiction of economic courts, claims shall be reviewed by general court.

### **Article 31. Inadmissibility of change of jurisdiction**

31.1 Breach of rules of jurisdiction shall not be permitted.

31.2 Case accepted by court for proceeding with compliance with jurisdictional rules shall be resolved on merits in the same court despite the fact that it later fell under jurisdiction of another court.

### **Article 32. Submission of complaint in respect of jurisdiction matters**

32.1 Person participating in case shall have the right to commence claim relating to change of dispute's jurisdiction to this or other court.

32.2 Person participating in case shall submit grounds for his disagreement with court's jurisdiction and shall do so prior to commencement of hearing of case on merits.

32.3 Judge shall also have right to establish non-relevance of dispute to court's jurisdiction.

32.4 In the event of dispute relating to court jurisdiction, judge shall issue grounded ruling.

32.5 Such ruling may be complained upon by persons participating in case, in order specified in Chapter 21 of this Code, within 15 days of date of delivery (receipt) of such ruling by the person participating in case.

#### CHAPTER 4.

#### Court jurisdiction

##### **Article 33. Notion of court jurisdiction**

Distribution of jurisdiction of courts for purposes of review of cases at courts of first instance shall be regulated by this Chapter.

##### **Article 34. Jurisdiction of district (city) courts in respect of civil cases**

Cases falling within jurisdiction of courts shall be considered by district (city) courts of first instance, local economic courts, economical court on disputes arising out of international agreements.

##### **Article 35. Submission of claim at place of location of respondent**

35.1 Except as otherwise specified by law, claim shall be submitted to court at place of legal registration of respondent.

35.2 Claim against legal entity shall be submitted at place of address of legal entity.

Claim against legal entity arising out of activity of its subsidiary shall be submitted at place of address of such subsidiary.

35.3 Counter claim shall, irrespective of its jurisdiction, be submitted to court reviewing initial claim.

##### **Article 36. Jurisdiction at choice of claimant**

36.1 Claim against respondent, whose place of residence is unknown, or whose place of residence outside boundaries of the Azerbaijan Republic, shall be submitted at the place of location of his property or at his last known place of residence.

36.2 Claim against several respondents with different registered places of residence, places of location or legal addresses shall be submitted at the place of official residence or legal address of one of the respondents.

36.3 Claims on recovery of alimonies and on ruling of paternity may also be submitted by claimant at his place of residence.

36.4 Claims on dissolution of marriage with persons who have, in the order specified by law, been announced as lacking of action capacity further to mental derangement, as well as with persons sentenced to imprisonment for term of over 3 years, may be brought at the place of residence of claimant.

36.5 Claims on dissolution of marriage may also be brought at the place of residence of

claimant in cases when claimant has children below the age of majority or when, due to health conditions, travel by claimant to the place of residence of respondent is deemed to be difficult.

36.6 Claims on compensation of losses, caused by mutilation or other health damages or by death of the bread-winner may be brought by claimant at his place of residence or at the place where the damage has been inflicted.

36.7 Claims on restoration of labour, pension and housing rights, return of property or compensation of value thereof, relating to compensation of losses, caused by illegal conviction, illegal subjection to criminal liability, illegal confinement under guard or notification on non-leaving the place of residence as measures of restraint, or illegal imposition of administrative sanction in the form of arrest, may also be brought at the place of residence of claimant.

36.8 Claims on disputing resolution on imposition of fines or other sanction issued by administrative bodies and officials authorised to consider cases of administrative default may also be brought at the place of residence of claimant.

36.9 Claims on protection of consumer rights may be brought at the place of residence of claimant or at the place of conclusion or performance of the agreement.

36.10 Claims on compensation of losses caused by clash of vessels, as well claims on recovery of compensation for provision of assistance and saving operations off-shore may be brought at the place of location of the vessel of respondent or respective port of the vessel.

36.11 Claims coming out of agreements indicating place of performance of such agreements may also be brought at the place of performance of the agreement.

36.12 Claims against citizens or legal entities of the Azerbaijan Republic located on the territory of some other country may be brought at the place of location of claimant or the place of location of property of respondent.

36.13 Except as specified by Article 39 of this Code, choice of court having jurisdiction further to the provisions of this Article, shall be made by plaintiff.

### **Article 37. Jurisdiction of courts in respect of cases relating to establishment of facts of legal significance**

Except for cases relating to establishment of ownership over construction, facility, plot of land heard by court at the place of location of such construction, premises or plot of land, cases relating to establishment of facts of legal significance shall be considered at the place of location of claimant.

### **Article 38. Jurisdiction of courts in respect of cases relating to bankruptcy (insolvency) of physical and legal persons**

Cases of bankruptcy (insolvency) shall be heard at the place of location of debtor.

### **Article 39. Exclusive jurisdiction**

39.1 Claims on acknowledgement of ownership rights over constructions, facilities, plots of land, on recovery of constructions, facilities, plots of land from one's illegal possession, on rectification of violation of rights of owner or legal possessor not related to deprivation of ownership, shall be submitted at the place of location of such constructions, facilities, plots of land.

39.2 Claims of creditors of persons inheriting certain property filed prior to acceptance of legacy by heirs shall be brought in courts located at the place of location of inheritance property or its main portion.

39.3 Claims to carriers arising out of agreements on carriage of goods, passengers or baggage shall be brought at the place of location of the transport organisation.

**Article 40. Contractual competence**

40.1 Breach of rules of territorial jurisdiction shall not be permitted.

40.2 Parties shall be entitled to change territorial jurisdiction of the dispute further to their agreement. Agreement shall be reduced to writing.

40.3 Agreement may be made in the event of such agreement relying upon certain court case a dispute.

40.4 Provisions of this article shall not apply to cases of exclusive jurisdiction.

**Article 41. Jurisdiction of case considered under order proceeding**

Application for consideration of a case under order proceeding shall be filed with the court of jurisdiction specified by this Chapter.

**Article 42. Competence in respect of cases arising out of criminal case**

Except for the cases when a claim was not brought or remained unsettled in course of settlement of a criminal case, civil claim arising out of a criminal case shall be filed for review under the civil procedure in accordance with rules of jurisdiction specified by this Code,

**Article 43. Competence of several interrelated cases**

43.1 Where several courts have under their proceeding several interrelated cases, such cases shall, for the purpose of fair trial, be considered and settled in joint order.

43.2 Provisions of this Article shall also apply where two courts of first instance have under their proceeding the same dispute under the same reasons and subject, between the same parties.

**Article 44. Transfer of case accepted for proceeding by court to another court**

44.1 Case accepted for proceeding through compliance with rules of jurisdiction shall, irrespective of any later change of jurisdiction, be settled by the former court.

44.2 Under the following circumstances court shall transfer a case for hearing by another court:

44.2.1 if respondent, whose place of residence has before been unknown, files a motion on transfer of the case into the jurisdiction of court at his place of residence;

44.2.2 if in course of hearing of case it is revealed that the case has been accepted for proceeding with breach of rules of jurisdiction;

44.2.3 if following satisfaction of a petition for objection against one or more judges, or in virtue of other important circumstances, substitution of said judges or consideration of the case in the said court becomes impossible;

44.2.4 if a claim was brought against the court;

44.2.5 in cases stipulated by Article 43 of this Code.

**Article 45. Order of transfer of cases to another court and appeal of jurisdiction**

45.1 Matters of jurisdiction of courts shall be settled at the stage of acceptance of claim for proceeding or preparation of hearing of the case by the judge or by a motivated motion of a person participating in the case.

45.2 Judge shall, in accordance with the provisions of Chapter 21 of this Code, issue a ruling on lack of jurisdiction of the court or transfer of the case to another court. It shall be permitted for persons, participating in case to file a complaint from such a ruling within 5 days from the date of delivery (receipt) of the ruling.

45.3 Transfer of a case from one court to another shall be implemented upon expiration of the period specified for filing of an appeal from ruling.

45.4 Case transferred from one court to another shall be accepted for hearing by the recipient court. Disputes on territorial jurisdiction of courts shall not be permitted. In case of any discrepancies between courts, case shall be transferred from one court to another by the court of appellate instance.

45.5 Transfer of cases under the conditions stipulated by Articles 44.2.3 and 44.2.4 of this Code shall be made by court of appellate instance.

## CHAPTER 5.

Persons participating in case and other participants of the proceeding

### **Article 46. Composition of persons participating in the case**

Persons participating in cases shall be parties, third parties, applicants, interested persons, social organisations, state authorities and other institutions entitled to appeal to court for protection of breached or violated rights.

### **Article 47. Rights and obligations of persons participating in case**

47.1 Persons participating in case shall exercise their procedural rights in good faith.

47.2 Persons participating in case shall have the right to familiarise themselves with materials of the case, to take extracts and to make copies therefrom and thereof, to file objections, to submit evidence and to participate in the hearing thereof, to ask questions of other persons participating in case, witnesses, experts and specialists, to file petition, including petition for request of supplementary evidence, to give oral and written explanations to the court, to submit proves on any matters arising in course of the court proceeding, to object to motions and objections of other persons participating in case, to appeal against decisions of the court and to use other procedural rights specified by civil procedural legislation.

47.3 Persons participating in case shall be liable for non-fulfilment of procedural duties specified by civil procedural legislation.

### **Article 48. Civil procedural legal capacity**

Any physical person and legal entity shall be entitled to have equal procedural rights and carry equal procedural obligations specified and permitted by law (civil procedural legal capacity).

### **Article 49. Civil procedural action capacity**

49.1 Capacity to acquire rights and to carry out obligations in court, to assign conduct of

case to a representative through personal actions (civil procedural action capacity) shall be recognised after all physical persons over the age of majority and legal entities registered in accordance with the requirements of legislation.

49.2 Minors below the age of sixteen shall have the right to personally exercise his rights and obligations in court upon him being announced as fully capable (emancipation).

49.3 Rights, freedoms and protected by law interests of minors, between the ages of fourteen and eighteen, as well as of citizens with limited action capacity shall be protected in court by their legal representatives. Court, however, shall have the right to invite minors and citizens with limited action capacity to participate in the proceeding in person.

49.4 Rights, freedoms and protected by law interests of minors below the age of fourteen, as well as of citizens lacking action capacity shall be protected in court by their legal representatives.

49.5 In cases specified by legislation, and related to civil, family, labour, administrative and other legal relationships or to transactions related to disposition of received wages or incomes from entrepreneurial activity, minors shall personally protect their rights, freedoms and protected by law interests.

#### **Article 50. Parties**

50.1 Claimant and respondent shall be parties to the case. Physical persons and legal entities, officials, state authorities and other institutions shall have the right to act as a claimant or a respondent.

50.2 Physical persons and legal entities filing a claim for the protection of their personal interests or interests of a third party, a prosecutor filing a claim for the protection of interests of the state upon application of legal entities, founded by the state or state authorities, or organisations shall be claimants.

50.3 Physical persons and legal entities against whom a claim is brought shall be respondents.

50.4 In cases specified by law organisations which are not legal entities shall also be entitled to act as claimants.

50.5 Person, in whose interests, upon application of persons, having in accordance with the law the right to appeal to the court for the protection of rights, freedoms and protected by law interests of other persons, court proceeding is commenced, shall be notified by court of the fact of proceeding and shall act in such proceeding as a claimant. Parties shall have equal procedural rights and shall bear equal procedural obligations.

#### **Article 51. Participation in case of several claimants and respondents**

51.1 Claim may be brought jointly by several claimants or against several respondents. Each and every claimant or respondent shall participate in court individually and independently.

51.2 Joint participants shall have the right to assign conduct of case to one of such participants.

51.3 Where it is necessary to bring another respondent into proceeding, court shall have the right, prior to issue of a resolution and following consent of claimant, to bring such respondent into the proceeding.

**Article 52. Refusal from claim, acknowledgement of claim, amicable agreement**

52.1 Claimant shall have the right to refuse from claim. Refusal from claim shall be reduced to writing.

52.2 Respondent shall have the right to acknowledge a claim in full or in part through filing of a written petition or making a note in the protocol.

52.3 Parties shall have the right to close a case through an amicable agreement.

52.4 Court shall at each stage of the court process exercise efforts for bringing parties to an amicable settlement with respect to claim or any portion thereof.

52.5 Court shall not recognise refusal of claimant from claim, acknowledgement of claim by respondent and shall not approve amicable agreement of the parties if such actions contradict laws or violate rights and protected by law interests of any other person. Under the aforementioned circumstances the court shall consider the case on its merits.

**Article 53. Substitution of claim**

Claimant shall have the right to make changes to grounds or subject matter of the claim, to increase or to decrease value of claim prior to passing of resolution.

**Article 54. Substitution of improper party**

54.1 Where a claim is filed by person, who does not have right of claim, or is brought against a person, who is not liable under the claim, court shall have the right, upon consent of claimant and without cancelling case, allow substitution of initial claimant or respondent by proper claimant or respondent.

54.2 Where claimant does not agree to his substitution by another person, such person shall have the right to act in the court as a third party, making independent claims under the subject matter of the dispute.

54.3 Where claimant does not agree to substitution of respondent by another person, court shall have right, upon consent of claimant, to invite such person to participate in court as a second respondent.

54.4 Upon effectuation of substitution hearing of case shall commence from the beginning.

**Article 55. Third parties making independent claims under subject mater of dispute**

55.1 Third parties, making independent claims under the subject matter of dispute, shall have the right to enter into process before passing of a court resolution through bringing a claim against one or both parties.

55.2 Except for the duty to comply with rules on entering into an out-of-court settlement agreement with the respondent in the economic court, such third parties shall enjoy full rights and bear all obligations of a claimant specified in law or by contract.

**Article 56. Participation of third parties in cases on restoration at place of work**

56.1 With respect to cases on restoration of illegally dismissed or transferred to another position employees at a place of work, court shall have the right to bring officials who, under the resolution, dismissed or transferred employee to another position to participate in the case as a third party on the side of respondent.

56.2 Where court determines an express breach of provisions of law in course of dismissal or transfer of an employee, court shall have the right to impose upon an official

in fault the duty to compensate a legal entity, or an employee for moral losses, incurred during the period of forced absence from work or performance of work duties associated with a lower salary. In such cases, amount to be compensated by such officials shall be determined in accordance with labour legislation.

**Article 57. Third parties not making independent claims under subject matter of dispute**

57.1 Third parties not making independent claims under the subject matter of dispute shall have the right to enter into process on the side of claimant or respondent prior to resolution of court of first instance, which may affect their rights and obligations in respect of one of the parties. Third parties may participate in proceeding upon application of persons participating in case or with the initiative of the court.

57.2 Third parties not making independent claims shall enjoy procedural rights and bear procedural obligations of parties, except for the right to change grounds and subject matter of the claim, to increase or to decrease amount of claim, to refuse from claim, to acknowledge claim or to enter into an amicable agreement, to file a counter claim, to demand obligatory execution of court resolution.

**Article 58. Procedural legal succession**

58.1 In case of withdrawal of one of the parties from disputed relationships or relationships determined by resolution (death of an individual, reorganisation of a legal entity, assignment, transfer of debt and other cases of novation of persons in respect of material legal relationship), the court shall permit substitution of such party by its legal successor. Legal succession shall be possible at any stage of the proceeding.

58.2 All actions, exercised prior to entrance of legal successor into the proceeding, shall be obligatory for such a successor in the manner they would have been obligatory for persons who were substituted by such legal successor.

**Article 59. Appeal to court for protection of rights of other persons, public and state interests**

59.1 In cases specified by legislation, state authorities, physical persons and legal entities shall have the right to appeal to court with claim on protection of rights, freedoms and protected by law interests of other persons upon request by such persons or with claim on protection of interests of other persons. Claim for protection of interests of persons lacking action capacity or persons below the age of majority may be brought irrespective of the request of the interested parties.

59.2 Persons bringing claim for the protection of interests of other persons shall enjoy full procedural rights and bear all procedural obligations of claimant, except for the right to enter into an amicable agreement. Refusal of said persons and authorities from claim shall not deprive a person, for protection of whose interests the claim has been brought, to request consideration of the case on its merits.

59.3 Court shall cancel proceeding on a case where a person in whose interests a case has been commenced refuses from claim.

**Article 60. Participation of state authorities and local self-governing bodies through submission of opinions**



In cases specified by the law, court of first instance shall have the right to invite state authorities and local self-governing bodies to enter, prior to issue of a court resolution, into proceeding for submission of opinions for the purpose of exercise of their duties, protection of rights, freedoms and protected by law interests of private persons, as well as state and public interests.

#### **Article 61. Other participants in case**

In addition to persons participating in case witnesses, experts, specialists, interpreters, representatives and advocates shall have the right to participate in the case.

#### **Article 62. Witness**

62.1 Any person in possession of information conducing to fair settlement of a dispute by court may be interrogated as a witness.

62.2 Witness shall be obliged to appear before court and to inform court of all the known to him information and circumstances on the case.

62.3 Witness shall be obliged to make true statements, to answer questions of judge and persons participating in case.

62.4 Witness shall bear criminal liability for false statements and refusal to submit statements.

#### **Article 63. Expert**

63.1 Expert shall be a person with special knowledge, appointed by court for the purpose of issue of an opinion required under the provisions of this Code.

63.2 Person appointed to carry out examination shall upon call appear before court and provide an impartial opinion on requested matters. Expert shall have the right to refuse to provide an opinion if he has not got knowledge, required for carrying out of his responsibilities.

63.3 Where it is required to submit an opinion, expert shall have the right to familiarise himself with the materials of the case, participate in court sessions, ask questions, request court to provide additional materials.

63.4 Expert shall bear criminal liability for false opinion or refusal to give an opinion.

#### **Article 64. Specialist**

64.1 Specialist shall be a person having technical or other skills and knowledge, required for assisting court in course of hearing of case.

64.2 Person called to participate in case as a specialist, shall be obliged to appear before the court and to answer questions asked by court and by parties, to give oral and written recommendations and explanations, to provide, where necessary, court with technical assistance.

#### **Article 65. Interpreter**

65.1 Interpreter shall be a person appointed by court in cases specified by this Code and having knowledge of languages at a level sufficient for making interpretations.

65.2 Interpreter may be appointed among persons proposed by participants.

65.3 Other participants of process shall not have the right to undertake interpretation despite of knowledge of required languages.

65.4 Interpreter shall be obliged to appear before court and shall perform interpretations in full, in due manner and time.

65.5 Interpreter shall have the right to ask questions from participating persons with the purpose of clarifying interpretation.

65.6 Interpreter shall bear criminal liability for deliberately false interpretation.

#### **Article 66. Advocate**

Advocates with authorities confirmed in accordance with the applicable procedures of the Azerbaijan Republic shall have the right to act as advocates in course of civil proceeding on the territory of the Azerbaijan Republic.

#### **Article 67. Obligatory participation of advocate**

In courts of cassational instance, upon making of additional cassational complaints from acts of court, re-hearing of case further to newly established circumstances, persons participating in case shall act in court only if accompanied by an advocate.

#### **Article 68. Rights and obligations of advocate**

68.1 Advocate shall be obliged to provide a quality legal services in preparation of case for court hearing and hearing of the said case.

68.2 Advocate accepted by court for participation in case shall have the right to familiarise himself with the materials of the case, to take extracts and make copies therefrom and thereof, to submit, and to participate in examination of, evidence, to ask questions of other persons participating in the case, witnesses, experts and specialists, to file a motion, and to submit a petition with request for supplementary evidence, to give court oral and written explanations, to submit his reasons and explanations with respect to all matters arising in course of court hearing, to object to motions and reasons submitted by other persons participating in the case.

68.3 Upon instructions of persons participating in the case and acting under the power of attorney, advocate shall have the right to file complaints from acts of court and to exercise other rights stipulated by law.

### **CHAPTER 6.**

#### **Representation in court**

#### **Article 69. Conducting of case through representative**

69.1 Any physical person or legal entity shall have the right to bring a claim before the court acting in person or through a duly appointed representative. Where necessary, court shall have the right to request a person to appear in court in person for the purpose of submission of explanations.

69.2 Legal entities shall be represented in courts through their bodies specified in law, normative-legal acts or establishment documents, or through their respective representatives authorised to act so.

69.3 Authorities of an official of organisation shall be supported by documents certifying their authorities and submitted to court, and where necessary- by establishment documents (charter, agreement.) 69.4 Legal entity going through the process of

liquidation shall be represented in court by an authorised representative of liquidation commission.

**Article 70. Persons who may act as representatives in court**

Except for persons referred to in Article 71 of this Code, any person with action capacity, having duly legalised authority to appear before court, shall have the right to act as a representative in court.

**Article 71. Persons who may not act as representatives in court**

71.1 Persons without full action capacity, or persons under custodianship or guardianship, shall not be entitled to participate in court as representatives.

71.2 Judges, investigators, prosecutors, deputies of the Milli Majlis of Azerbaijan and Ali Majlis of the Nakhchivan Autonomous Republic shall not be entitled to participate in court as representatives, except for cases of their participation as authorised persons of respective bodies or as legal representatives.

71.3 Person shall not have the right to act as a representative, if such person is currently providing or have before provided legal advise to persons, whose interests contradict to interests of persons proposed for representation, or if such a person has acted as judge, prosecutor, expert, specialist, interpreter, witness, secretary or if such a person is a relative to official, participating in the proceeding.

71.4 In cases and under circumstances specified by Articles 19 and 20 of this Code, persons participating in case may raise an objection against a representative.

71.5 Procedure for settlement of objections shall correspond to Article 22 of this Code.

**Article 72. Legal representatives**

72.1 Rights and protected by law interests of persons without action capacity, with partial or restricted action capacity shall be represented in courts by their parents, adopters, guardians, custodians and other persons.

72.2 Physical persons to participate in the proceeding and declared under an applicable procedure to be missing shall be represented in courts by custodians appointed for management and protection of property of such missing person.

72.3 Heirs of a deceased person or of a person who has been under an applicable procedure declared deceased, and where estate has not been accepted by any person ¶ a person appointed for maintenance and management of the estate or trustee shall act in court as representatives of a heir.

72.4 Legal representatives shall, subject to limitations specified by law, perform on behalf of represented persons all procedural actions, which the latter shall have the right to perform. They shall submit to court documents certifying their powers.

72.5 Legal representatives shall have the right to assign administration of a case to other person of their choice.

**Article 73. Legalisation of powers of representatives**

73.1 Powers of a representative shall be legalised through power of attorney issued and legalised in the order specified by law.

73.2 Power of attorney issued by private persons, shall be notarised or legalised by head of legal entity, where a principal works or studies, by the relevant body of executive

authority at place of residence of a principal, organisation for social protection of population, hospital or other in-patient medical establishment, where a principal is undergoing a medical examination, and where a power is issued to military personnel, employees of a military division or family members thereof - by head of the respective military division.

73.3 Power of attorney issued by a person in place of confinement shall be legalised by head of a respective place of confinement.

73.4 Power of attorney issued on behalf of a legal entity shall be signed by head of such legal entity or by other person authorised by establishment documents of the legal entity with affixing a seal of the legal entity.

73.5 Powers of the advocate shall be legalised in the order specified by law.

#### **Article 74. Powers of representative**

74.1 Representative shall have all powers for taking, on behalf of a represented person, any procedural action required for successful settlement of case.

74.2 Powers for signing claim petition, transfer of case to arbitration, full or partial refusal from claim and recognition of claim, acknowledgement of claim, change of subject or ground for claim, assignment of an authority to enter into an amicable agreement, filing a petition from an act of court, request of the obligatory execution of an act of court, as well as powers for receipt of awarded property or funds shall be specifically referred to in power of attorney issued by the represented person.

#### **Article 75. Cancellation of powers of representative**

75.1 Person participating in case shall at any time have the right to cancel power of attorney, while an attorney shall at any time have the right to declare his refusal from acting under the power of attorney.

### **CHAPTER 7.**

#### **Evidence**

#### **Article 76. Evidence**

76.1 Evidence shall mean information which shall be applied by court in the order specified by this Code and other laws for establishment of existence or absence of circumstances making grounds for claims and objections of persons participating in case, as well as of other circumstances important for fair settlement of the case.

76.2 Such information shall be established upon written and oral proves, on-site examinations, audio- and video-recordings, witness testimonies, explanations of persons participating in the case.

76.3 It shall not permitted to apply evidence obtained with breach of law.

#### **Article 75. Burden of proof**

77.1 Each party shall prove circumstances used as grounds for its claims and objections.

77.2 In course of consideration of disputes on recognition of acts of state authorities, executive bodies, etc. void, burden of proof of circumstances being grounds for the adoption of such acts shall be on an authority which adopted said act.

77.3 Court shall be entitled to propose persons participating in case to submit all supplementary necessary evidence, if it considers hearing of the case on the basis of existing evidence impossible.

#### **Article 78. Presentation, demand and obtaining of evidence**

78.1 Evidence shall be presented by persons participating in case to court of first instance.

78.2 Person participating in case, unable to independently obtain a necessary evidence from persons or authorities whether participating in case or not, shall be entitled to apply to court with a motion requesting receipt of such evidence. Such motion shall show which circumstances being of importance for case may be obtained through such evidence, state characteristics and place of location of the evidence. Where necessary, court shall issue a person participating in the case with a document for recovery of the evidence. Person in possession of evidence in dispute shall either present such evidence directly to court or pass the evidence to a person who has respective request for subsequent presentation to court.

78.3 Where a person requested to submit evidence is unable to act so or fails to submit evidence within a period specified by court, such person shall, within 5 days from the date of receipt of the request, submit to court a notice explaining reasons for his inability or his failure.

78.4 Where failure to submit evidence has according to the court been due to unreasonable ground, a person in possession of the evidence shall be penalised in the amount of up to 200 minimal salaries as defined by law.

78.5 Notwithstanding imposition of penalty, person in possession of evidence shall not be relieved of obligation to present the required evidence to court.

#### **Article 79. Review and examination of evidence at place of its location and storage**

79.1 Where it is impossible to submit or to deliver written and material evidence to court, court shall have the right to examine and to conduct research of such evidence at place of their location or storage.

79.2 Examination and research of evidence by court shall be carried out upon submission of a notice to persons participating in case.

79.3 Where necessary, experts and witnesses shall be called to participate in examination and research.

79.4 A protocol of examination and research of evidence at place of their location shall be prepared immediately upon such examination and research.

#### **Article 80. Relativity of evidence**

Court shall only accept and take into consideration evidence being of relevance to facts and circumstances established by parties to case.

#### **Article 81. Admissibility of evidence**

Circumstances of a case, which in accordance with law or other legal normative acts shall be proved by certain means of proof, shall not be proved by any other means.

#### **Article 82. Ground for relief from burden of proof**

82.1 Publicly known facts or circumstances shall not be disputed and proved.

82.2 Circumstances established by a court resolution, which entered into legal force, and relevant to persons participating in case shall be obligatory for court considering another case.

82.3 Circumstances established by a court resolution on a civil case, which entered into legal force, shall not be repeatedly proved in course of hearing of another case with participation of parties under the former case.

82.4 Court decision on a criminal case, which entered into legal force, shall be obligatory for a court or a judge considering a matter of occurrence or otherwise of relevant actions and seeking to establish personality of a person who has performed such actions.

### **Article 83. Court assignments**

83.1 Where it is necessary to collect evidence in another city or region, a court examining a case shall be entitled to request respective court to undertake relevant procedural actions.

83.2 Merits of a case under hearing, circumstances to be clarified, evidence to be collected by the court upon assignment shall be described in a ruling on court assignment.

83.3 Ruling on court assignment shall be obligatory for a court assigned to execute the same and shall be so executed within ten (10) days from the date of receipt of said ruling.

83.4 Court assignments of district courts dispatched to courts of another country shall be made in accordance with Article 91 of the Law of the Azerbaijan Republic On Courts and Judges.

### **Article 84. Order for execution of court assignment**

84.1 Court assignment shall be executed in court session in accordance with rules specified by this Code. Persons participating in case shall be notified of time and location of the session, however their failure to appear shall not prevent proceeding with the session.

84.2 Ruling shall be passed in respect of execution of a court assignment and such ruling, along with all the materials, shall be immediately passed to court considering a case.

84.3 In case if persons participating in case and witnesses make statements or give explanations to court executing an assignment, such statements shall be made and explanations be given under rules of general application.

### **Article 85. Securing of evidence**

85.1 Persons participating in case, who have grounds for a caution that future submission of evidence by such persons may become impossible or difficult to accomplish, shall be entitled to request court to secure such evidence.

85.2 Securing evidence before commencement of court proceeding shall be implemented by notary publics, officials of consular institutions and other persons performing notary duties under the procedures specified by law.

### **Article 86. Petition for securing evidence**

86.1 Petition for securing evidence shall be filed with court reviewing the case or a regional court responsible for performance of procedural actions for securing evidence.

86.2 Evidence, which should be secured, circumstances to be proved by such evidence, reasons for a person to file a petition requesting securing evidence, as well as particular case for which secured evidence are necessary shall be indicated in a petition for securing evidence.

#### **Article 87. Order of securing of evidence**

87.1 Securing of evidence shall be carried out by judge in accordance with rules specified by this Code.

87.2 Court shall secure evidence in particular through testimony of witnesses, appointment of an expert examination, request and examination of written and material evidence.

87.3 Persons participating in case shall be notified of date and place of review of petition for securing evidence, however their failure to appear shall not prevent petition for securing evidence from being considered.

87.4 Court shall render a ruling on securing evidence, which ruling shall specify procedure and method of execution.

87.5 Protocols and all evidence collected by way of securing evidence shall be delivered to the court examining the case and persons participating in case shall be notified accordingly.

87.6 Court shall be entitled to re-examine its ruling on securing evidence.

#### **Article 88. Evaluation of evidence**

Court shall evaluate evidence in a fair, impartial, all-complete and full manner and shall thereafter evaluate norms of law to apply to such evidence. No evidence shall have a preliminarily established force for court.

#### **Article 89. Written evidence**

89.1 Written evidence shall mean notarised documents, acts, contracts, notes, business correspondence and other documents and materials containing information on circumstances being of importance for case.

89.2 Materials produced through facsimiles, electronic or other means of communication, or in any other way, shall be accepted as written evidence subject to possibility of establishing validity of such documentation.

89.3 Evidence shall be submitted in an original form or as a duly certified copy. Where only a part of the document is of certain relevance for a case, a certified extract from such a document shall be presented.

89.4 Originals of documents shall be submitted to court where required by law or other normative legal acts, where circumstances of case may be proved only by way of application of such original documents, as well as in other cases upon request of court.

89.5 Copies of written evidence submitted to court by person participating in case shall be sent (delivered) to other persons participating in case if such other persons do not have said evidence in their possession.

#### **Article 90. Return of original documents**

90.1 Following a date of a court resolution entering into legal force, it shall be permitted, upon application, to return originals of documents contained in case to persons who

submitted such documents.

90.2 Along with such application said persons shall provide court with a duly certified copy of the original or shall appeal to court for certifying of copies remaining among case papers.

90.3 Prior to a date of a court resolution entering into legal force, documents may be returned to persons who presented said documents where the court is confident that return of originals will not jeopardise fair settlement of the case.

#### **Article 91. Material evidence**

Objects, which due to their features, place of location or other characteristics conduce to establishments of circumstances, relevant to the case, shall be regarded as material evidence.

#### **Article 92. Safekeeping of material evidence**

92.1 Material evidence shall be kept with court.

92.2 Objects, which may not be delivered to court, shall be kept at place of their location. They shall be examined by court, described in full details, sealed and, where necessary, pictured or recorded on a video tape.

92.3 Expenses for safekeeping of material evidence shall be distributed by parties in accordance with provisions of this Code.

92.4 Court and a person responsible for safekeeping of evidence shall take all measures for safekeeping of material evidence in intact conditions.

#### **Article 93. Review and examination of material evidence with low storage term**

93.1 Material evidence with a low storage term shall be immediately reviewed and examined by court at place of their location.

93.2 Persons participating in case shall be notified of place and time of review and examination of material evidence. Failure of persons participating in case to appear at review and examination shall not prevent the appropriate material evidence from being reviewed and examined.

93.3 Results of review and examination of material evidence shall be entered into protocol.

#### **Article 94. Disposition of material evidence**

94.1 Further to a date of court resolution entering into legal force, material evidence shall be returned to persons from whom such evidence have been initially obtained or shall be transferred to persons whose rights over said evidence have been confirmed by court or be disposed of in the order specified by court.

94.2 Objects, which by law may not be in possession of individuals, shall be transferred to appropriate organisations.

94.3 Where following review and examination of material evidence by court, persons submitting an evidence file motions for return of the appropriate evidence and satisfaction of such a motion does not jeopardise hearing of case, evidence may be returned to the appropriate persons prior to finalisation of case.

94.4 Court shall render a ruling or resolution on matters related to disposition of material evidence.



### **Article 95. Audio- and video-recordings**

95.1 Person providing, or filing a motion for request of, audio- or video-recordings in electronic or any other form, shall show when, by whom and under which circumstances said recordings have been made.

95.2 Except as specified by law, use of secretly produced audio- or video-recordings as evidence shall not be permitted.

### **Article 96. Storage and return of audio- or video-recordings**

96.1 Audio- or video-recordings shall be kept with court. Court shall take all measures on their safekeeping.

96.2 In exceptional cases, upon effective date of a court resolution, it shall be permitted to return audio- or video-recordings to persons who provided said recordings.

96.3 Court shall render a ruling on return of audio- or video-recordings.

### **Article 97. Appointment of expert examination by court**

97.1 Court shall, for the purpose of clarification of matters emerging in course of hearing and requiring special knowledge, upon application of a person participating in the case or further to its own initiative, appoint an expert examination.

97.2 In the event of a mutual consent, persons participating in the case shall be entitled to request court to appoint a particular competent person as an expert.

97.3 Persons participating in case shall be entitled to present to court questions to be considered by expert.

97.4 Final decision on scope of questions to be considered by an expert shall be determined by court. Court shall motivate rejection of questions proposed by persons participating in the case.

97.5 Where any party refrains from participating in an expert examination or causes obstacles in course of performance of an examination (failures to attend expert examination, to provide experts with required documents, to pay expenses for carrying out of an examination, etc.), and it is impossible by circumstances of case to hold an expert examination without participation of said party, court shall, depending on fact which party refuses to participate in expert examination and importance of such expert examination for said party, have the right to acknowledge a fact, for establishment of which expert examination is appointed, as established or rejected.

### **Article 98. Contents of ruling on appointment of expert examination**

98.1 Court shall render a ruling on holding of an expert examination.

98.2 The following information shall be included into such court ruling: name of court; time of expert examination; names of parties to case; title of expert examination; facts to be proved or rejected by expert examination; questions to be considered in course of examination; first name, last name and patronymic of expert or name of expert examination organisation, to hold expert examination; materials provided to expert; period for performance of examination and issue of opinion.

98.3 Ruling shall warn an expert or head of an expert examination organisation, if expert examination is carried out by the employee of said organisation, on criminal liability for deliberately false opinion.

### **Article 99. Order for carrying out expert examination**

99.1 Expert examination shall be carried out under the principle of contentiousness and observance of rights of persons participating in case as stipulated by this Code. Court shall have the right to get information on course of expert examination.

99.2 Expert examination shall be carried out by employees of a specialised expert examination organisation or other specialists appointed by court. It shall be permitted to appoint several experts for performance of expert examination.

99.3 Depending upon type of research or upon the fact whether it is possible or otherwise to deliver investigation materials into court session, or where such delivery is associated with difficulties, expert examination shall be held in or outside court session. Persons participating in case shall have the right to attend expert examination, except for cases when such attendance of an expert examination at locations outside of court may jeopardise normal activity of experts.

99.4 Where performance of an expert examination has been assigned to two and more experts, they shall have the right to consult with each other. If experts come to a single opinion, they shall issue a single opinion. Expert, who does not agree with other experts, shall issue a separate opinion.

99.5 Where an expert examination is performed at an expert examination organisation, particular expert or experts, appointed by the head of said organisation for carrying out the expert examination, shall be liable for the opinion of the examination.

### **Article 100. Rights and responsibilities of experts**

Expert shall have rights and carry out responsibilities specified by Article 63 of this Code and other laws of the Azerbaijan Republic.

### **Article 101. Expert opinion**

101.1 Expert opinion shall reduced to writing.

101.2 Expert opinion shall contain detailed description of expert examination, conclusions thereof and motivated answers to questions of court. Where in course of an expert examination expert establishes circumstances, being of significance for the case, but not included into the request of court, such expert shall have the right to include conclusions on said circumstances in his opinion.

101.3 Expert opinion shall be heard in the court and shall be evaluated along with other evidence.

### **Article 102. Supplementary and repeated expert examination**

102.1 Where expert opinion is not fully clear or is not complete, court shall have the right to appoint a supplementary expert examination and assign holding such expert examination to the same or to a different expert.

102.2 In case of disagreement with the opinion of expert on the basis of lack of grounds for such an opinion, as well as in cases of discrepancies between opinions of several experts, court shall have the right to appoint a repeated expert examination and assign holding an examination to different expert or experts.

### **Article 103. Evaluation of expert opinion by court**

103.1 Opinion of expert shall not be binding upon court and shall be evaluated by court in accordance with rules of Article 88 of this Code.

103.2 Court's disagreement with expert opinion shall be motivated in resolution or ruling.

#### **Article 104. Witness testimonies**

104.1 Witness shall provide court with oral information on information and facts known to him.

104.2 Upon request of court witness shall give his statements in writing.

104.3 Information given by a witness without making reference to a source of such information shall not be treated as evidence.

104.4 The following persons shall not be interrogated as witnesses:

104.4.1 persons who due to minor age, physical or mental disabilities are not capable to properly comprehending facts and providing correct factual testimonies;

104.4.2 representatives in a civil case or advocates in a criminal case- on circumstances known to such persons due to performance of their professional duties;

104.4.3 judge - on matters known to him due administration of justice;

104.4.4 religious servants- on circumstances known to them due to confessions;

104.4.5 advocates ¶ on matters known to them due to performance of their professional duties.

104.5 The following persons shall have the right to refuse to testify in courts:

104.5.1 persons against selves;

104.5.2 spouses against each other, children against parents, parents against children;

104.5.3 brothers and sisters against each other, grandfather and grandmother against grandchildren, grandchildren against grandfather and grandmother;

104.5.4 deputies of the Milli Majlis of the Azerbaijan Republic and Ali Majlis of Nakhchivan Autonomous Republic ¶ on information known to them due to performance of their service duties.

104.6 Person petitioning for a call of a witness shall show last name, first name, patronymic and place of residence of such witness.

#### **Article 105. Rights and responsibilities of witness**

105.1 Witness shall have rights and carry out responsibilities specified by Article 62 of this Code and other laws of the Azerbaijan Republic.

105.2 Where a witness is unable to appear before court due to health conditions, age, disability, such witness shall be interrogated by court at his place of residence.

105.3 Witness shall have the right to request compensation of expenses incurred in association with call to court, as well as compensation for the loss of time.

#### **Article 106. Explanations of persons participating in case**

106.1 Explanations of persons participating in case on facts known to such persons and relevant to case shall be heard and evaluated along with other evidence collected with respect to case.

106.2 Where one of the parties holds the evidence and does not disclose the same upon request of court, court shall consider circumstances relevant to case as established upon information known to the parties.

106.3 Acknowledgement of facts serving grounds for claims and objections of one party by other party shall relieve the former from burden of proof of such facts.

Acknowledgement of fact shall be entered into a protocol of court session and be signed by a person making such an acknowledgement. Where acknowledgement of fact is expressed in a petition reduced to writing, such a petition shall be appended to case file.

106.4 Court shall not accept an acknowledgement where it has doubts as to sincerity of the acknowledgement or such acknowledgement being made under misleading statements, force, threat or mistake. In such event, the facts shall be subject to proof under a general procedure.

## CHAPTER 8.

### Court expenses

#### **Article 107. Composition of court expenses**

Court expenses shall be composed of a state duty and costs associated with hearing of case.

#### **Article 108. State duty**

108.1 State duty shall be paid under the following circumstances:

108.1.1 upon filing of claim applications;

108.1.2 upon third party applications for joining the case on independent claims associated with subject matter of dispute;

108.1.3 upon filing of applications for establishment of facts of legal significance;

108.1.4 upon filing of appellate and cassational complaints, as well as of complaints from cancellation of proceeding, leaving claim without hearing, imposition of court fines.

108.2 Grounds for establishment, method and amount of payment of a state duty for cases heard in courts shall be determined by the relevant law.

#### **Article 109. State duty for complaints from acts of court**

109.1 State duty for filing an appellate complaint and cassational complaint shall be equal to, respectively, 120% and 150% of a state duty payable in the event of application to court of first instance.

109.2 State duty for complaint filed with respect to re-examination of a resolution shall be paid once.

#### **Article 110. Relief from court expenses**

110.1 The following persons shall be granted relief from payment of state duty for cases considered by courts:

110.1.1 authors - on disputes arising out of authorship; claimants - on disputes arising out of author's rights, rights for invention, utility model, industrial design, as well as from other rights over intellectual property;

110.1.2 claimants - on claims arising out of recovery of alimonies;

110.1.3 claimants - on claims for compensation of losses caused by injuries, other harm to health or death of bread-winner;

110.1.4 bodies of social insurance and protection - on regress claims for recovery from

persons, who caused harm, of allowances, paid to a person suffering injuries or to members of his family;

110.1.5 police authorities - on claims for recovery of expenses incurred for search of persons refusing to pay alimonies, persons avoiding payment of compensation for injuries, other harm to health or death of a bread-winner; as well as persons avoiding payment of taxes and other obligatory contributions;

110.1.6 claimants - on claims for compensation of material loss caused by crime;

110.1.7 claimants-prosecutors - on claims for compensation of losses caused to the state by crime;

110.1.8 consumers - on claims related to violation of rights;

110.1.9 claimants - on claims for recovery of social protection allowances;

110.1.10 claimants - on claims for recovery of amounts which had to be withheld from a debtor, but have not been withheld due to a fault by a legal entity or an individual entrepreneur, or of amounts which were withheld from a debtor, but have not been transferred to a creditor due to a fault by the aforementioned legal entities and individuals;

110.1.11 parties - on disputes concerned with compensation of losses caused to an individual through illegal confinement, arrest or imposition of administrative sanctions in form of correctional labour;

110.1.12 minors - from petitions filed for protection of their rights;

110.1.13 state authorities - from applications filed for protection of rights, freedoms and protected by law interests of other persons, state interests;

110.1.14 persons participating in case - from complaints on court rulings;

110.1.15 parties- from applications filed with the court of the first instance for reconsideration of decisions passed in course of proceeding in-absentia;

110.1.16 parties - from applications for re-hearing of acts of court, which have entered into force, due to establishment of new circumstances.

110.2 Legislation may provide for other cases of exemption from payment of state duty.

110.3 Copies of acts of court shall be submitted to persons participating in case without payment of any state duty. State duty shall be paid upon any further issue of an act of court.

### **Article 111. Delay or instalment of payment of court expenses and decrease of their amounts**

Depending upon property status of parties, court shall have the right to grant one or both parties relief from payment of court expenses, establish procedure for payment of court expenses in instalments or reduce amount of court expenses.

### **Article 112. Price of claim**

112.1 Price of claim shall be determined as follows:

112.1.1 in claims for recovery of money- amount to be recovered;

112.1.2 in claims for recovery of property - value of property;

112.1.3 in claims for recovery of alimonies- cumulative payments for the period of one year;

112.1.4 in claims for termed grant or payment - cumulative payments and grants, for the period of up to 3 years;

112.1.5 in claims for open-term or life-term payments - cumulative payments for 3 years;  
112.1.6 in claims for increase or decrease of payments - amounts of decrease or increase of payments, for the period of up to one year;  
112.1.7 in claims for cancellation of payments - cumulative balance of payments and grants, for the period of up to one year;  
112.1.8 in claims for early termination of an agreement on lease of property- cumulative payments for the use of property for the remaining portion of the term of agreement, for the period of up to 3 year;  
112.1.9 in claims with respect to the ownership right of physical persons over constructions - cost of construction, but not less than inventory value, in case of absence of such information - not less than value under the contract of insurance, and over constructions of legal entities - not less than balance value of the construction;  
112.1.10 in claims composed of several independent demands □ total of all claims;  
112.1.11 in claims for recognition of execution or any other documents serving basis for uncontested recovery of funds as executable documents - disputed amount;  
112.1.12 in claims on recognition of execution or any other documents serving basis for uncontested recovery of funds as not subject to execution- amount in dispute;  
112.1.13 in claims for plots of land- determined cost of a plot of land, and in case of absence of such - market value.  
112.2 Price of claim shall include financial sanctions (fines, penalties) indicated in claim.  
112.3 Counter claim shall be paid out upon rules applicable to principal claim.  
112.4 Price of claim shall be shown by claimant. In case of incorrect indication of price of claim, price shall be determined by the court.

### **Article 113. Payment of balance of state duty**

113.1 Where it is difficult to establish price of claim at the moment of filing of the appropriate petition, amount of state duty shall be preliminarily established by judge with further recovery of balance of the duty in accordance with price of claim established by court in course of settlement of case.  
113.2 In case of increase of claimed amounts, balance of duty shall be paid as per increase of price of claim.

### **Article 114. Reimbursement of state duty**

114.1 State duty shall be reimbursed under the following circumstances:  
114.1.1 payment of state duty in the amount exceeding the requirements of existing laws;  
114.1.2 refusal to accept petition for consideration in accordance with grounds specified by this Code;  
114.1.3 return of petition upon grounds specified by this Code;  
114.1.4 cancellation of case proceeding in accordance with grounds specified by this Code;  
114.1.5 leaving petition without consideration in accordance with grounds specified by this Code;  
114.1.6 return of appellate complaint or cancellation of appellate proceeding in accordance with grounds specified by this Code.  
114.2 In cases provided by Article 114.1.1 of this Code, state duty shall be compensated in the amount overpaid. State duty shall also be compensated in other cases specified by

the laws of the Azerbaijan Republic. Court shall pass a ruling on reimbursement of state duty, which ruling shall indicate grounds for full or partial reimbursement of state duty.

**Article 115. Costs associated with hearing of case**

115.0 The followings shall be considered costs associated with hearing of case:

115.0.1 amounts to be paid to witnesses, experts, specialists and interpreters;

115.0.2 expenses for carrying out on - site investigation;

115.0.3 expenses for notification and call of parties to court;

115.0.4 expenses of parties and third parties for transportation and lease of dwelling premises incurred in association with appearance before court;

115.0.5 expenses on compensation of assistance of representatives;

115.0.6 expenses on compensation of assistance of advocates;

115.0.7 expenses on locating a respondent;

115.0.8 expenses on execution of resolution;

115.0.9 other necessary expenses as defined by court.

**Article 116. Payments to witnesses, experts, specialists, interpreters**

116.1 Witnesses, experts, specialists, interpreters shall be compensated for the amounts of transportation expenses and expenses for the lease of dwelling premises incurred in association with appearance before the court, and shall further be paid per diem expenses.

116.2 Where actions performed by an expert or a specialist do not fall within their official duties, such experts and specialists shall receive compensation for the work done upon assignment of court. Amount of remuneration, expenses for lease shall be determined by court within reasonable limits further to consent of persons participating in the case.

116.3 Payment of remuneration to interpreters and reimbursement of their expenses incurred in association with appearance before court shall be made on the account of resources from the state budget. Employees called to court as witnesses shall keep their average salary for period of absence from their position due to appearance before court. Witnesses, who do not have any employment relationships, shall be compensated for distraction from their routine jobs in the amounts calculated with consideration of actual time and minimal salary as defined by law.

**Article 117. Recovery of payments to witnesses, experts, specialists, interpreters from parties**

117.1 Amounts to be paid to witnesses, experts and specialists, as well as any other necessary expenses shall be in advance deposited at the court's account by the party making the relevant request. Where a request is made by both parties, or where a witness has been called, an expert has been appointed, a specialist has been invited and other payable actions have been performed upon initiative of court, required amounts shall be deposited by the parties to the court's account in equal instalments.

117.2 Amount mentioned in this Article shall not be payable by a party exempted from payment of court expenses and shall be covered on the account of the state.

**Article 118. Payments to witnesses, experts, specialists and interpreters**

118.1 Payments to witnesses, experts, specialists and interpreters shall be made by court

from court's deposit account upon fulfilment by the former of their obligations.

118.2 Amount and method of payment shall be established by the relevant body of executive authority of the Azerbaijan Republic.

### **Article 119. Distributions of court expenses between parties**

119.1 Court expenses shall be covered by persons participating in case pro rata to satisfaction of claims.

119.2 State duty, which has not been paid by claimant due to his exemption, shall be recovered from respondent and paid into the state budget pro rata to satisfied claims.

119.3 Where a claim has been brought following a breach by a person participating in case of provisions of an out-of-court settlement procedures and contractual provisions (failure to reply to claim, failure to send requested documentation), court shall be entitled to recover court expenses irrespective of outcome of case.

119.4 Upon agreement of persons participating in case on distribution of court expenses, court shall pass a decision further to such agreement.

119.5 Court expenses incurred by persons participating in case further to filing an appellate complaint or cassational complaint shall also be distributed in accordance with rules of this Article.

119.6 Where a court of a higher instance changes an initial resolution or passes a new resolution without transfer of a case to new hearing, such court shall accordingly modify distribution of court expenses.

### **Article 120. Recovery of compensation for loss of time**

Court shall have the right to recover from a party filing a non-motivated claim or disputing a claim in a bad faith or causing repeated interruptions on course of fair and speedy consideration and settlement of the case compensation in favour of the state or of an opposite party for the loss of working time. Amount of such payment shall be established by court with consideration of actual circumstances within reasonable limits.

### **Article 121. Remuneration of assistance by representative and advocate**

121.1 Court shall have the right to award a party in whose favour the resolution is issued with a reasonable payment from the opposite party for compensation of expenses incurred with respect to assistance provided by representative or advocate with consideration of such expenses being incurred under particular circumstances and upon presentation of an invoice for the work done.

121.2 Where legal assistance to a party, in which favour the resolution is issued, has been provided free of charge, such amount shall be recovered from the other party for the benefit of legal advise office.

### **Article 122. Distribution of court expenses and expenses on remuneration of advocate in case of refusal from claim and amicable agreement**

122.1 Where a claimant refuses from claim, court expenses of the former shall not be compensated by a respondent.

122.2 Where a claimant does not support his claims due to voluntary acknowledgement of said claims by a respondent following claim petition, court shall, upon request of claimant, recover from respondent all court expenses in respect of case.



122.3 Where parties enter into an amicable agreement court expenses and expenses for remuneration of advocates shall be distributed in accordance with agreement of parties.

**Article 123. Compensation of court expenses to respondent in case of refusal from claim**

Where a person applying, under the procedure specified in the law, to court for protection of rights and freedoms, protected by law interest of other persons, refuses from claim in full or in any part thereof, respondent shall, on the account of the state budget, receive compensation for the full amount of his court expenses or for the portion of his court expenses corresponding to scope of claim which have been refused from.

**Article 124. Compensation of court expenses incurred by court in course of hearing of case**

124.1 Expenses incurred by court in course of hearing of case, and state duty, which has not been paid by a claimant in virtue of exemption, shall be recovered from a respondent for the benefit of the state budget in proportion to the satisfied portion of claims.

124.2 Where a claim has been rejected, expenses incurred by court in course of hearing of case shall be recovered, for the benefit of the state, from claimant not holding an exemption from payment of such court expenses.

124.3 Where claims have been satisfied in part, and respondent holds an exemption from payment of court expenses, expenses incurred by a court in course of hearing of case shall be recovered, for the benefit of the state, from claimant holding exemption from payment of court expenses pro rata to that portion of claims which have been rejected.

**Article 125. Complaints from rulings on court expenses**

It shall be permitted to file complaints from rulings issued with respect to court expenses.

CHAPTER 9.

Court fines

**Article 126. Imposition of court fines**

126.1 Court fines shall be imposed by court in cases and amount specified by this Code.

126.2 Fines imposed upon officials of state authorities, legal entities and other organisations participating or otherwise in course of hearing of case for breach of their duties specified by law shall be recovered from their personal resources.

126.3 Ruling on imposition of fine shall be associated with case to which such fine relates and shall be attached to the case file.

126.4 Copy of ruling on imposition of fine shall be sent to a person subjected to such fine.

**Article 127. Withdrawal or reduction of fine**

127.1 Person subjected to fine shall have the right to request court imposing such fine to withdraw fine or to reduce amount thereof within twenty days from the date of receipt of copy of court ruling on imposition of fine.

127.2 Such petition shall be considered in court session and shall be attached to case

materials. Person subjected to fine shall be notified of place and time of the session. Failure of such person to appear before court shall not prevent court from considering the petition.

127.3 Court ruling on refusal to withdraw or to reduce amount of fine may be appealed in the appellate order.

## CHAPTER 10.

### Procedural periods

#### **Article 128. Establishment and calculation of procedural periods**

128.1 Procedural actions shall exercised within time limits specified by this Code and laws. Where procedural periods have not been established by law, such periods shall be set by the court.

128.2 Periods for exercise of procedural actions shall be defined by the particular calendar date accompanied with the reference to an event of an inevitable occurrence or by reference to a period of time during which an action may be exercised.

128.3 Procedural periods calculated in years, months or days shall commence on the day following the calendar date or commencement of event, which defines commencement of a period.

#### **Article 129. Expiration of procedural periods**

129.1 Periods calculated in years shall expire at the relevant month and day of the last year of the term. Periods calculated in months shall expire at the relevant last month and day of the term. If the end of the period calculated in months corresponds to a month, which does not have the relevant date, such period shall expire at the last day of such month.

129.2 Where last day of the period corresponds to a non-working day, the period shall expire on the first working day following such non-working day.

129.3 Procedural action with the applicable procedural period shall be exercised until 24.00 of the last day of the period. Where appellate complaint, cassational appeal, other documents or cash have been submitted to a post office before 24.00 of the last day of the period, the period shall not be considered missed.

129.4 Where a procedural action shall be exercised directly in court or in any other organisation, period shall expire at times specified with respect to the end of a working day or closing of applicable activities at said court or organisation.

#### **Article 130. Consequences for missing procedural periods**

130.1 Rights for the exercise of certain procedural actions shall terminate with expiration of a period specified by the law or set by the court.

130.2 Expiration of procedural periods shall not waive the relevant responsibility of a party for exercise of procedural obligations.

130.3 Where no motion is filed with respect to restoration of a procedural period, complaints and documents submitted upon expiration of procedural periods shall not be considered by the court and shall be returned to the person submitting the same.

**Article 131. Suspension of procedural periods**

131.1 All procedural periods continuing at the moment of suspension of proceeding on the case shall be suspended.

131.2 Procedural periods shall resume effective from the date of consummation of proceeding.

**Article 132. Extension of procedural periods**

It shall be permitted to extend procedural periods established by courts following the appropriate application of an interested person.

**Article 133. Restoration of procedural periods**

133.1 Following petition of a person participating in case, court, further to the acknowledgement of reasons for missing any periods specified by the law as valid, shall have the right to restore a procedural period.

133.2 Petition for restoration of a missed period shall be filed with the court, where procedural action is to be exercised, and shall be considered in a court session. Persons participating in case shall be notified of place and time of such court session. Failure of such persons to appear before the court shall not prevent the matter from being considered.

133.3 Required procedural action in respect of which period has expired (filing of complaint, appeal, submission of documents, etc.) shall be exercised simultaneously with filing a petition for restoration of period.

133.4 Restoration of a procedural period shall be referred to in a ruling, resolution or a decision of the court.

133.5 Ruling shall be passed on refusal to restore procedural period.

133.6 Persons participating in case shall have the right to file a complaint from ruling on restoration of a procedural period.

**CHAPTER 11.**

Dispatch of official court documentation, writs and summons

**Article 134. Official documents**

134.1 Court shall officially submit the following documents to persons participating in case:

134.1.1 claim petition;

134.1.2 counter claim petition;

134.1.3 copies of documents prepared by parties with respect to acknowledgement of, or refusal from, claims;

134.1.4 court summons;

134.1.5 acts of courts of first, court of appellate and cassational instance;

134.1.6 ruling referring to cancellation of case proceeding;

134.1.7 court order;

134.1.8 copy of an appellate complaint;

134.1.9 copy of a cassational complaint.

134.2 Where necessary, court shall also have right to present other documents relevant to the case.

**Article 135. Official submission of document**

135.1 Official submission of document shall mean presentation of documents dispatched by the court.

135.2 It shall be permitted to effect submission of a document at any place upon encounter of the proposed recipient.

135.3 Official submission of a document during night-time, as well as on Saturdays and Sundays shall be effected only upon consent of the court.

**Article 136. Procedure for submission of acts of court and court documentation**

136.1 Acts of court and documents referred to in Article 134 of this Code shall be submitted by post, through registered mail. Where necessary, court shall have the right to instruct a court employee, or in the event of economic disputes, respectively, claimant or respondent, to effect official submission of documents.

136.2 Communication enterprises obliged to present acts of court and court documentation, or persons instructed to effect presentation of acts of court and court documentation shall do so during the day following a day of receipt of acts of court and court documentation.

136.3 Communication enterprises obliged to present acts of court and court documentation, or persons instructed to effect presentation of acts of court and court documentation shall notify the court on presentation of documents at the specified address during the day following a day of receipt of acts of court and court documentation.

**Article 137. Presentation of acts of court and court documentation**

137.1 Acts of court and court documentation shall be presented to a recipient, such presentation being confirmed by signing a specified notification form to be returned to the court. Acts of court and court documentation addressed to a legal entity shall be presented to the relevant official, such presentation being confirmed by signing a notification form by the latter.

137.2 Where a person instructed to effect presentation of acts of court and court documentation is unable to locate a proposed recipient at the latter's place of residence or employment, such documents shall be presented to one of members of the family of the proposed recipient living together with the latter and being over the age of majority (further to a consent of such persons), and where there are no such persons to the relevant bodies of executive authority, local self-governing bodies at place of residence or management at place of work of the recipient.

137.3 Person accepting court documentation in place of the proposed recipient shall indicate on the notification form his last name, first name and patronymic, his relationship to the proposed recipient or his position, and shall, at the first opportunity, pass court documentation to the proposed recipient.

**Article 138. Contents of notification**

138.0 The following information shall be contained in the text of notification:

138.0.1 name and full address of the court;  
138.0.2 last name, first name and patronymic of the proposed recipient of court documents and decisions;  
138.0.3 name of the document;  
138.0.4 time (date and time [in hours and minutes]) and place of submission;  
138.0.5 reasons for non-submission (refusal to accept, absence from the indicated address, incorrect address, etc.);  
138.0.6 holder of the document;  
138.0.7 signature of a person instructed to effect submission, or of a representative of communication enterprise.

#### **Article 139. Refusal to accept court documentation**

Where the proposed recipient of court documentation refuses to accept such documentation without a lawful reason thereto, court documentation shall be left at place of submission. In such event submission shall be considered effected.

#### **Article 140. Court writs and summons**

140.1 Court shall notify persons participating in case of time and place of a court session.

140.2 Court writs and summons shall be delivered by post.

140.3 Persons participating in case shall be notified of time and place of a court session, as well as of performance of individual procedural actions by writs.

140.4 Invitation of witnesses, experts, specialists and interpreters shall also be made by writs.

140.5 For the purpose of allocation of sufficient amount of time for proper preparation of the defence at any stage of the case and for ensuring timely appearance before the court, writs addressed to persons participating in case shall be delivered at least 10 days prior to the date of a court session.

140.6 Writs shall be dispatched to the address specified by a person participating in case. Where a person is not resident at the address notified to the court, it shall be permitted to dispatch a writ to his place of work. Writ addressed to an organisation shall be dispatched to place of location of such organisation.

140.7 Where necessary and in cases specified by law, persons participating in case, witnesses, experts, interpreters shall be notified or summoned by registered mail, telegram accompanied with confirmation of receipt, other means of communication securing registration of writs and summons, as well as by a court employee at the instruction of the court.

#### **Article 141. Contents of writ or summon**

141.1 Writ or summon shall constitute an official court document and shall be prepared in accordance with the approved form.

141.2 The following information shall be contained in the text of a writ or summon:

141.2.1 name and full address of the court (telephone, fax, postal code, etc.);

141.2.2 indication of time (date and time [in hours and minutes]) and place of appearance before the court;

141.2.3 information on person to be notified or called to the court (last name, first name and patronymic);

141.2.4 address of person to be notified or called to the court (place of residence, or place of location of a legal entity);

141.2.5 indication of a role of notified or called recipient;

141.2.6 case title for which writ or summon is issued to recipient;

141.2.7 proposal to all persons participating in case to submit the evidence they have in their possession;

141.2.8 reference to a duty of a person accepting a writ or summon in the absence of the proposed recipient to pass said writ or summon to said recipient at the first opportunity;

141.2.9 reference to liability for failure of a called or notified person to appear before the court and responsibility to notify the court on reasons of such failure.

141.3 Along with writ, judge shall have the right to send a respondent copy of claim petition and copies of documents attached thereto.

141.4 Along with writ addressed to claimant, judge shall send such a claimant copies of respondent's explanations and copies of other documents, provided that such explanations and documents have been submitted to the court.

#### **Article 142. Submission of writ**

142.1 Writs shall be delivered by post or through persons commissioned by the judge. Time of presentation of writ to the recipient shall be shown on the part of the writ to be returned to the court.

142.2 Judge, upon consent of a person participating in case, shall have the right to give such person writ for delivery to other person to be notified or called in relation to the case.

142.3 Authorities responsible for delivery of writs, or person instructed to deliver a writ, shall perform such actions during the day following a day of receipt of such writ.

142.4 Authorities or officials, as well as appropriate persons, failing, due to their negligence, to deliver a writ shall, under the specified procedure, be liable for expression of disrespect to the court.

142.5 Authorities, which further to their duties are obliged to deliver a writ or person instructed to deliver a writ, shall notify the court on failure to deliver a writ during the day following a day of submission of the writ.

#### **Article 143. Presentation of writ**

143.1 Writ shall be presented to a recipient, such presentation being confirmed by signing a portion of the writ to be returned to the court. Writs addressed to a legal entity shall be presented to the relevant official, such presentation being confirmed by signing a portion of the writ by the latter.

143.2 Where a person, delivering a writ, is, following verification of accuracy of the address of the proposed recipient, unable to locate a person to be notified or called to the court at his place of residence or employment, a writ shall, subject to consent of such member, be presented to an adult member of the family living with the proposed recipient, and where there are no such persons to the relevant bodies of executive authorities, local self-governing bodies at place of residence or management at place of work of the recipient. In such cases a person receiving a writ shall show his last name, first name and patronymic, as well as position and relationship to the addressee on the

portion of the writ. Person accepting a writ shall at the first opportunity and without any delays present a writ to the proposed recipient.

143.3 In case of temporary absence of the recipient, a person delivering a writ shall make notes on the part of the writ to be returned to the court and indicate place where addressee has left and the expected date of return. Such information shall be confirmed by the relevant body of executive authorities, authority at his place of residence or management at his place of work and shall be immediately notified to the court.

#### **Article 144. Obligation to appear before court**

144.1 Person receiving a writ shall appear before court at time specified in the writ.

144.2 Recipient shall inform the court on inability to appear before the court.

144.3 Failure of an individual to appear before the court in person or through representative due to invalid reasons shall testify [ ] silent consent[ ] with respect to claims made and shall not prevent the case from being considered.

144.4 In exceptional cases, court shall secure respondent[ ] s appearance before the court through the relevant bodies of executive authorities.

#### **Article 145. Consequences of refusal to accept writ or summon**

145.1 Where a proposed recipient or other persons refuse to accept a writ or summon, person delivering or presenting said writ or summon shall make respective notes on writ or summon and shall return such writ or summon to the court.

145.2 Note on refusal of the proposed recipient to accept a writ or summon shall be certified by the local self-governing bodies at his place of residence, relevant bodies of executive authorities or management at his place of work.

145.3 Refusal of the proposed recipient to accept a writ or summon shall testify his [ ] silent consent[ ] with respect to claims made and shall not prevent the case from being considered or individual procedural actions from being performed.

145.4 Refusal of a person to accept a writ for passing to its addressee shall be treated as disrespect to the court and shall entail imposition of fine in the amount of 10 minimum salaries.

#### **Article 146. Change of address during court proceeding**

Persons participating in court and representatives shall notify the court on change of their address occurring in course of court proceeding. Where no such notice is submitted, writ or summon shall be delivered to the last known address of a proposed recipient and such writ or summon shall be considered delivered even if such proposed recipient is no longer residing at said address.

#### **Article 147. Lack of knowledge on place of location of respondent**

In case of lack of knowledge on actual place of location of a respondent, court shall commence court proceeding upon receipt from the local self-governing body at his last place of residence, relevant bodies of executive authorities or management at his last known place of work of a writ containing notes confirming receipt of the same.

#### **Article 148. Search of respondent**

148.1 In cases of lack of knowledge on place of location of a respondent on cases concerning state interests, as well as recovery of alimonies, compensation of losses caused by injuries, damage to health or death of bread-winner, court shall announce search of such respondent through police authorities.

148.2 Recovery of expenses for search of respondent shall be made by court order upon petition of the authority ordered to conduct a search.

## SECTION II PROCEEDING IN COURT OF FIRST INSTANCE

Subsection 1.  
Claim proceeding

CHAPTER 12.  
Filing of petition

### **Article 149. Form and contents of claim petition**

149.1 Claim petition shall be filed in a written form. Claim petition shall be signed by a claimant or by a duly authorised representative.

149.2 The following information shall be contained in the text of claim petition:

149.2.1 name of court to which claim is brought;

149.2.2 names and addresses of the parties;

149.2.3 claim of a claimant or an applicant, grounds constituting basis for such claims, norms of law constituting grounds for claims relying upon provisions of laws and other normative legal acts, where a claim is filed against several respondents ¶ reference to a claim against each of such respondents;

149.2.4 where provided by contract or with respect to certain categories of cases by law, reference to compliance with the out-of-court (pretension) procedure for the settlement of dispute;

149.2.5 list of documents attached to the petition.

149.3 Claimant shall have the right to bring several interrelated claims by one claim petition.

149.4 Petition shall also refer to other information required for fair settlement of the case, as well as to motions of the claimant.

### **Article 150. Documents attached to claim petition**

150.0 The following documents shall be attached to claim petition:

150.0.1 copies of petition in number corresponding to the number of respondents and third parties;

150.0.2 evidence of payment of state duty;



150.0.3 power of attorney or other document certifying authorities of representative;  
150.0.4 in economical disputes - document certifying delivery of copies of claim petition and attachments thereto to other persons participating in case;  
150.0.5 documents witnessing circumstances upon which claimant basis his claims, copies of such documents for respondent and third parties where they do not have these documents in their possession;  
150.0.6 text of a normative act in case of dispute in respect of contents of such an act;  
150.0.7 where provided by contract or with respect to certain categories of cases by law, document certifying compliance with the out-of-court or pretension procedure for the settlement of dispute.

### **Article 151. Acceptability of claim petition**

151.1 Court proceeding with respect to a claim petition shall be permitted upon submission of the petition in compliance with the requirements of this Code.  
151.2 Where necessary the matter of acceptability of claim petition shall be considered with participation of parties upon the principle of contentiousness.  
151.3 Claim petition shall be considered accepted where it has not been returned or refused to be accepted by the court within 2 weeks from its receipt.

### **Article 152. Refusal to accept claim petition**

152.1 Judge shall return claim petition and documents attached thereto where:  
152.1.1 requirements of Article 149 of this Code with respect to form and contents of claim petition have not been complied with;  
152.1.2 claim petition is not signed or signed unauthorised person or by a person whose official status is not indicated;  
152.1.3 a case shall not be considered by this particular court due to principles of territorial jurisdiction;  
152.1.4 with respect to economic disputes - no evidence of receipt of claim petition by the opposite parties is submitted;  
152.1.5 no document certifying payment of a state duty through due procedures and in due amount is submitted;  
152.1.6 no document certifying compliance with the out-of-court (pretension) procedure for the settlement of dispute with respondent is submitted, provided that such procedure is provided for by contract or with respect to certain categories of cases by law;  
152.1.7 several unrelated claims against one or more respondents have been joined into one claim petition;  
152.1.8 no document certifying application by claimant to bank or other credit institution for recovery of debt is submitted, provided that such debt is, further to the provisions of law, other normative legal acts or a contract, subject to recovery through bank or credit institution;  
152.1.9 claimant's petition for return of claim petition is received prior to issue of a ruling on taking claim petition into proceeding.  
152.2 Judge shall pass a motivated ruling on return of claim petition.  
152.3 It shall be permitted to file a complaint from ruling on return of claim petition. Where a ruling is cancelled, claim petition shall be considered submitted to the court on the date of application.

152.4 Return of claim petition shall not prevent second application to the court upon elimination of deficiencies.

**Article 153. Refusal to accept claim petition due to non-permissibility of claim**

153.1 Claim petition received by court shall be obligatorily registered on the date of receipt.

153.2 Under the following circumstances judge shall refuse to accept claim petition due to non-permissibility of claim:

153.2.1 where claim is not in court competence;

153.2.2 where there is a court resolution with respect to a dispute between the same parties, with respect to the same subject matter and upon the same grounds, or where there is a court resolution on cancellation of case proceeding further to claimant's refusal from his claim, or on approval of an amicable agreement between the parties;

153.2.3 where there is a valid arbitration award, except for the cases where the court refuses to issue an execution writ for arbitration award with respect to a dispute between the same parties, with respect to the same subject matter and upon the same grounds, or where the case is returned to arbitration which has passed a decision, but such re-hearing is not possible;

153.2.4 where there is a case under consideration of another court with respect to a dispute between the same parties, with respect to the same subject matter and upon the same grounds.

153.3 Judge shall pass a motivated ruling on refusal to accept claim petition. Where a case is not subject to consideration in court, name of the proper authority shall be shown in the text of the ruling.

153.4 Ruling on refusal to accept claim petition shall, along with all documents attached to claim petition, be returned or sent to applicant.

153.5 Refusal to accept claim petition shall prevent any further claim petition against the same respondent, with respect to the same subject matter and upon the same grounds.

153.6 It shall be permitted to file a complaint from ruling on refusal to accept claim petition. Where ruling is cancelled, claim petition shall be considered submitted to the court on the date of application.

**Article 154. Objection or response to claim petition**

154.1 Person participating in case shall within the term allocated for submission of explanations on claim have the right to present to court his objection and response along with the accompanying documents, and with respect to economic disputes evidence of sending the appropriate response to the opposite party.

154.2 The following information shall be contained in the text of objection or response:

154.2.1 name of court to which response is addressed;

154.2.2 name of claimant and case number;

154.2.3 in case of rejection of claims - grounds for full or partial rejection of claims made by claimant with references to relevant laws and legal normative acts, as well as evidence motivating objections;

154.2.4 list of documents attached to objection or response.

154.3 Objection or response may also contain other information, as well as motions of respondent.

154.4 Response shall be signed by a person participating in case or a representative thereof. Power of attorney certifying authorities of a representative shall be attached to a response signed by such representative.

**Article 155. Filing counter-claim**

155.1 Prior to issue of resolution on case, respondent shall have the right to file against a claimant a counter-claim to be heard along with the initial claim.

155.2 Filing counter claim shall be possible where grounds for such action has been established in course of court hearing.

155.3 Filing counter-claim shall be made in accordance with general rules for bringing a claim.

**Article 156. Conditions of acceptance of counter-claim**

156.1 Under the following circumstances judge shall accept a counter-claim:

156.1.1 where a counter-claim is made to off-set primary claim;

156.1.2 where satisfaction of counter-claim in full or in part rules out satisfaction of primary claim;

156.1.3 where there is a mutual relationship between counter-claim and primary claim and their joint hearing will lead to a fairer and faster settlement of a dispute.

156.2 Where necessary or upon motion of a person filing a counter-claim, matter of acceptance of a counter-claim shall be considered with participation of a person filing a counter-claim or persons participating in case.

**CHAPTER 13.**

**Securing of claim**

**Article 157. Grounds for securing of claim**

157.1 Upon applications of person participating in case court shall be entitled to take all measures for securing of claim. Securing of claim shall be permitted at any stage of hearing of case.

157.2 Implementation of measures for securing of claim for the purposes of further securing future execution of resolution shall constitute a temporary action and shall not predetermine passing of a resolution on case in its merits.

**Article 158. Measures for securing of claim petition**

158.1 It shall be permitted to undertake the following measures for the purpose of securing of claim:

158.1.1 imposition of arrest upon property of respondent or other persons;

158.1.2 prohibition of respondent from performance of certain actions;

158.1.3 prohibition of other persons from performance of certain actions related to subject matter of dispute;

158.1.4 suspension of sale of property in case of submission of claim petition on withdrawal of arrest over the property;

158.1.5 suspension of recovery upon execution deed, which legality is being disputed by a debtor in court;

158.1.6 suspension of recovery upon execution or any other deed on non-contested withholding, which legality is being disputed by claimant in the court.

158.2 Where necessary court shall for the purpose of securing of claim take other measures specified by relevant articles of this Code. Court shall have the right to apply several methods of securing of claim.

158.3 Imposition of arrest over property shall be executed in the following order:

158.3.1 in the first order - property of respondent not directly involved into production process: securities, funds on respondent's accounts, currency reserves, passenger vehicles, office design equipment, etc.;

158.3.2 in the second order - ready production (goods), as well as other material valuables, not directly involved into production process and not intended to be directly applied in course of production process;

158.3.3 in the third order - immovable property, as well as raw materials, equipment, tools, other fixed assets stipulated for direct application in course of production;

158.3.4 in the fourth order - property transferred to other persons.

158.4 Inventory of property shall be carried out within the limits of claim petition.

158.5 In case of breach of rules specified by Articles 158.1.3 and 158.1.3 of this Code, physical persons and legal entities shall be fined as follows:

158.5.1 on claims subject to valuation - in the amount of 50% of value of claim;

158.5.2 on claims not subject to valuation - in the amount of 200 minimum salaries.

158.6 Claimant shall have the right to require, under the court proceeding, said persons to compensate losses caused by non-fulfilment of a ruling on securing of claim.

#### **Article 159. Hearing of petition on securing of claim**

159.1 Petition on securing of claim shall be heard by judge reviewing a dispute immediately from the date of receipt of the petition.

159.2 Judge shall render a ruling following review of petition.

159.3 Persons participating in case not present at session for review of petition shall be notified of the ruling.

#### **Article 160. Execution of ruling on securing of claim**

160.1 Ruling on securing of claim shall be executed immediately in the order specified for execution of court resolutions.

160.2 Writ of execution shall be issued in respect of ruling on securing of claim.

#### **Article 161. Substitution of methods of securing of claim**

161.1 It shall be permitted to substitute one method of securing of claim with another further to petition of a person participating in case.

161.2 Substitution of one method of securing of claim with another shall be resolved in a court session.

Persons participating in case shall be notified of time and place of such court session, however their failure to appear before the court shall not prevent the matter of securing of one method of securing of claim with another from being considered.

161.3 In case of securing of claim on recovery of monetary resources, respondent shall have the right to substitute securing of claim with transferring amount claimed by the claimant into the court's deposit account.

**Article 162. Cancellation of securing of claim**

162.1 Securing of claim shall be cancelled upon initiative of court or request of parties by the same court.

162.2 Cancellation of securing of claim shall be settled in a court session. Persons participating in case shall be notified of time and place of such session. Failure of such persons to appear before the court shall not prevent hearing of the matter on cancellation of securing of claim from being considered.

162.3 Where a claim is rejected, measures for securing of claim adopted by court shall remain effective until the effective date of the resolution. However, court shall have the right simultaneously with or following its resolution issue a ruling on cancellation of measures for securing of claim.

162.4 In case of satisfaction of claims measures for securing of claim shall remain valid until execution of court resolution.

**Article 163. Complaint from ruling on securing of claim**

163.1 It shall be permitted to file a complaint from rulings on securing of claim.

163.2 Where a ruling has been passed without notification of a person filing a complaint, term for filing a complaint shall be calculated from the date when such a person has become aware of said ruling.

163.3 Filing of complaint from ruling on securing of claim shall not stop execution of said ruling.

163.4 Filing of complaint from ruling on cancellation of securing of claim or substitution of one method of securing of claim with another shall stop execution of ruling.

**Article 164. Compensation of losses caused to respondent by securing of claim**

Following effective date of the ruling on rejection of claim, respondent shall have the right to request claimant to compensate losses caused by court actions taken in pursuit of measures for securing of claim.

CHAPTER 14.

Preparation of case for hearing in court

**Article 165. Duty to prepare case for hearing by court**

Judge shall, with consideration of the principle of contentiousness, perform all actions necessary for preparation of case for hearing by court, its consideration on its merits and passing a resolution.

**Article 166. Ruling on preparation of case for hearing in court**

166.1 Judge shall render ruling on preparation of case for hearing in court.

166.2 Ruling shall refer to actions to be performed in connection with preparation of the case for hearing, setting a court session, as well as place and time of the session.

**Article 167. Actions of judge in course of preparation of case for hearing in court**

167.1 In course of preparation of case for hearing in court and with consideration of the

principle of contentiousness, judge shall perform the following actions:

- 167.1.1 provide persons participating in case with information on case proceeding, discuss with said persons the matter of bringing the claim before the court;
  - 167.1.2 take, with participation of a respondent or respondents, from claimant explanations as for the essence of the claim, consider objection raised by respondent, propose, where necessary, submission of supplementary evidence, explain claimant his procedural rights and obligations;
  - 167.1.3 call respondent, ask him, with participation of a claimant, on circumstances of the case, clarify his objections and evidence proving said objections, on especially complicated cases propose to submit within the specified period of time written objection on case with copy to claimant, explain respondent his procedural rights and obligations;
  - 167.1.4 settle matters of participation of joint claimants and joint respondents or third parties, as well matter of substitution of improper parties;
  - 167.1.5 explain to parties their right to apply to arbitration and consequences of such arbitration;
  - 167.1.6 take measures for amicable settlement of dispute;
  - 167.1.7 notify physical persons and legal entities interested in outcome of proceeding on time and place of the hearing;
  - 167.1.8 settle matters associated with call of witnesses;
  - 167.1.9 appoint, upon motion of parties or further to his own initiative, expert examination, as well as resolve matters on participation of specialists and interpreters;
  - 167.1.10 request evidence from physical persons and legal entities upon motion of parties;
  - 167.1.11 in urgent cases and with notification of persons participating in case carry out review of written and material evidence at their place of location;
  - 167.1.12 send court assignments;
  - 167.1.13 take measures on securing of claim.
- 167.2 Judge shall also perform other actions for fair and timely settlement of a dispute.

#### **Article 168. Sending copies of petition and attachments to respondent**

168.1 Judge shall send or deliver copies of claim petition and attachments thereto to respondent and, where necessary, shall propose the latter to submit his reply or objections and evidence in support of such objections. Judge shall explain that non-submission of evidence and objections by respondent will not prevent the case from being considered upon available evidence.

168.2 In civil cases it shall be permitted to effect submission of copies of claim petition and attachments thereto by claimant. In such event claimant shall provide the court with evidence of delivery of such documents.

#### **Article 169. Combination and separation of several petitions**

169.1 Where a separate hearing of claims is deemed necessary, judge shall have the right to separate one or more of combined claims into separate proceeding.

169.2 Where a claim is filed by several claimants or against several respondents and where separate consideration of claims is deemed necessary by judge, the latter shall have the right to separate one or more of claims of several claimants or against several respondents into separate proceeding.

169.3 Where it has been established by judge that there are several identical cases with participation of the same parties, or there are several cases by sole claimant against different respondents or of different claimants to the sole respondent and it has further been established that it is advisable to carry out proceeding on such cases in a combined manner, judge shall have the right to combine such cases into a single proceeding.

169.4 Actions of judge stipulated by this Article shall be performed with consideration of the principle of contentiousness upon hearing of persons participating in case.

**Article 170. Suspension, cancellation of proceeding and return of petition in course of preparation of case for hearing by court**

170.1 Under circumstances referred to in Articles 254, 255, 261.0.1, 261.0.3 and 261.0.6 of this Code, it shall be permitted to suspend or cancel proceeding or, upon application of claimant, to return claim petition.

170.2 Judge shall pass a ruling on suspension or cancellation of preparation of case for court hearing.

170.3 It shall be permitted to file a complaint from ruling passed in accordance with this Article.

**Article 171. Setting case for hearing by court**

Where a case is deemed by the judge as sufficiently prepared for hearing, judge shall notify persons participating in case of time and place of case hearing and shall issue a ruling on assignment of case for hearing by court.

CHAPTER 15.

Court hearing

**Article 172. Periods for hearing and settlement of cases**

172.1 A case shall be heard and settled within 3 months from the date of receipt of a petition by the court.

172.2 Cases on restoration at work, withholding alimonies, disputing resolutions, actions (inaction) of state authorities, social organisations, officials shall be heard and settled within 1 month.

172.3 Shorter periods for hearing and settlement of certain categories of cases shall be specified by law.

**Article 173. Court session**

Hearing of case shall be carried out in court session upon compulsory notification of persons participating in case.

**Article 174. Chairman for court session**

174.1 Judge examining case individually shall be deemed chairman for court session.

174.2 Chairman shall preside over a court session, providing for full, complete and fair examination of all the circumstances of the case, rights and obligations of parties and shall withdraw any matters irrelevant to case from court hearing.

174.3 Where any participant of a proceeding raises an objection against actions of

chairman, such objections shall be entered into protocol of the court session. Chairman shall give explanations in respect of such actions.

174.4 Chairman shall take all the necessary measures for securing proper order in court session. His instructions shall be compulsory for all participants of the proceeding, as well as for persons present in court room.

#### **Article 175. Direct effect and oral nature of court hearing**

175.1 While hearing a case, court shall investigate case evidence, hear explanations of parties and third parties, testimonies of witnesses, expert opinions, review written evidence, examine material evidence, hear audio-recordings, review video-recordings and perform other actions in connection with hearing of the case.

175.2 Where necessary in course of investigation of case evidence, court shall receive advice and explanations of a specialist.

175.3 Hearing of case shall be carried out in an oral form and with unchangeable composition of court.

#### **Article 176. Order in court session**

176.1 Upon court (judge) entering into a court-room secretary of court session shall announce **court is coming** and all persons attending court session shall stand. Announcement of resolution or, in the event of cancellation of case without issue of resolution, court rulings shall be heard by all persons attending court session in standing.

176.2 Participants of proceeding shall address a judge by saying dear judge and shall give their testimonies and explanations in standing. Any exception to this rule shall be permitted only upon permission of the chairman.

176.3 Hearing of case by court shall be carried out in an environment providing for normal activity of the court and security of participants of the proceeding. Where necessary, for the purpose of creating such an environment, court supervisors shall be invited to participate in course of proceeding.

176.4 Following commencement of a court session, any entrance to or exit from court-room shall be permitted only upon consent of the chairman.

176.5 Persons participating in case and persons attending open court sessions shall have the right to take written notes or to make audio-recordings of course of court hearing from their respective seats. Any drawing and taking of pictures, video-recording, live radio- or television-broadcasts shall be performed only upon permission of court with consideration of opinion of persons participating in case. Such action shall not disturb normal course of court hearing and may be restricted in time.

176.6 Persons participating in proceeding, other participants of process and all other persons present in court shall be obliged to comply with rules and instructions made by chairman.

#### **Article 177. Measures in respect of violators of order in court session**

177.1 Persons who fail to appear before court in due time or breach rules of court session shall be warned by chairman on behalf of the court.

177.2 In case of repeated violation, a person participating in case shall, upon ruling of court, be removed from court-room.

177.3 Judge shall have the right to issue a ruling and to impose upon persons permitting



gross violation of court order or deliberately expressing disrespect to the court fine in the amount of up to 50 minimum salaries or detain said persons for period from 3 to 24 hours.

177.4 Where there are indicias of criminal offence in actions of a person violating court order, judge shall pass materials to the relevant authorities for initiation of a criminal case against such person.

177.5 In case of mass violations of court order by persons attending court session, judge shall have the right to remove all persons not participating in case from courtroom.

177.6 Where a person participating in case permits repeated violations of court order, it shall be permitted to remove such person from courtroom for the total duration of court hearing or any portion thereof by the ruling of the court. Person permitted to re-enter into the courtroom shall have the right to receive information on procedural actions performed in his absence.

#### **Article 178. Opening of court session**

Judge shall open court session and announce which civil case is going to be considered at the time set for hearing of case.

#### **Article 179. Verification of appearance of participants of proceeding**

179.1 Secretary to court session shall report to court as to persons who have been called to, and appeared before, court, on whether writs have been delivered to persons who failed to appear before the court and on any information related to reasons for such failure to appear.

179.2 Chairman shall establish personalities of participants who have appeared before court and shall further verify powers of officials and representatives.

#### **Article 180. Explanation to interpreter of his responsibilities**

180.1 Chairman shall explain him [interpreter] his responsibility to translate explanations, testimonies, motions of persons, who do not speak at a language of the proceeding, and to translate explanations, testimonies, motions of persons participating in case and of witnesses, documents contained in case file and announced in court, audio-recordings, expert opinions, contents of recommendations of specialists, as well as of instructions of chairman, rulings and resolutions of the court.

180.2 Chairman shall warn an interpreter on criminal liability for deliberately false translation, and a signed acknowledgement of the interpreter with respect to such warning shall be attached to protocol of court session.

180.3 In case of evasion from appearance before court or from fulfilment of his duties, it shall be permitted to fine interpreter in the amount of up to one hundred minimum salaries.

180.4 Provisions of this Article shall also apply to persons expressing signs of deaf and dumb persons.

#### **Article 181. Removal of witnesses from the courtroom**

Witnesses appearing before court shall be removed into a specifically designated room. Chairman shall take measures for preventing any kind of communication between witnesses who have already been interrogated and those who have not.

**Article 182. Announcement of composition of court and explanation of right of objection**

182.1 Chairman shall announce composition of the court, provide information on personalities of expert, specialist, interpreter, secretary of the court session, and shall explain to persons participating in case their right to declare objections.

182.2 Objection shall be motivated and shall be reduced to writing.

Grounds for an objection shall be expressed not at the preparation stage of the proceeding, but during court session.

182.3 Objections, grounds, procedure for settlement and satisfaction of a challenge shall be governed by Articles 19-23 of this Code.

**Article 183. Explanations of right and responsibilities to persons participating in case**

Chairman shall explain to persons participating in case their procedural right and obligations, and shall further explain to parties their right to apply for arbitration and consequences of such application.

**Article 184. Consideration of case and dispute status. Settlement of motions of persons participating in case**

184.1 Judge shall discuss case and dispute status with parties, clarify whether the parties have submitted all evidence or otherwise and have been familiarised with case materials or otherwise.

184.2 Failure of persons participating in the case to give a reply (objection) to claim petition or to provide additional evidence upon request of a judge shall not prevent case from being considered in accordance with materials available.

184.3 Judge shall have the right to reject motion on postponing hearing with the purpose of submission of supplementary evidence as a late motion, where such a motion may delay course of hearing of case and parties have failed to provide such evidence due to gross negligence.

184.4 Motions of persons of participating in case on matters associated with hearing of case shall be resolved by court through court rulings upon hearing of opinions of other persons participating in case.

**Article 185. Consequences for failure to appear in court session of persons participating in case and of their representatives**

185.1 Persons participating in case shall be obliged to either appear before the court or to notify the court on reasons for failure to appear before the court or the impossibility of the appearance and shall submit evidence as for validity of such reasons.

185.2 Hearing of the case shall be adjourned where any person of participating in case fails to appear before court and there exists information on failure to deliver writ to such person.

185.3 Court shall have the right to consider case in absence of any of persons participating in case, where such a person was duly notified of place and time of court session and where reasons for failure to appear before court are deemed invalid.

185.4 In the event of repeated failure of parties or of a claimant to appear before court, court shall have the right to consider case in absentia of said persons where either has been duly notified of place and time of the court session. Articles 259.0.6 and 259.0.7 of this Code shall apply under the aforementioned circumstances.

185.5 Court shall have the right to proceed with hearing of case where there is no information on reasons for failure of respondent who has been duly notified of place and time of court session to appear before court or where court deems reasons for failure to be invalid, or where court establishes deliberate delay of proceeding by respondent.

185.6 Failure of representative of a person participating in case to appear before court shall not prevent the case from being heard. Court shall have the right to adjourn hearing of case upon motion of a person participating in case referring to valid reasons of representative's failure to appear before court.

185.7 Whereas parties are entitled to request the court to hear case in their absence, the court shall have the right to deem participation of parties compulsory.

#### **Article 186. Consequences for failure of witnesses, expert and specialist to appear before court**

186.1 Where witnesses, experts or specialists fail to appear before the court, court shall hear opinions of persons participating in case on possibility of hearing of case in the absence of the aforementioned persons and shall render ruling on proceeding with hearing or adjournment of the case.

186.2 Where a witness, expert or specialist has failed to appear before court due to reasons deemed by court invalid, such a person shall be fined in the amount of up to one hundred minimal salaries. Witness who fails to appear before court without any valid reason thereto for the second time, shall be forced to appear before court.

#### **Article 187. Explanation of rights and obligations to expert and specialist**

Chairman shall explain and clarify to expert and specialist their rights and obligations, and shall further warn expert on criminal liability for refusal to issue an opinion or for issuing a deliberately false opinion. Expert shall submit confirmation, certifying explanation of his rights and obligations. Such confirmation shall be attached to protocol of court session.

#### **Article 188. Adjournment of hearing**

188.1 Adjournment of case hearing shall be permitted in cases specified by this Code, as well as in cases of judge opinion on impossibility of hearing of case in said court session, failure of any of persons participating in case to appear before court, filing counter claim, necessity to submit and to request supplementary evidence, calling other persons to participate in proceeding, performing any other procedural actions.

188.2 Further to adjournment of case hearing date for a new court sessions shall be set with consideration of time required for call of participants of proceeding or requesting evidence and persons appearing before the court shall sign a written notification to that effect. Persons failing to appear before the court and newly invited parties shall be duly notified of time and place of new hearing.

#### **Article 189. Interrogation of witnesses and performance of procedural actions in**

**case of adjournment of hearing**

In case of adjournment of case hearing with the parties present in court session, court shall have the right to interrogate witnesses who have appeared before court and to perform other procedural actions. Second call of said witnesses to a new court session or repeated performance of procedural actions shall be permitted only in the event of necessity.

**Article 190. Commencement of hearing of case on its merits**

Hearing of a case on its merits shall commence with report of chairman. Thereafter, chairman shall clarify explanations of parties and third parties with respect to claims.

**Article 191. Refusal of claimant from claim, acknowledgement of claim by respondent and amicable agreement**

191.1 Refusal of claimant from claim, change of claim, acknowledgement of claim by respondent or conditions of an amicable agreement of parties shall be entered into protocol of court session, which protocol shall be signed, respectively, by claimant, respondent or both. Refusal from claim, change of claim, acknowledgement of claim or amicable agreement of parties shall be expressed in clearly written motions addressed to court.

191.2 Court shall, prior to approval of refusal from claim, acknowledgement of claim or approval of an amicable agreement of the parties, explain the latter consequences of such procedural actions. In the event of claimant's refusal from claim and acceptance of such refusal by court or in case of approval of an amicable agreement between parties, court shall render a ruling, which shall also cancel proceeding on the case. Conditions of an amicable agreement of parties as approved by the court shall be expressed in ruling.

191.3 In case of acknowledgement of claim by respondent and acceptance of such acknowledgement by court, court shall pass a resolution on satisfaction of claims of claimant.

191.4 In case of court's rejection of claimant's refusal from claim, acknowledgement of claim by respondent or non-approval of an amicable agreement, court shall render a motivated ruling and shall continue hearing of case on its merits.

**Article 192. Explanations of persons participating in case**

192.1 Upon presentation of case report, judge shall hear claimant and third party, acting on side of claimant, respondent and third party, acting on side of respondent, and other persons participating in the case. Persons participating in case shall have the right to ask questions of each other.

192.2 Written explanations of persons participating in case and evidence collected by court in accordance with Articles 83 and 85 of this Code, shall be announced by chairman.

**Article 193. Establishment of order of examination of evidence**

Following hearing of persons participating in case and with consideration of their opinions, judge shall establish the order of examination of evidence.

**Article 194. Warning of witness on responsibility for refusal to testify and**

**submission of deliberately false testimonies**

194.1 Prior to carrying out interrogation of a witness, chairman shall establish his personality, explain his rights and duties, warn on criminal liability for unlawful refusal to testify or submission of deliberately false testimonies. Witness shall sign a note confirming explanation of his rights and duties. Such confirmation shall be attached to protocol of court session.

194.2 Chairman shall explain a witness below the age of criminal liability the duty to truthfully describe facts of case known to him, however such a witness shall not be warned on liability for unlawful refusal to testify or submission of deliberately false testimonies.

**Article 195. Procedure for interrogation of witness**

195.1 Each witness shall be interrogated individually.

195.2 Chairman shall verify relation of witness to persons participating in case and shall propose witness to inform court on all case related information in his possession.

195.3 Thereafter, witness shall be asked questions. A person upon whose petition witness is called and representatives of such person shall be the first to ask questions of a witness, followed by other persons participating in case and representatives thereof.

195.4 Judge shall have the right to ask questions of witness at any moment of his interrogation.

195.5 Where necessary, court shall have the right to repeatedly interrogate witness in that same or another court session, as well as to perform confrontation of witnesses for the purpose of clarification of contradictions in their testimonies.

195.6 Except for cases of court refusal to issue a permission, interrogated witness shall remain in court room until the end of the examination.

**Article 196. Use of written materials by witness**

Witness shall have the right to make use of written notes where his testimonies are associated with any calculations or other data being difficult to remember. Such materials shall be presented to court and persons participating in case and it shall be permitted to issue a ruling on attachment of such materials to the case file.

**Article 197. Interrogation of witness below age of majority**

197.1 Interrogation of a witness below the age of fourteen, and at the discretion of court of a witness at the age between fourteen and sixteen shall be carried out with participation of a representative of an educational establishment being attended by such witness. Where necessary, parents, adopters, guardians and custodians of a minor shall also be called to the court. Said persons shall have the right, upon permission of chairman, ask witness questions, as well as express their personal opinions with respect to personality of witness and his testimonies.

197.2 In exceptional cases, where it is necessary to establish circumstances of case and while interrogating a witness below the age of majority, it shall be permitted to remove any persons participating in the case or any person attending court session from court room upon ruling of the court.

Persons participating in case shall, upon their return to courtroom, be informed on testimony of a minor and be given an opportunity to ask witness questions.

**Article 198. Disclosure of witness testimonies**

Witness testimonies received in accordance with Articles 83, 85, 105.2 and 189 of this Code shall be disclosed at court session. Thereafter, persons participating in case shall have the right to give explanations with respect to such testimonies.

**Article 199. Examination of written evidence**

Written evidence or protocols of their examination, prepared in accordance with the procedure specified by Articles 83, 85, 167.1.11 of this Code, shall be disclosed at court session and be presented to persons participating in case, representatives, and where necessary – to experts, specialists and witnesses. Thereafter, persons participating in case shall have the right to give explanations.

**Article 200. Disclosure and examination of personal correspondence and telegraph messages**

For the purpose of maintaining secrecy of personal correspondence and telegraph messages such correspondence and telegraph messages shall be disclosed and examined by court in an open session only upon consent of recipients of such correspondence and messages.

**Article 201. Examination of material evidence**

201.1 Material evidence shall be examined by court and presented to persons participating in case, representatives thereof and, where necessary, experts, specialists and witnesses.

201.2 Persons, who have been presented with material evidence, shall have the right to draw attention of court to certain circumstances related to examination. Such proposals shall be entered into protocol of court session.

201.3 Protocols for examination of material evidence shall be disclosed in course of court session and thereafter persons participating in case shall have the right to submit their explanations.

**Article 202. On-site inspection**

202.1 Written and material evidence, which cannot be delivered to court or which delivery is made difficult, shall be reviewed and examined at place of their location or storage. Court shall render ruling with respect to on-site inspection.

202.2 Persons participating in case and representatives thereof shall be notified of place and time of inspection, however their failure to appear shall not prevent inspection form being carried out. Where necessary, court shall also call experts, specialists and witnesses.

202.3 Results of inspection shall be entered into protocol of court session. Plans, schedules, designs, calculations, copies of documents, video-recordings made during inspection, photos of written and material evidence, as well as written expert opinion and specialist explanations shall be attached to protocol.

**Article 203. Playing and examination of audio- and video-recordings**

203.1 Rules stipulated by Article 200 of this Code shall apply to playing, as well as

examination of audio- and video-recordings of personal nature.

203.2 Playing of audio- and video-recordings shall be conducted in courtroom or in a room equipped with special equipment with reference to specific features of such recordings and time of playing in protocol of court session. Thereafter, court shall hear explanations of persons participating in case.

203.3 Where it is necessary, playing of audio- and video-recordings shall be repeated in full or in part.

203.4 It shall be permitted to invite specialists for the purpose of clarification of data contained in audio- and video-recordings. Where necessary court shall appoint expert examination.

#### **Article 204. Petition on forgery of evidence**

204.1 Where there is a petition as to forgery of evidence of case, person presenting such evidence shall have the right to request withdrawal of such evidence from the scope of evidence and to carry settlement of case upon remaining evidence.

204.2 Court shall have the right to appoint examination for verification of authenticity of evidence and to propose parties to present other evidence.

#### **Article 205. Investigation of expert opinion**

205.1 Expert opinion shall be disclosed in court session. It shall be permitted to ask expert questions for the purpose of clarification and finalisation of the opinion. Person requesting expert examination and representative thereof shall be first to ask such questions, followed by other persons participating in case and representatives thereof. Claimant and representatives thereof shall be the first to ask questions of expert appointed by court.

205.2 Judge shall have the right to ask questions of expert at any time of interrogation.

#### **Article 206. Appointment of supplementary and repeated expert examination**

206.1 Expert opinion shall be examined in court session and evaluated by court along with other evidence and shall not have any preliminarily established force for court. Disagreement of court with expert opinion shall be substantiated in text of court resolution or ruling on appointment of supplementary or repeated expert examination.

206.2 Supplementary or repeated expert examination shall be appointed under circumstances specified by Article 102 of this Code.

#### **Article 207. Specialist consultations**

207.1 Where it is necessary, in course of review of written and material evidence, playing audio-recordings, reviewing video-recordings, appointment of expert examination, interrogation of witnesses, undertaking measures for securing evidence, court shall have the right to invite a specialist for submission of consultations, explanations and providing direct technical assistance (drawing pictures, drafting plans and charts, selecting samples for expert examination, evaluating property, etc.) 207.2 Specialist consultation shall be reduced to writing and shall further be disclosed in court session and attached to case file. Oral consultation and explanations of a specialist shall be entered into protocol of court session.

207.3 It is permitted to ask a specialist questions for the purpose of clarification and

completion of consultation. Person applying for call of a specialist and representative thereof shall be the first to ask questions of a specialist, followed by other persons participating in case and representatives thereof. Claimant and representative thereof shall be the first to ask questions of a specialist invited upon court initiative.

207.4 Judge shall have the right to ask questions of a specialist at any moment of his interrogation.

#### **Article 208. Opinions of state authorities and local self-governing bodies**

Opinions of state authorities and local self-governing bodies admitted by court for participation in case shall be disclosed in course of court session in accordance with rules of Article 60 of this Code. Court and persons participating in case shall be permitted to ask questions of representatives of said authorities and bodies for the purposes of clarification and completion of opinions.

#### **Article 209. Completion of examination of case on its merits**

209.1 Following investigation of all evidence, chairman shall ask persons participating in case and representatives thereof whether they wish to supplement materials of case hearing. Where no such motions are raised, chairman shall declare completion of circumstances of the case and shall proceed with judicial pleadings.

209.2 Persons participating in case shall have the right to request adjournment of hearing of case to next court session for the purpose of submission of explanations and additional evidence with respect to facts which have come to their attention in course of courts session. Rules of Article 188 of this Code shall apply under the aforementioned circumstances.

209.3 Where prior to declaration of completion of review of the case on its merits persons participating in case have not presented their facts and evidence, further to declaration of completion of review no person shall have the right to refer to circumstances and evidence which have not been heard in court session.

#### **Article 210. Court pleadings**

210.1 Court pleadings shall consist of speeches of persons participating in case, as well as of representatives and advocates thereof.

210.2 Claimant and representative thereof shall start pleadings, followed by respondent and representative thereof. Third party, making independent claims in respect of disputed subject matter following commencement of the case, and representative thereof shall plead following parties and representatives thereof. Third party not making independent claims in respect of disputed subject matter and representative thereof shall plead following claimant or respondent, which such third party acts for.

210.3 Representatives of state authorities and local self-governing bodies appealing to court for protection of rights and protected by law interests of other persons shall be the first to plead.

#### **Article 211. Retorts**

Following court pleadings of all parties, parties shall have the right to plead with respect to contents of initial speeches. Right of last retort shall belong to respondent and his representative.



**Article 212. Reopening of examination of case on its merits**

Where in course of or following court pleadings court recognises the necessity to clarify new circumstances pertinent to case or to investigate new evidence, court shall render a ruling on reopening of review of case on its merits, with registration of such ruling in protocol of court session. Following completion of hearing of the case on its merits, court pleadings shall be proceeding under general procedures.

**Article 213. Withdrawal of judge for issue of resolution**

Following court pleadings and upon announcement to persons present in courtroom judge shall withdraw to consultation room for issue of resolution.

**Article 214. Announcement of resolution**

214.1 Following issue and execution of a resolution, judge shall return to courtroom, announce resolution and explain its contents, order and term for filing a complaint therefrom.

214.2 Where resolution is prepared in a language not known to persons participating in case, such resolution shall be read out by interpreter participating in case in translation to native language of such persons participating in case or in any other language known to such persons.

214.3 Judge shall announce only resolute section of a resolution issued with respect to complicated cases.

214.4 Announced resolute section of resolution shall be reduced to writing, be signed by a judge or judges and attached to case file. Following announcement of a resolute section of resolution, judge shall notify persons participating in case and representatives thereof of time for review of full text of resolution.

**Article 215. Adjournment of announcement of resolution**

Under exceptional circumstances, in the event of issue of a resolution with respect to highly complicated cases, judge shall have the right to make announcement of resolution or resolute section thereof within 3 days from the date of completion of court hearing.

CHAPTER 16.  
Court resolution

**Article 216. Issue of resolution**

216.1 Act of court of first instance resolving case on its merits shall be made in form of resolution.

216.2 Court shall issue a resolution on behalf of the Azerbaijan Republic.

216.3 Resolution shall be issued in a separate consultation room of judges following hearing of case in court session. Where a case has been considered in a collegiate order, resolution shall be approved by majority of votes.

Only judge or court hearing the case shall be present in consultation room in course of issue of resolution. Presence of any other persons in consultation room shall be prohibited.

**Article 217. Legality and motivation of resolution**

217.1 Court resolution shall be legal and motivated.

217.2 Resolution shall be issued in accordance with material and procedural norms of law in effect as of the time of hearing and settlement of case.

217.3 Resolution shall be based upon actual circumstances established with respect to case and relationships between the parties.

217.4 Court (judge) shall base decision only upon evidence examined in court session.

**Article 218. Matters resolved in course of issue of resolution**

218.1 While issuing a resolution judge shall evaluate evidence, establish which evidence significant for case have been established or otherwise, what are legal relationships between parties, which law shall apply to case and whether claim should be satisfied or otherwise.

218.2 Where judge recognises necessity to examine new evidence significant for case or to research supplementary evidence, judge shall render ruling on reopening of court hearing. Following completion of hearing of case on its merits, judge shall re-hear court pleadings.

218.3 Judge shall issue a resolution in accordance with claims made by persons participating in case. However, in exceptional cases stipulated by the law, judge shall have the right to exceed claims.

**Article 219. Drafting of resolution**

219.1 Resolution shall be reduced to writing by chairman or one of judges considering case in a collegiate order.

219.2 Court resolution shall be signed by a judge hearing case in sole capacity, or by all judges considering case in a collegiate order.

219.3 Any amendments to resolution shall be confirmed by signature(s) of a judge or judges.

**Article 220. Contents of resolution**

220.1 Resolution shall be prepared in clear language.

220.2 Resolution shall consist of introductory, descriptive, motivating and resolute sections.

220.3 Introductory section shall refer to place and time of issue of resolution, name of court issuing resolution, judge, secretary to court session, parties, other persons participating in case and representatives thereof, subject matter of dispute or claims.

Descriptive section shall refer to claims of claimant, objections or reasoning of respondent and explanations of other persons participating in case.

220.4 Motivating section shall refer to circumstances of case established by court, evidence serving grounds for court conclusions and reasons for refusal to accept any of the evidence and laws or other legal normative acts referred to by persons participating in case, as well as to laws and other legal normative acts applied by court in course of issue of the resolution. In case of acknowledgement of claim by respondent, motivating section may contain only such acknowledgement and acceptance of said acknowledgement by the court.

220.5 Resolutive section shall contain conclusions of court in respect of full or partial satisfaction or rejection of claims, reference to distribution of court expenses; term and procedure for filing a complaint from resolution; in case of proceeding in absentia resolutive section shall contain reference to procedure for filing of a petition by respondent for cancellation of resolution.

220.6 Where court determines procedure for and term of execution of resolution and transfers resolution for immediate execution or takes measures for securing execution of resolution, such actions shall be referred to in the resolutive section of resolution.

**Article 221. Decision of court on acknowledgement of decision and actions (inaction) of state authorities, local self-governing bodies, other authorities and bodies, officials unlawful**

221.1 The following information shall be contained in the resolutive section of resolution issued with respect to satisfaction of claims on acknowledgement of an act of state authorities, local self-governing bodies, other authorities and bodies or an official unlawful:

221.1.1 information on title, order number, date of issue, other data on act and authority issuing said act;

221.1.2 reference to recognition of act as void in full or in part, as well as reference to nullity of the act from date of its issue.

221.2 In course of satisfaction of claims on recognition of refusal from state registration or failure to register, court shall through resolutive section of resolution oblige the relevant state authority to effect such registration.

221.3 Court resolution on acknowledgement of a normative or information thereon unlawful shall be published in a public publication where said act has been printed or in any other mean of mass media considered appropriate by court.

**Article 222. Decision on recovery of property or withdrawal of monetary funds**

222.1 In the event of issue of court resolution on recovery of property in-kind, resolutive section of resolution shall refer to title of property, value of property, which shall be recovered from claimant in the event of absence of the property at the time of execution of resolution, as well as place of location of property or a bank account of respondent to be debited in favour of claimant in the amount of award.

222.2 Further to satisfaction of claims on recovery of monetary funds, judge shall separately set principal, losses and penalty (fine, financial penalty) and shall further refer to the total amount to be recovered under the resolution.

**Article 223. Resolution obliging respondent to perform certain actions**

223.1 In the event of issue of a resolution obliging respondent to perform certain actions not related to transfer of property or monetary funds, court shall in the resolutive section of said resolution refer to person being obliged to perform certain actions, as well as to place, time or period during which such actions should be performed.

223.2 Where respondent fails to execute resolution within a specified period of time, and if deemed necessary by court, court shall have the right to refer in the resolution to the right of claimant to perform such actions and to recover the associated expenses from the respondent.

223.3 Where actions can be performed by respondent only, court shall indicate period of execution in text of resolution.

**Article 224. Decision on recognition of execution or other documents as non - executable**

In course of settlement of disputes related to recognition of execution or any other documents providing for non-contested recovery as non - executable, including recovery further to notary execution notice, resolute section of resolution shall refer to name, order number and date of the document, which is not subject to execution, as well as to the amount not being subject to recovery.

**Article 225. Decision on entering into or modification of contract**

Resolute section of resolution on disputes arising in course of entering into or out of modification of contracts shall refer to a verdict with respect to each of the disputed items, whereas resolution issued with respect to compulsory entering into contract shall refer to terms to be agreed upon by the parties.

**Article 226. Decision in favour of several claimants or several respondents**

226.1 In case of issue of resolution in favour of several claimants court shall refer to that part of the resolution which relates to a particular claimant or shall express that the right of recovery is joint.

226.2 In the event of issue of resolution in favour of several respondents court shall refer to that part of the resolution which is due to be executed by a particular respondent or shall express that their responsibility is joint.

**Article 227. Drafting resolution**

227.1 Resolution shall be drafted further to completion of hearing of the case.

227.2 Under exceptional circumstances and with respect to highly complicated cases drafting of a motivated resolution shall be completed within 10 days from the date of announcement of resolute section of resolution. Chairman shall also declare the time when persons participating in case may obtain motivated resolution.

227.3 Court resolution shall be sent or submitted to persons participating in case within 3 days from the date of preparation thereof.

**Article 228. Correction of errors and obvious calculation mistakes in text of resolution**

228.1 Judge announcing a resolution on case shall not have the right to cancel or to modify his decision, except for resolution issued in absentia cancelled in accordance with rules of Articles 249 and 250 of this Code.

228.2 Further to his personal initiative with notification of persons participating in case or upon petition of persons participating in case judge shall have the right to correct errors and obvious calculation mistakes in text of resolution. Matter of making any corrections shall be resolved in court session. Persons participating in case shall be notified of time and place of court session, however their failure to appear shall not prevent the matter of making corrections to decision from being considered.

228.3 It shall be permitted to file a complaint from court ruling on making corrections.

### **Article 229. Supplementary resolution**

229.1 Judge issuing a resolution on case shall, upon petition of persons participating in case or upon his personal initiative issue a supplementary resolution where:

229.1.1 no resolution is issued with respect to claims in respect of which persons participating in case have presented evidence and have submitted explanations;

229.1.2 a judge issuing a resolution with respect to a matter of law failed to show amount of funds to be recovered, value of property to be transferred or actions to be performed by respondent;

229.1.3 matter of distribution of court expenses has not been dealt with by judge.

229.2 Supplementary resolution shall be issued prior to the effective date of resolution.

Supplementary resolution shall be issued by court upon examination of a matter in court session. Persons participating in case shall be notified of time and place of court session, however their failure to appear shall not prevent matter of issue of a supplementary resolution from being considered.

229.3 It shall be permitted to file a complaint from refusal to issue, or issue of, supplementary resolution.

### **Article 230. Explanation of resolution**

230.1 Judge who has heard a case shall be obliged to explain resolution cancelled by the court of appellate instance without changing contents of such resolution.

230.2 Where resolution of court of first instance and of court of appellate instance has been changed and a new resolution has been issued, explanation of resolution shall be made by court passing the latest of resolutions.

230.3 It shall be permitted to explain a resolution where a resolution has not been executed and a term of compulsory execution established by court has not expired.

230.4 Matter of explanation of a resolution shall be decided in court session. Persons participating in case shall be notified of time and place of such court session, however their failure to appear shall not prevent matter of explanation of resolution from being considered.

230.5 It shall be permitted to file a complaint from explanation of resolution.

### **Article 231. Adjournment of execution of resolution, execution of resolution in instalments, modification of method and procedure of execution of resolution**

231.1 Further to petition of persons participating in case and with consideration of property status of the parties judge who has considered a case shall have the right to adjourn execution of resolution, decide on execution of resolution in instalments, modify method and procedure of execution of resolution.

231.2 Such petitions shall be considered in court session. Persons participating in case shall be notified of time and place of such court session, however their failure to appear shall not prevent matter from being considered by court.

231.3 It shall be permitted to file a complaint from ruling on adjournment of execution of resolution, execution of resolution in instalments, modification of method and procedure of execution of resolution.

### **Article 232. Recalculation of award**

232.1 Further to a petition of parties, court, which considered the case, shall have the right to perform the appropriate recalculations (indexation) of the award.

232.2 Such petition on indexation of award shall be considered in court session. Persons participating in case shall be notified of time and place of such court session, however their failure to appear shall not prevent matter from being considered by court.

232.3 It shall be permitted to file a complaint from court ruling on indexation of award.

### **Article 233. Entering of decision into its legal force**

233.1 Where a resolution has not been appealed it shall become effective 1 month upon its issue.

233.2 Resolution which has not been cancelled further to an appellate complaint shall be effective from the date of issue of decision by authority of appellate instance.

233.3 Upon effective date of resolution parties and other persons participating in case as well as their successors shall not have the right to raise a court case with respect to the same claims, upon the same ground, as well as to dispute facts and legal relationships in a different proceeding.

233.4 Upon effective date of resolution referring to receipt of periodical payments from respondent, and in the event of change of circumstances determining the amount or periodicity of payments, any party shall, through filing a new claim petition, have the right to request to change the amount and term of payments.

### **Article 234. Execution of decision**

Except for cases of immediate execution, resolution shall be executed upon entering into legal force.

### **Article 235. Resolutions subject to immediate execution**

235.1 The following resolutions shall be executed immediately:

235.1.1 on award of funds for maintenance of a person, including alimonies;

235.1.2 on payment of a salary to employee;

235.1.3 on declaration of acts of state authorities invalid, as well as rulings of the economic court on approval of amicable agreements;

235.1.4 in other cases specified in law.

235.2 Further to request of parties, in cases where delay with execution of resolution may lead to significant losses of beneficiary of the action or to impossibility of execution, judge shall have the right to subject resolution to immediate execution.

235.3 Where immediate execution of resolution is permitted, and in the event of cancellation of court resolution, judge shall have the right to request a party to provide for backing from execution of the resolution.

235.4 Matter of immediate execution of resolution shall be considered in court session. Persons participating in case shall be notified of time and place of such court session, however their failure to appear shall not prevent matter of immediate execution from being considered by court.

235.5 It shall be permitted to file a complaint from court ruling on immediate execution of the resolution. Filing of complaint from ruling on immediate execution of resolution shall not suspend execution of resolution.

**Article 236. Securing execution of decision**

Court shall have the right to secure execution of resolution not being subject to immediate execution in accordance with rules of Chapter 13 of this Code.

**Article 237. Sending copies of resolutions to persons participating in case**

Copies of court resolutions shall, further to issue of resolution in full, during the day following a day of issue of the resolution be sent, or in the event of appearance in court [] submitted, to persons participating in case irrespective of appearance of such persons before the court or otherwise.

**CHAPTER 17.**

Proceeding and resolutions in absentia

**Article 238. Grounds for proceeding in absentia**

238.1 In case of failure of a respondent, who has been duly notified of place and time of the court session and who has further failed to give any information on valid reasons for such failure to appear, case shall be examined, provided that no objections are raised by claimant.

238.2 In case of participation of several respondents in case, examination of case in absentia shall be possible in case of failure of all respondents to appear before the court.

238.3 Case file shall contain evidence of due notification of respondent.

238.4 Claimant shall submit written consent for hearing of case in absentia.

238.5 Court shall render a ruling on hearing of case in absentia.

**Article 239. Rights of party appearing before court**

Where a claimant appearing before court is not expressing his consent for hearing of case without participation of a respondent in absentia, court shall adjourn hearing of case and shall send notification of place and time of new hearing to the respondent.

**Article 240. No proceeding in absentia**

240.1 Proceeding in absentia shall not be permitted under the following circumstances:

240.1.1 where a party failing to appear before the court has not been duly notified in accordance with the provisions of this Code;

240.1.2 where it is established in court that a party fails to appear before the court due to valid reasons or such failure has been caused by a natural disaster or an event of force majeure.

240.2 In the aforementioned cases hearing of the case shall be adjourned.

**Article 241. Procedure for proceeding in absentia**

241.1 In course of proceeding in absentia judge shall limit himself to examination of evidence submitted by persons participating in case, shall take their reasons and motions into consideration and issue a resolution to be called resolution in absentia.

241.2 In course of drafting resolution judge shall be guided by rules established by Chapter 16 of this Code.

241.3 It shall not be permitted to modify grounds for or subject matter of claim or to

increase the value of claim in course of hearing of case in absentia.

241.4 Where claims raised by claimant are motivated, court shall satisfy his claims through resolution in absentia. Where evidence submitted by claimant fail to support his claims in full or in part, court shall issue a resolution on rejection of claims and such resolution shall not be treated as resolution in absentia despite failure of respondent to appear before the court.

**Article 242. Contents of resolution in absentia**

Contents of resolution in absentia shall be established by rules of this Chapter, as well as of Chapter 16 of this Code. Resolutive section of resolution in absentia shall refer to term and procedure for filing a petition for review of resolution.

**Article 243. Sending copies of resolution in absentia**

Copy of resolution in absentia shall be sent or submitted to a party failing to appear before the court within 10 days from the date of issue of such resolution.

**Article 244. Filing of complaint from resolution in absentia**

Respondent shall have the right to apply to court, which has issued resolution in absentia with request to quash such resolution within 10 days from the date of receipt of resolution.

**Article 245. Contents of petition on quashing of resolution in absentia**

245.1 The following information shall be contained in petition for quashing of resolution in absentia:

245.1.1 name of court which issues resolution in absentia;

245.1.2 name of person filing petition;

245.1.3 circumstances evidencing validity of reasons for failure of respondent to appear before the and evidence proving such circumstances;

245.1.4 request of person filing petition;

245.1.5 list of documents attached to petition.

245.2 Petition for quashing of resolution in absentia shall be prepared by a respondent or representative thereof and submitted to the court hearing the case in number of copies corresponding to number of persons participating in the case.

245.3 No state duty shall be payable for such petition.

**Article 246. Refusal from petition for quashing of resolution in absentia**

Rules of refusal from appellate complaint shall apply to cases of refusal from petition for quashing of resolution in absentia.

**Article 247. Actions of judge upon receipt of petition**

Court shall inform persons participating in case of time and place of review of petition for quashing of resolution in absentia and shall send copy of petition and of attachments thereto to such persons.

**Article 248. Hearing of petition**

Petition on quashing of resolution in absentia shall be heard by judge in court session



within 10 from the date of receipt of petition by court. Failure of persons duly notified of time and place of the court session to appear before court shall not prevent petition from being considered.

**Article 249. Competence of court**

Upon consideration of petition for quashing of resolution in absentia, judge shall pass a ruling on refusal to satisfy petition or on quashing of resolution in absentia and reopening of the case with further hearing on its merits.

**Article 250. Grounds for quashing resolution in absentia**

Resolution in absentia shall be quashed where court determines that failure of a respondent to appear before court was due to valid reasons or that respondent was not in possession of an opportunity for due notification of court on his non-appearance in court.

**Article 251. Reopening of case hearing. Second resolution in absentia**

Further to quashing of resolution in absentia, judge shall reopen hearing of case on its merits. In case of failure of respondent, who has been duly notified of place and time of court session, to appear before court, resolution to be passed at such court session shall not be treated as resolution in absentia. Respondent shall not have the right to file another petition on review of such resolution in accordance with rules applicable to proceeding in absentia.

**Article 252. Effective date of resolution in absentia**

Resolution in absentia shall come into force in accordance with provisions of Article 233 of this Code.

**Article 253. Complaints from acts of courts passed under proceeding in absentia**

253.1 Persons whose interests have been violated through quashing of resolution in absentia shall have the right to file an appellate complaint from ruling on quashing of resolution in absentia.

253.2 It shall be permitted to file appellate complaints from the following actions:

253.2.1 in case of issue of resolution under the rules of Article 241.5 of this Code;

253.2.2 in case of refusal from quashing resolution in absentia under petition of respondent;

253.2.3 from second resolution in absentia.

**CHAPTER 18.**

**Suspension of proceeding**

**Article 254. Duty of court to suspend proceeding**

254.1 Under the following circumstances judge shall be obliged to suspend proceeding:

254.1.1 upon death of a person, or reorganisation of a legal entity, one of the parties to case, where disputed legal relationship permits legal succession or termination of a legal entity participating in case;

254.1.2 upon loss of action capacity by party;

254.1.3 where claimant or respondent is participating in military operations carried out by the Military Forces of the Azerbaijan Republic or other military divisions;

254.1.4 impossibility of hearing of case prior to completion of another case heard under proceeding of the Constitutional Court, civil, criminal or administrative procedure.

254.2 Court shall also suspend proceeding in other cases stipulated by law.

#### **Article 255. Right of court to suspend proceeding**

255.0 Under the following circumstances judge shall have the right to suspend proceeding upon petition of persons participating in case or with his personal initiative:

255.0.1 where a party is following a conscription or further to performance of any other state duty is in Military Forces of the Azerbaijan Republic or any other military division;

255.0.2 where a party is on a long term business trip;

255.0.3 where a party is placed to a medical treatment establishment;

255.0.4 where a respondent is in search in cases specified by this Code;

255.0.5 where an expert examination is appointed by court.

#### **Article 256. Terms of suspension of proceeding**

256.0 Proceeding on case shall be suspended as follows:

256.0.1 in cases specified by Articles 254.1.1 and 254.1.2 of this Code - up to moment of establishment of personality of a legal successor of withdrawn person or appointment of representative to a person lacking action capacity;

256.0.2 in cases specified by Articles 254.1.3 and 255 of this Code - up to completion of military service and performance of state duties in Military Forces of the Azerbaijan Republic, other military forces and military divisions, date of return from a business trip, date of leaving medical treatment establishment, search of respondent, submission of expert or opinion of body on guardianship and custodianship to the court;

256.0.3 in cases specified by Articles 254.1.4 of this Code- up to the date of a decision, resolution, verdict, ruling coming into legal force, or to the date of issue of decision with respect to case considered under administrative procedure;

256.0.4 in cases specified by Article 254.1.5 of this Code ¶ up to the date of review of petition by the Supreme Court of the Azerbaijan Republic.

#### **Article 257. Reopening of proceeding**

Proceeding on case shall reopen upon elimination of circumstances serving grounds for suspension of proceeding further to request of persons participating in case or upon initiative of court.

#### **Article 258. Procedure for suspension and reopening of case proceeding**

258.1 Court shall render a ruling on suspension or reopening of case proceeding.

258.2 It shall be permitted to file a complaint from court ruling on suspension of case proceeding.

### **CHAPTER 19.**

Leaving petition without consideration

**Article 259. Grounds for leaving petition without consideration**

259.0 Under the following circumstances court shall leave petition without consideration:

259.0.1 where a claimant appealing to court failed to follow an out-of-court (pretension) procedure for settlement of certain categories of cases specified by law or agreed between parties and where, further, an opportunity for applying such a procedure has been lost;

259.0.2 where a petition is filed by a person lacking action capacity;

259.0.3 where a petition has not been signed or has been signed by an unauthorised person or by a person without reference to his position;

259.0.4 where this or any other court has under its review a case on dispute between the same parties, with respect to the same subject matter and upon the same grounds;

259.0.5 where parties have entered into agreement on settlement of dispute by arbitration and respondent has filed an objection for settlement of dispute in court prior to review of case on its merits;

259.0.6 where parties not making any request for hearing of case in their absentia fail to appear before court;

259.0.7 where a claimant not making any request for hearing of case in his absentia fails to appear before court upon second call, and a respondent does not require review of case on its merits;

259.0.8 where, further to law, other normative legal acts or contract provision, a claimant being obliged to make recovery through bank and credit institution failed to apply to bank, or credit institution for recovery of debt of respondent;

259.0.9 where there is discovered a dispute on a matter of law in course of review of petition related to refusal, or avoiding, to carry out state registration;

259.0.10 where there is discovered a dispute on a matter of law in course of establishment of facts of legal significance;

259.0.11 where an application on return of claim petition is filed and respondent does not require examination of case on its merits;

259.0.12 where a petition is filed without reference to information specified in Article 149, as well as without attaching documents referred to in Articles 150.0.1-150.0.3 of this Code and claimant fails to eliminate said omissions, which impede examination and settlement of case on its merits within a period specified by judge.

**Article 260. Order and consequences for leaving petition without consideration**

260.1 Court shall render a ruling on leaving petition without consideration.

260.2 Ruling shall refer to procedure of elimination of circumstances referred to in Article 259 of this Code and impeding hearing of case.

260.3 Ruling may deal with matters related to distribution of court expenses between persons participating in case, recovery of state duty from budget.

260.4 Upon removal of circumstances causing a petition being left without consideration, interested person shall have the right to apply to court in accordance with the general procedure.

260.5 Upon application of claimant or respondent, and presentation by the aforementioned persons of valid evidence for their failure to appear before, and to provide the relevant information to, court, court shall have the right to cancel its ruling on leaving petition without consideration rendered in accordance with Articles 259.0.6 and

259.0.7 of this Code.

260.6 It shall be permitted to file a complaint from court ruling on leaving petition without consideration.

## CHAPTER 20.

### Cancellation of case proceeding

#### **Article 261. Grounds for cancellation of proceeding**

261.0 Under the following circumstances judge shall cancel case proceeding:

261.0.1 where a case is not subject to hearing in court;

261.0.2 where there is an effective court resolution passed with respect to a dispute between the same parties, on the same subject matter and upon the same grounds or a court ruling on cancellation of case further to refusal of claimant from claim or approval of an amicable agreement;

261.0.3 where there is an effective resolution of foreign court passed with respect to dispute between the same parties, on the same subject matter and upon the same grounds and such resolution has been approved and accepted for enforcement by the Supreme Court of the Azerbaijan Republic;

261.0.4 where a claimant has refused from claim and said refusal has been accepted by court;

261.0.5 where parties enter into an amicable agreement and said agreement is approved by court;

261.0.6 where there is an effective arbitration decision with respect to a dispute between the same parties, on the same subject matter and upon the same grounds, except for cases of refusal of court to issue an execution writ on compulsory execution of arbitration decision or return of case for a new hearing by arbitration, and subsequent impossibility of such examination;

261.0.7 where a disputed legal relationships does not permit legal succession following death of a person being one of the parties to the case;

261.0.8 where a legal entity participating in case has been liquidated;

261.0.9 where an interested person appealing to court has failed to comply with out-of-court procedure established for certain categories of disputes and opportunity for applying such procedure has been lost.

#### **Article 262. Order and consequences of cancellation of proceeding**

262.1 Proceeding of case shall be cancelled by a ruling of court.

262.2 Ruling may resolve matters of distribution of court expenses between persons participating in case, recovery of state duty from budget.

262.3 Where proceeding has been cancelled further to improper jurisdiction of the court or upon grounds specified by Article 261.0.8 of this Code, court shall show a proper authority for application with claims.

262.4 Upon cancellation of proceeding, it shall not be permitted to file a claim petition with respect to a dispute between the same parties, on the same subject matter and upon the same grounds.

262.5 It shall be permitted to file a complaint from court ruling on cancellation of proceeding.

CHAPTER 21.  
Court rulings

**Article 263. Order for rendering ruling**

263.1 An act of court shall be passed in form of a ruling in cases of settlement of case other than on its merits.

263.2 Ruling shall be rendered upon suspension, cancellation of proceeding, as well as in other cases specified by this Code.

263.3 Ruling shall be rendered in a consultation room as an independent document, shall be signed by a judge or judges and shall be announced immediately upon rendering in course of the same court session.

263.4 In the event of settlement of simple matters in course of court session, court shall be permitted to render a ruling without leaving to consultation room, upon consultation in the courtroom, without drafting a separate act.

263.5 Ruling shall be read out and shall be entered into protocol of court session. Ruling shall refer to its subject matter, grounds for court opinion and conclusion on the matter.

263.6 Ruling shall be passed with observation of the principle of contentiousness and equality of persons participating in case before the law, as well as with observation of general principles of court proceeding as established by the provisions of this Code

**Article 264. Contents of ruling**

264.0 The followings shall be indicated in a ruling passed as a separate act:

264.0.1 place and time of rendering a ruling;

264.0.2 name of court which rendered said ruling, name of judge or composition of court panel and name of secretary to court session;

264.0.3 persons participating in case, subject of dispute or a claim made;

264.0.5 matter on which ruling is rendered;

264.0.6 motives for court opinion and references to laws, which have been applied by court;

264.0.7 conclusion of court;

264.0.8 order and terms for filing a complaint from ruling, provided that it is permitted to file a complaint.

**Article 265. Special court rulings**

265.1 Court shall have the right to issue a special ruling in cases of establishment of breaches of laws and other normative acts in course of activities of a legal entity, state authority, local self-governing body and other organisation, official or a physical person.

265.2 Special ruling shall be sent to relevant legal entities, officials, state authority, local self-governing body and other organisation, physical person. Such persons shall be obliged to notify the court of remedial measures within 1 month.

265.3 In case of failure to inform on remedial measures, it shall be permitted to fine officials in breach in the amount of up to 100 minimal salaries as established by law. Imposition of fine shall not waive an obligation of such an official to inform court on

measures undertaken in respect of such special court ruling.

265.4 Where in course of hearing of case court establishes criminal elements in actions of parties and other persons, court shall pass a special ruling and shall notify prosecutor.

265.5 Where an effective court resolution has not been executed, court shall issue a special ruling on initiation of a criminal case with respect thereto and shall notify prosecutor.

265.6 Where no elements required for commencement of a criminal case have been discovered by prosecutor, the latter shall have the right to refuse to commence a criminal case under the special ruling of the court. Prosecutor, passing a motivated decision with respect thereto, shall send such a decision to the court issuing a special ruling. Where court disagrees with decision of prosecutor, and for the purpose of taking the required impact measures, court shall have the right to notify a higher prosecutor on illegality and improper motivation of decision of a lower prosecutor.

#### **Article 266. Sending copies of court ruling to persons participating in case**

266.1 Court ruling rendered as a separate act shall be sent or delivered to persons participating in case and other relevant persons within 5 days from the date of its rendering.

266.2 Where rulings providing for procedure of filing a complaint as specified by this Code have been sent to persons participating in case and other relevant persons, court shall be notified on delivery of such rulings.

#### **Article 267. Complaints from rulings**

267.1 In cases specified by this Code, it shall be permitted to file a complaint from rulings passed in form of separate documents.

267.2 Persons participating in case and other persons directly associated with ruling shall have the right of complaint.

267.3 Complaint shall be reduced to writing and be filed with court rendering ruling.

#### **Article 268. Term for filing complaint**

268.1 Complaint shall be filed within 10 days from the date of submission or receipt of ruling by party.

268.2 Where ruling has been announced in presence of persons having the right of complaint, term for filing of complaint shall be calculated from the date of such an announcement.

#### **Article 269. Review of complaint**

269.1 Court of the instance receiving complaint shall carry out its consideration within 3 days.

269.2 Where a complaint is reasonable, judge shall modify or cancel a ruling and shall jointly with the parties perform other procedural actions required for consideration of the dispute.

269.3 Otherwise, a complaint and the case shall within 7 days be transferred to court of appellate instance.

CHAPTER 22.  
Protocols

**Article 270. Obligation to keep protocols**

Any individual procedural action performed in course or outside the court session shall be entered into protocol.

**Article 271. Contents of protocol**

271.1 Protocol of any individual procedural action performed in course or outside the court session shall reflect all significant aspects of examination of case or conduct of individual procedural action.

271.2 The following information shall be contained in protocol of court session:

271.2.1 year, month, day and place of court session;

271.2.2 time of commencement and completion of court session;

271.2.3 name of court hearing case, name of judge, composition of court panel and name of secretary to court session;

271.2.4 title of case;

271.2.5 information on appearance of persons participating in case, representatives, witnesses, experts, specialists, interpreters;

271.2.6 biographic data on persons participating in case (date of birth, place of work or residence);

271.2.7 information on explanation to persons participating in case, representatives, as well as to experts, specialists, interpreters of their procedural rights and obligations;

271.2.8 orders of chairman and rulings rendered by court without leaving courtroom;

271.2.9 motions, statements and explanations of persons participating in case and representatives thereof;

271.2.10 testimonies of witnesses, oral explanations of experts on their opinions, explanations of specialists;

271.2.11 information on disclosure of written evidence, results of review of material evidence, hearing of audio- and review of video-recordings;

271.2.12 opinions of representatives of state authorities and local self-governing bodies;

271.2.13 contents of court pleadings;

271.2.14 information on announcement and explanations of contents of resolutions and rulings, explanation of procedure of and period for complaint;

271.2.15 information on explanation to persons participating in case of their right to review protocols and to give any statements thereon;

271.2.16 date of protocol.

271.3 In cases stipulated by this Code and further to the discretion of court protocol shall be signed by parties.

**Article 272. Composition of protocol**

272.1 Protocol shall be compiled by a secretary of court session. Court shall have the right to refuse to use a secretary. Protocol may be compiled by a judge, chairman of court session or any other member of court panel hearing case. In course of preparation of protocol the aforementioned persons shall be permitted to use computers and other

equipment.

272.2 Rules of Article 272.1 of this Code shall apply to procedural actions carried out by court out of a court session.

272.3 Protocol shall be reduced to writing and shall be prepared in a simple language.

272.4 For the purpose of ensuring completeness of protocol, court shall have the right to use recording equipment.

272.5 Persons participating in case and representatives shall have the right to submit motions on disclosure of any part of protocol, inclusion into protocol of information on circumstances considered significant for hearing of case.

272.6 Court shall have the right to refuse entering any proposal into protocol where such actions or statement do not relate to dispute. Court resolution on the above shall be contested and shall be entered into the protocol.

272.7 Protocol shall be made and signed within 10 days from the date of completion of the court session, whereas a protocol on any particular procedural action shall be made and signed on the day following a day of performance of such action.

272.8 Where a protocol has been kept by judge, such protocol shall be signed by the judge, and where a protocol has been kept by a secretary, such protocol shall be signed by secretary and a judge or a chairman of panel considering case in a collegiate order. All amendments, additions and corrections to the protocol shall be agreed in advance and shall be signed.

### **Article 273. Remarks on protocol**

Persons participating in case and representatives shall have the right to review protocols and further shall have the right to file within 3 days from the date of signing said protocol any statement with respect to deficiencies or omissions in the text of the protocol.

### **Article 274. Consideration of remarks on protocol**

274.1 Remarks on protocol shall be considered by a judge or a chairman signing said protocol, and where such judge or chairman agrees with the remarks made, correctness of such remarks shall be confirmed, however, where such judge or chairman disagrees with remarks, a motivated ruling on rejection of such remarks in full or in part shall be rendered. In any event remarks shall be appended to the case file.

274.2 Remarks on protocol shall be considered within 3 days from the date of their submission.

274.3 Where necessary persons filing remarks with respect to protocol or persons participating in case and other participants of proceeding shall be called to court.

## **CHAPTER 23.**

### **Order proceeding**

### **Article 275. Court order**

275.1 It shall be permitted to review cases on recovery of monetary assets and property in accordance with simplified rules of this Chapter.

275.2 With respect to such cases act of judge shall be passed in form of court order and such act shall be deemed an execution document.



**Article 276. Grounds for claims subject to resolution through court orders**

276.1 It shall be permitted to issue a court order where a claim of creditor is obvious or where such claim is based upon an undisputed duty of debtor.

276.2 It shall be permitted to issue a court order under the following circumstances:

276.2.1 where a claim is based upon a notarised contract;

276.2.2 where a claim is based upon a contract made in a written form;

276.2.3 where a claim is based upon protest filed by notary with respect to unpaid, unaccepted or undated with the date of acceptance bills;

276.2.4 where a claim is made with respect to receipt of alimonies by minors without recourse to recovery of alimonies, including establishment of paternity or invitation of third parties;

276.2.5 where a claim is based upon motivated, but unpaid salary;

276.2.6 where a claim is made by police authorities with respect to expenses incurred in course of search of respondent or debtor;

276.2.7 where a claim is made with respect to recovery of balance of taxes and obligatory social insurance contributions from physical persons.

**Article 277. Filing petition**

277.1 Petition for court order shall be filed under general rules of jurisdiction specified by Chapter 4 of this Code.

277.2 State duty of 15% of the principal disputed amount shall be paid for filing a petition for court order.

**Article 278. Form and contents of petition**

278.1 Petition to court shall be reduced to writing.

278.2 The following information shall be included into petition:

278.2.1 name of the court with which a petition is filed;

278.2.2 information on creditor: last name, first name, patronymic, place of residence or location;

278.2.3 information on debtor: last name, first name, patronymic, place of residence or location;

278.2.4 claims of creditor and grounds thereto;

278.2.5 documents certifying validity of claims;

278.2.6 list of attachments.

278.3 Petition shall be signed by a creditor or a representative thereof. Document certifying authorities of a representative and documents being relied upon by creditor shall be attached to the petition signed by the representative.

**Article 279. No simplified review**

279.1 Under circumstances specified by Article 153 of this Code, court shall refuse to accept petition for issue of a court order for proceeding.

279.2 Moreover, the following shall also constitute grounds for refusal:

279.2.1 where a claim made is not provided for by Article 276 of this Code;

279.2.2 where no documents certifying a claim have been submitted;

279.2.3 where there is a dispute with respect to the right of recovery being the basis for

petition.

279.3 Court shall issue a court ruling on refusal to accept petition for proceeding within 3 days from the date of receipt of the petition. It shall not be permitted to file a complaint from such ruling.

279.4 Refusal of the court to accept petition for issue of a court order for proceeding shall not prejudice right of creditor to file a claim under claim proceeding. In such event, a state duty payable by creditor for filing a claim under claim proceeding shall be reduced in the amount of the state duty paid for filing a petition for issue of court order.

#### **Article 280. Procedure for issue of court order**

Court order shall be issued within 3 days from the date of receipt of a petition by court, without court hearing and invitation of parties for submission of explanations.

#### **Article 281. Contents of court order**

281.1 The following information shall be included into court order:

281.1.1 number of a proceeding and date of an order;

281.1.2 name of the court, last name, first name and patronymic of judge issuing the order;

281.1.3 last names, first names and patronymics of creditor and debtor, their places of residence and location, places of work;

281.1.4 legal grounds for satisfaction of claim;

281.1.5 money or property and value thereof subject to recovery;

281.1.6 amount of penalty, where such payment is provided for by law or a contract;

281.1.7 amount of state duty to be withheld from debtor in favour of state duty or creditor.

281.2 Court orders for recovery of alimonies for minors shall, in addition to information specified by Articles 281.1.1 – 281.1.5 of this Code, also contain: date and place of birth of debtor, his place of work, name and date of birth of each child beneficiary of the alimony, amount and time of withholdings from the debtor.

281.3 Court order shall be signed by a judge and copy thereof shall, along with delivery confirmation, be delivered or sent to debtor within 3 days.

#### **Article 282. Objection**

Debtor shall, through filing a written complaint with the issuing court, have the right to raise his objections with respect to an obligation imposed or a part thereof within 10 days from the date of receipt of the court order

#### **Article 283. Transfer to claim proceeding**

Objection of debtor shall, from procedural point of view, be equal to claim petition.

Where an objection is filed in due time, judge shall cancel the order and materials shall, in accordance with general rules specified by this Code, be transferred onto claim proceeding.

#### **Article 284. Execution of court order**

284.1 Court order shall have the force of resolution. It shall not be permitted to file a complaint from court order.

284.2 Where objection of debtor has not been received in due time, judge shall

immediately issue to a creditor a copy of court order sealed by court seal and being compulsory for execution.

Subsection 2.

Proceeding relating to cases arising from general legal relationships (special claims proceeding)

## CHAPTER 24.

### General Provisions

#### **Article 285. Cases arising out of general-legal relationships heard by a court**

285.0 The courts shall hear, in order provided in this Chapter, in special claims proceeding order the following cases:

285.0.1 relating to petitions concerning protection of election rights;

285.0.2 relating to petitions concerning decisions on administrative offences of bodies of relevant executive authority and local self-governing bodies and their officials;

285.0.3 relating to petitions concerning decisions and actions (inaction) of bodies of relevant executive authority and local self-governing bodies, other bodies and organisations, and their officials;

285.0.4 relating to petitions concerning decisions and actions (inaction) of military officials and military administrative bodies;

285.0.5 relating to petitions concerning questioning of legality of normative acts.

#### **Article 286. Submission of petition**

286.1 Petition shall be submitted in accordance with general jurisdictional rules specified in Chapter 4 of this Code.

286.2 Preliminary application by individuals to their higher bodies shall not be a condition precedent for submission of a petition to a court, acceptance and resolution of it on merits by the court.

286.3 Missing of period allotted for submission of petition, expiry of period for reprimand and period for execution of decision shall not be a ground for refusing the acceptance of petition for court consideration.

286.4 Regardless of the petition's content, periods as well as their importance to a correct resolution of the matter shall be examined by the court.

286.5 The content of the petition of claim and documents attached to it needs to conform to the requirement specified in Articles 149 and 150 of this Code. The petition may indicate claim of property and basis of complained act, action (inaction).

#### **Article 287. Burden of proof**

Burden of proof of circumstances being a basis for the adoption of acts and decisions of bodies of state authority, local self-governing bodies as well as other bodies shall be on the body adopting the act or decision.

**Article 288. Procedures for hearing and resolution of cases**

Cases arising from general-legal relationships shall be heard and resolved, with accounting for peculiarities provided for in Articles 24-29 of this Code and other laws, in a general claims proceeding order.

**Article 289. Procedures for filing a complaint**

Complaint against court acts (resolutions, rulings) adopted in accordance with Chapters 24 and 29 of this Code shall be filed in the order determined in this Code.

CHAPTER 25.

Proceeding relating to petitions concerning protection of electoral rights

**Article 290. Submission of petition**

An individual, a public union which believes that its right to elect and be elected, as well as its right to participate in referendums has been violated by bodies of state executive authority, election committee or officials, shall have the right to address its petition to the court of proper jurisdiction in order determined in Chapter 4 of this Code and other laws.

**Article 291. Review of petition**

291.1 A petition received on the eve of elections shall be reviewed within 3 days of its submission, provided that it is reviewed not later than the election date, whereas a petition received on the elections day shall be reviewed instantly.

291.2 Court shall review petition with participation of representative of a petitioner, relevant election commission or body of state executive authority. Non-attendance of the court hearing by said persons duly notified of the time and place of court session shall not preclude the hearing of the case and its resolution.

**Article 292. Court resolution and its execution**

292.1 Court resolution finding a violation of election right shall be a basis for making correction in the electorate list, for a candidate registration, or for entry of a public union into list of election or referendum participants.

292.2 Resolution of court shall be executed instantly.

292.3 Resolution shall be sent to relevant body of state executive authority or to the election commission chairman.

292.4 Officials guilty in non-execution of court resolution shall bear liable provided in the legislation of Azerbaijan Republic.

292.5 Other issues relating to protection of election right may be resolved on the basis of the legislation of the Azerbaijan Republic on same election right.

CHAPTER 26.

Proceeding in relation to disputes concerning decisions on administrative offences of bodies of relevant executive authority and local self-governing bodies and their officials

**Article 293. Submission of petition**

293.1 Any individual brought to an administrative liability may commence in court a dispute concerning decision on imposition of reprimand of bodies or officials authorised to hear cases on administrative offences.

293.2 Individual hurt by administrative offence shall also have the right to file to court a complaint against administrative reprimand.

293.3 Petition shall be submitted to court at the person's place of residence within 10 days of delivery to him of a copy of decision on administrative reprimand or of its announcement to him.

293.4 The decision shall contain the information provided in Article 149 of this Code, as well as information on a specific decision against which there has been filed a complaint, date of its issuance, date of delivery to an individual of its copy or the date of its announcement to the individual.

293.5 Submission of a petition to court shall suspend the execution of decision on administrative reprimand.

293.6 Preliminary application by interested individual to his higher bodies or officials shall not be a condition precedent for submission of a petition to court, its acceptance and hearing by the court.

#### **Article 294. Review of petition**

294.1 Petition shall be reviewed by court within 10 days. A petitioner as well as the body or official authorised to review cases relating to administrative offences and against whose action (inaction) the petition is filed, shall be notified by court of the time and place of court session. However, their non-appearance on court hearing shall not preclude the hearing of the case and its resolution.

294.2 The court shall, at the time of hearing the case, examine the legality of and justification for the decision relating to administrative reprimand and shall determine: whether the decision has been adopted on the basis of law and by an authorised body or official; whether the determined procedures for bringing to the administrative liability or for carrying of the obligations imposed on him have been followed through; whether the person has committed administrative offence resulting in liability according to the legislation, and whether he is guilty in commitment of this offence.

#### **Article 295. Court resolution**

295.1 In the event that court concludes on ungrounded bringing of individual to administrative liability with lack of an administrative offence content or incident, as well as where there are other circumstances preventing proceeding relating to administrative offences listed in the Code of Administrative Offences of the Azerbaijan Republic, the court shall issue a resolution on cancellation of the decision and termination of case on administrative offences.

295.2 Court may change the type of reprimand taking into account a nature of administrative offence, offender's personality, degree of his fault, his property condition, and other liability extenuating circumstances.

295.3 Court may increase the administrative reprimand.

295.4 In the event that court determines legality of and justification for the actions of administrative bodies or officials concerning the enforcement of administrative reprimand, the court shall keep the decision unchanged, and shall not satisfy the petition.

295.5 In the event court determines that administrative body or an official have exceeded their authority in issuing a decision concerning the case on administrative offence, the court shall terminate the decision, and where the administrative reprimand's term has not expired shall direct the case to higher standing body or official, but where the administrative reprimand's term has expired - shall terminate the case proceeding.

#### CHAPTER 27.

Proceeding in relation to cases concerning disputes relating to decisions and actions (inaction) of relevant bodies of executive authority, local self-regulating bodies and their officials

#### **Article 296. Submission of petition**

296.1 Interested person may commence a dispute concerning decisions and actions (inaction) of relevant bodies of executive authority and local self-regulating bodies, other bodies and organisations, and their officials.

296.2 Preliminary application to higher bodies or officials shall not be a condition precedent for submission of a petition to court, its acceptance and resolving it on merits by the court.

296.3 Petition shall be submitted to the court of proper jurisdiction in order determined in Chapter 4 of this Code. Petition subject to a district court's jurisdiction shall be submitted by physical person to a court at his place of residence, or to a court at the place of location of body, organisation or person against whose actions the petitioner complains.

#### **Article 297. Decisions and actions (inaction) of relevant bodies of executive authority, local self-governing bodies, their officials to be heard in court**

297.1 Those collegial or individual decisions shall relate to decisions, actions (inaction) of relevant bodies of executive authority, local self-governing authority, their officials disputed in court that result in:

297.1.1 violation of rights and freedoms of person;

297.1.2 obstruction of enforcement of rights and freedoms of person;

297.1.3 illegal imposition of any obligation on person or illegally bringing person to liability.

297.2 The following decisions and actions (inaction) of indicated bodies, organisations, their officials shall not be complained upon in court in accordance with this Chapter:

297.2.1 individual and normative legal acts verification of which is, pursuant to the Constitution of the Azerbaijan Republic, within exclusive jurisdiction of the Constitutional Court of the Azerbaijan Republic;

297.2.2 individual and normative legal acts which have, according to law, different procedure for compliant in court order.

#### **Article 298. Period for addressing court with petition**

Person shall have the right to address court with petition within 1 month of date of his becoming aware of violation of his rights and freedoms.

**Article 299. Review of petition**

299.1 Petition shall be reviewed by court within 1 month with participation of officials of relevant body of executive authority and local self-regulating bodies, other bodies and organisations whose decisions and actions (inaction) are complained upon.

299.2 Absence at court session of any persons duly notified of place and time of court session shall not prevent review of petition. However judge may consider participation of persons in court session as compulsory.

**Article 300. Court resolution and its execution**

300.1 Judge shall, in the event he finds petition meritorious, issue resolution relating to rectification of incidents of violation or restriction of rights and obligation by relevant bodies of executive authority and self-regulating bodies, other bodies and organisations, their officials.

300.2 Judge shall refuse satisfaction of petition in the event it is established that person's rights and freedoms have not been violated as a result of disputed decision and actions (inaction).

300.3 Court resolution shall be sent to director, official or to superior body or official in chain of command of body complained upon within 3 days of entry of resolution into legal force.

300.4 There shall be given information to court and to person relating to execution of resolution within 1 month of its receipt. Officials guilty of non-execution of court resolution shall bear responsibility specified in the legislation of the Azerbaijan Republic.

**CHAPTER 28.**

Proceeding concerning cases on disputes arising out of the decisions and actions (inaction) of military officials and military administration bodies

**Article 301. Review of case**

Cases arising out of disputes relating to the decisions and actions (inaction) of military officials and military administration bodies shall be reviewed in accordance with the procedure provided in Article 27 of this Code.

**CHAPTER 29.**

Proceeding concerning cases on disputes relating to the legality of normative acts

**Article 302. Submission of petition**

302.1 Individuals, falling under the scope of application of a given normative act, and deeming that their rights and freedoms provided and guaranteed by the Constitution of Azerbaijan Republic and other laws have been violated by the said normative act adopted and published in order provided in the legislation by relevant body of executive authorities, local self-regulating body, other bodies and organizations or their officials, shall have the right to address the court with a petition on finding of the said normative act or a separate part of it contradicting the law.

302.2 There may not be reviewed in courts petitions on verification of legality of

normative acts, the examination of which lays exclusively with the Constitutional Court of Azerbaijan Republic.

302.3 Petition shall be submitted pursuant to the jurisdiction provided for in Chapter 4 of this Code.

302.4 Petition of a person shall conform to the requirements contemplated in Article 149 of this Code, and shall contain the information concerning a name of relevant body of executive authority, local self-regulating body, other bodies and organisations or officials adopting the normative act, date of adoption of the act, specific violation of rights and freedoms of an individual or an unidentified group of people by the act or its different provisions, provisions of the Constitution of the Azerbaijan Republic and other laws which are deemed to be contradicted by the disputed act.

302.5 A petition shall, together with the information of the specific organ of mass information where normative act was published and the date of its publication, be appended with a copy of a disputed act or a part of it.

302.6 Submission of petition to court shall not stop a normative act's application.

302.7 Court shall refuse the acceptance of a petition in the event that there is a duly entered into force court decision of relevant body of executive authority, local self-regulating body, other bodies and organisations and officials on examination of legality of normative act applying to an unidentified group of people.

### **Article 303. Review of petition**

303.1 Person petitioning a court as well as relevant body of executive authority, local self-regulating body, other bodies and organisations and officials adopting given normative act shall be informed of time and place of a court session.

303.2 Case shall be heard within one month of submission of a petition with obligatory participation of a person or his representative, relevant body of executive authority, local self-governing body, other bodies and organisations adopting the normative act, their representative or official. However, respective of circumstances of the case, court may hear the case in absentia.

303.3 Court shall, during a court hearing, examine authority of a body or official adopting the normative act, as well as examine conformity of the whole normative act or its separate part with the Constitution of Azerbaijan Republic and other laws.

303.4 At the time of review of petition on finding the normative act contradicting the law, relevant body of executive authority, local self-regulating body, other bodies and organisations or officials adopting the normative acts shall bear the burden of proof of circumstances serving as a basis for adoption of given normative act.

### **Article 304. Court judgment in respect of petition**

304.1 Judge considering the application to be without merit, shall issue a resolution on its non-satisfaction.

304.2 In the event a petition is found to be meritorious, judge shall, by making note in the resolution's resolution part, acknowledge the entire normative act or a part of it as losing its force from the moment of its adoption.

304.3 In the event the petition is satisfied, court shall indicate in the resolution part of the resolution the obligation of the publishing house of media outlet having initially published the normative act found to have lost its force, to give an information about this



resolution of the court within the time specified by court.

304.4 Resolution of court concerning acknowledgement of the entire normative act or a part of it as losing its force shall be bounding on relevant body of executive authority, local self-regulating body, other bodies and organisations or official adopting said normative act, as well as citizens and an unidentified group of people falling under the scope of application of the disputed normative act. Such resolution shall have a pre-judicial force and legality of the same normative act may be further disputed by other persons only in the part which has not been subject to the court's examination.

Subsection 3.

Special Proceeding

CHAPTER 30.

General Provisions

**Article 305. Cases reviewed by court in special proceeding order**

305.1. Court shall review the following cases in special proceeding order:

305.1.1 relating to establishment of facts of legal significance;

305.1.2 relating to acknowledgement of person missing without notice or announcement of person dead;

305.1.3 relating to acknowledgement of person as having restricted action capacity or lacking the action capacity;

305.1.4 relating to acknowledgement of movable property ownerless and recognition of state ownership right over immovable property;

305.1.5 relating to restoration of rights over lost bearer securities and order securities (writ proceeding);

305.1.6 relating to compulsory placement of persons in psychiatric institutions;

305.1.7 relating to establishment of incorrectness of registration of acts of civil state;

305.1.8 relating to complaints against notary acts or refusal from carrying out of the said acts;

305.1.9 relating to petitions on child adoption.

305.2 Laws of the Azerbaijan Republic may also specify review of other cases in special proceeding order.

**Article 306. Procedures for review of special proceeding cases**

306.1 Special proceeding cases shall be reviewed by courts, with peculiarities specified in Chapters 30-39 of this Code, in claims proceeding order.

306.2 Special proceeding cases shall be commenced by petitioners, and shall be reviewed in court with participation of a petitioner and interested person.

306.3 In the event there is filed an appropriate application by legal entities whose founders are state or state bodies or organisations, a prosecutor may, for the protection of state interests, give statements relating to the following cases:

306.3.1 relating to cases concerning possession of property in regard of ownership right,

its use and disposition of it thereof;

306.3.2 relating to cases concerning acknowledgement of movable property ownerless and recognition of state ownership right over immovable property.

306.4 In the event it is found, at the time of review of cases in a special proceeding order, that there is a dispute concerning the right subject to the court's jurisdiction, judge shall issue a ruling on suspension of petition's review and shall explain to interested persons a right of claim based on general grounds.

## CHAPTER 31.

Establishment of facts of legal significance

### **Article 307. Cases concerning establishment of facts of legal significance**

307.1 Court shall establish facts on which the emergence, change, termination of personal and property rights of physical and legal persons depend.

307.2 Court shall hear cases relating to the establishment of the following facts:

307.2.1 persons' family relationships;

307.2.2 fact of person being on maintenance;

307.2.3 fact of registration of birth, adoption, marriage, divorce, death;

307.2.4 fact of actual marital relationships in cases stipulated by the legislation, in case of impossibility of registration of marriage in relevant body of executive authority due to death of one of spouses;

307.2.5 fact of belonging of the right-determining documents (except for membership tickets issued by trade unions and other public unions, by political parties, military documents, passport and issued by relevant body of executive authority certificates) to a particular person, where a person's first name, middle name or last name indicated in a documents do not coincide with his first name, middle name or last name written down in his passport;

307.2.6 fact of possession, use and disposition of immovable property in respect of right of ownership;

307.2.7 fact of occurrence of an accident;

307.2.8 fact of death of person at certain time under certain circumstances in case of refusal of relevant body of executive authority;

307.2.9 fact of acceptance of inheritance and place of opening of inheritance;

307.2.10 fact of acknowledgement of paternity;

307.2.11 other facts of legal significance if the legislation does not stipulate any other order of their ruling.

### **Article 308. Conditions necessary for establishment of facts of legal significance**

Court may establish facts of legal significance only in the event a petitioner cannot procure documents necessary for verification of the same fact through any other means, or upon impossibility of a recovery of lost documents.

### **Article 309. Submission of petition**

309.1 Petitions concerning establishment of facts of legal significance shall be submitted with a court at the petitioner's place of residence.

309.2 Petitions concerning establishment of fact of possession, use and disposition of immovable property in respect of right of ownership shall be submitted with court at the place of location of the immovable property.

**Article 310. Content of petition**

Petition shall indicate purpose for which a fact is requested to be established, as well as proofs of petitioner's inability to obtain necessary documents or impossibility of recovery of lost documents.

**Article 311. Court resolution in respect of petition**

Court's resolution shall be a basis for registration without substituting fact-confirming documents, and in respect of facts needed to be registered without substituting the document issued by body carrying out registration.

**CHAPTER 32.**

Acknowledgement of person missing without notice or announcement of person dead

**Article 312. Submission of petition**

Petition concerning acknowledgement of person missing or announcement of person dead shall be submitted to a court at petitioner's place of residence.

**Article 313. Content of petition**

Petition shall indicate purpose for which an acknowledgement of person missing or announcement of person dead is requested, as well as shall reflect circumstances confirming missing of a person or circumstances serving as a basis to assume facing by the missing person of a death danger or his death due to certain accident. Petition in respect of military servants or other persons missing in the course of military operations shall contain the time of discontinuance of military operations.

**Article 314. Actions of judge after submission of petition**

314.1 Judge, in the course of preparation of case for court review, shall identify individuals capable of giving information relating to missing person, as well as shall receive information relating to the missing person from relevant organisations, police institutions in missing person's last place of residence and place of employment.

314.2 Judge may, after acceptance of petition, suggest the relevant body of executive authority at the place of location of missing person's property to appoint person (custodian) to manage the missing person's property.

**Article 315. Court resolution in respect of petition**

315.1 Court's resolution on acknowledgement of person missing shall be a basis for a transfer of the missing person's property (where necessary for permanent management) to person with whom the relevant body of executive authority concluded a contract.

315.2 Court's resolution on announcement of person dead shall be a basis for making, by relevant body of executive authority in the book of registry of acts of civil state, of entry on person's death.

**Article 316. Consequences of return of person acknowledged to be missing without notice or discovery of his place of sojourn**

Court shall, in the event of return of person acknowledged to be missing without notice or announced dead or discovery of his place of sojourn, repeal its previously rendered resolution with its new resolution. This resolution shall be a basis for termination of management of the property and annulment of entry on person's death in the book of registry of acts on civil state.

CHAPTER 33.

Acknowledgement of person having restricted action capacity or lacking action capacity

**Article 317. Submission of petition**

317.1 Case on acknowledgement of person having restricted action capacity due to misuse of alcoholic beverages and narcotic drugs shall commenced following his family members' petition and petition of relevant body of executive authority.

317.2 Case on acknowledgement of person having restricted action capacity due to mental disorder shall commence following petition of close relatives (parents, children, brothers, sisters) irrespective of their joint dwelling, relevant body of executive authority, psychiatric (psycho-neurology) institution.

317.3 Petition on acknowledgement of person having restricted action or lacking action capacity shall be submitted to court at the said person's place of residence, or if the person is placed in a psychiatric (psycho-neurology) institution to court at the place of location of the said institution

**Article 318. Content of petition**

318.1 Petition concerning acknowledgement of a person having restricted action capacity shall reflect circumstances confirming that person's misuse of alcoholic beverages or narcotic drugs has put his family in a difficult material situation.

318.2 Petition concerning acknowledgement of person lacking action capacity shall reflect circumstances confirming the inability of a person to comprehend meaning of his own actions or his inability to manage his own actions as a result of mental disorder.

**Article 319. Appointment of expert examination for ruling of person's mental condition**

Judge, in the course of preparation of case for a court review, and in the case of availability of enough evidence relating to person's mental disorder, shall appoint forensic-psychiatry expert examination for establishment of the person's mental condition. In the event of deliberate avoidance by person, in whose respect case on acknowledgement of lack of action capacity has been commenced, of an expert examination, court may, during the court session with participation of psychiatrist, issue a ruling on compulsory referral of person to forensic psychiatry expert examination.

**Article 320. Review of petition**

320.1 Court shall hear the case on acknowledgement of person having restricted action capacity with the participation of said person, where the person's health condition

allows so, and guardianship and custodian-ship body.

320.2 Court shall hear the case on acknowledgement of person lacking action capacity with obligatory participation of representative of guardianship and custodian-ship body. Person, whose case on acknowledgement of lack of action capacity is being heard, shall be called to the court session where his health condition allows so.

320.3 Court, in the event it establishes that petitioners have intentionally filed frivolous action for restriction of person's action capacity or where it determines that petitioners' actions aimed at deprivation of a person of action capacity have been done in a bad faith, shall recover court expenses from such persons and shall fine them in the amount up to 100 minimum monthly salaries.

#### **Article 321. Court resolution in respect of petition**

321.1 Court's resolution concerning acknowledgement of person having restricted action capacity shall be a basis for appointment by the relevant body of executive authority of guardian over the person with restricted action capacity.

321.2 Court's resolution concerning acknowledgement of person lacking action capacity shall be a basis for appointment of custodian over the person acknowledged to lack action capacity.

#### **Article 322. Repeal of person's restricted action capacity and acknowledgement of him as one with action capacity**

322.1 In cases contemplated by the civil legislation of the Azerbaijan Republic, court shall, pursuant to a petition of person himself, his family members, guardian, relevant body of executive authority, psychiatric (psycho-neurology) institution, issue a resolution on the repeal of the person's restricted action capacity. Guardianship appointed over a person shall seize upon the court's resolution.

322.2 In cases contemplated by the civil legislation of the Azerbaijan Republic, court shall, pursuant to a petition of relevant body of executive authority, family members, psychiatric (psycho-neurology) institution, guardianship and custodian-ship bodies, and based on relevant opinion of forensic-psychiatric expert examination, issue a resolution on acknowledgement of person having action capacity. Custodian-ship appointed over a person shall seize upon the court's resolution.

### **CHAPTER 34.**

Acknowledgement of movable property ownerless and recognition of state ownership right over immovable property

#### **Article 323. Submission of petition**

323.1 Petition concerning acknowledgement of movable property ownerless shall be submitted to a court at the place of residence or location of a person who has commenced possession of said property.

323.2 Petition concerning recognition of state ownership right over immovable property shall be submitted by the body authorised to manage state property to a court at the place of location of said property.

323.3 Court shall refuse acceptance of petition concerning recognition of state ownership

right over immovable property, where the body authorised to manage state property applies to the court with petition on recognition of ownership right over immovable property prior to expiry of one year from the date of registration of the property by the body carrying out the state registration.

**Article 324. Content of petition**

324.1 Petition concerning acknowledgement of movable property ownerless shall indicate property to be acknowledged ownerless, describe its main distinguishing characteristics, as well as provide proofs of absence of owner's intent to retain ownership right over the property and proofs of commencement by the petitioner of possession of the property.

324.2 Petition of the body authorised to manage state property concerning recognition of state ownership right over immovable property shall contain information on a body registering the property as ownerless and the time of such registration, as well as provide proofs of absence of owner's intent to retain ownership right over the property.

**Article 325. Review of petition**

Court shall review petition concerning acknowledgement of movable property ownerless and recognition of state ownership right over immovable property with participation of all interested persons in respect of the case.

**Article 326. Court resolution in respect of petition**

326.1 Court shall, in the event it finds that movable property does not have an owner or is abandoned by owner without any intent to retain ownership right over it, issue resolution on acknowledgement of movable property ownerless and transfer of the property into ownership of person commencing possession over it.

326.2 Court shall, in the event it determines that immovable property does not have an owner or is abandoned by owner without any intent to retain ownership right over it and is duly registered, issue resolution on acknowledgement of the immovable property ownerless and recognition over it of state ownership right.

**CHAPTER 35.**

Restoration of rights over lost documents of person tendering such documents (writ proceeding)

**Article 327. Submission of petition**

327.1 Person losing bearer security or order security (hereinafter the document ) may, in cases specified in legislation, request court to acknowledge the lost document as invalid and to restore rights stipulated in said documents. It shall also be permitted to restore rights over documents in the event of loss of indications referring to payment capacity of the document due to improper storage of such document or any other reasons.

327.2 Petition concerning acknowledgement of a lost document as invalid shall be submitted to a court at the place of location of institution (person) issuing the document.

**Article 328. Content of petition**

Petition shall contain information concerning distinguishing characteristics of lost document, name of institution (person) issuing the document, as well as circumstances of the loss of the document.

**Article 329. Actions of judge after acceptance of petition**

329.1 Judge shall, upon acceptance of petition concerning loss of document, issue ruling on prohibition of making contribution or payment of funds by institution (person) issuing the document, as well as issue ruling on publication of an announcement in media at petitioner's expense and send copy of the ruling to institution (person) issuing the document, document's registrar, and registering body.

329.2 Ruling shall contain the following information in respect of the announcement's content:

329.2.1 name of court where petition concerning lost document has been filed;

329.2.2 person submitting petition and his address;

329.2.3 name of document and its distinguishing characteristics;

329.2.4 proposal to holder of a document, in respect of which there is submitted a petition on loss, to submit to court, within three months of date of publication of announcement, petition relating to his rights over the document.

329.3 There may be submitted special complaint against refusal to issue ruling.

**Article 330. Petition of holder of document**

Holder of document in respect of which there is submitted a petition on loss shall, within 3 months of publication of announcement, submit a petition relating to his rights over the document to court issuing the ruling and at the same time present the original of the document.

**Article 331. Action of judge after receipt of petition from holder of document**

331.1 Court shall, in the event of receipt of petition from holder of document prior to expiry of 3-months period from date of publication of announcement, keep petition of person losing document without review and prohibit for a certain period an institution (person) issuing the document to make contribution and payment in respect of document.

331.2 Simultaneously court shall explain to petitioner his right to commence a suit in general order against holder of document concerning demand to return the document, and shall explain to holder of document his right to recover from the petition any damage caused due to judge's prohibitive [injunctive] measures.

331.3 There may be filed special complaint against court ruling relating to issues specified in this Article.

**Article 332. Review of petition concerning acknowledgement of lost document as invalid**

Judge shall, in the event holder of document has not submitted a petition contemplated in Article 330 of this Code, review a case relating to acknowledgement of lost document as invalid after expiry of 3 months from the date of publication of announcement.

**Article 333. Court resolution in respect of petition**

In the event court satisfies petitioner's request, it shall issue resolution on

acknowledgement of lost document as invalid. This resolution shall be a basis for issuance to petitioner of new fund or document in substitution of document acknowledged as invalid.

**Article 334. Right of holder of document to commence claim on ungrounded acquisition of property**

Holder of document that has not submitted timely information on his rights relating to the document may, upon entry into legal force of court resolution on acknowledgement of document as invalid, file claim concerning ungrounded acquisition and retention of property against person granted a right to receive new document in substitution to the lost one.

**CHAPTER 36.**

Proceeding in respect of cases concerning compulsory placement of a person in psychiatric institution

**Article 335. Submission of petition**

335.1 Petition concerning compulsory placement of person in psychiatric institution shall be submitted by family members, custodian or guardian, as well as head of the psychiatric institution to a court at person's place of residence or place of location of the institution.

335.2 Petition shall contain stipulated by law grounds relating to compulsory placement of person in psychiatric institution.

335.3 In the event petition is submitted by administration of psychiatric institution, there shall be appended to the petition a grounded opinion of psychiatrist commission.

**Article 336. Time period for submission of petition**

336.1 In the event person is placed in psychiatric institution, petition on his compulsory placement shall be submitted within 48 hours of the placement.

336.2 In the event judge accepts petition, he shall, at the same time, extend period of retention of person in psychiatric institution for the duration of review of the case in court.

**Article 337. Review of petition**

337.1 Judge shall review petition on compulsory placement of person in psychiatric institution within 5 days of the case's commencement. Person in whose respect the case is heard may participate in court session if his psychological state at the moment of case review allows him to participate in court session.

337.2 Participation of representative of psychiatric institution upon whose initiative a case is commenced and representative of the person whose placement in the same institution is heard shall be obligatory.

337.3 Court session may be held in psychiatric institution's building.

**Article 338. Court resolution in respect of petition**

338.1 Judge hearing a case on merit shall issue a resolution on rejection of petition or it



s satisfaction.

338.2 Resolution on satisfaction of petition shall be a basis for compulsory placement of person in psychiatric institution and subsequent retention of him there for period provided by law.

#### CHAPTER 37.

Establishment of incorrectness of registration of acts of civil state

##### **Article 339. Submission of petition**

339.1 Judge shall hear cases on establishment of incorrectness of records in books of registry of acts of civil state (act books) in the event of refusal of relevant bodies of executive authority, in the absence of dispute concerning law, to make corrections or amendments to already made records.

339.2 Petition concerning establishment of incorrectness of records in book of registry of acts of civil state shall be submitted to a court at petitioner's place of residence.

##### **Article 340. Content of petition**

Petition shall contain information on nature of incorrectness of records in book of registry of acts of civil state, time of making entry and the body of registration of acts of civil state refusing to make correction to records.

##### **Article 341. Court resolution in respect of petition**

Entered into legal force court resolution establishing incorrectness of records in books of registry of acts of civil status shall be a basis for correction or amendment by the relevant bodies of executive authority of the record.

#### CHAPTER 38.

Complaints against notary acts or refusal from carrying out of said acts

##### **Article 342. Submission of complaint**

342.1 Interested person shall, in the event he considers performed notary acts as incorrect or in case of refusal to perform notary acts, have the right to submit complaint to a court at the place the place of location of the notary public or body performing notary act.

342.2 Complaints against incorrect verification by officials specified in legislation of wills and powers of attorney or refusal from their verification, shall be submitted to a court at the place of location of respectively hospital, other static treatment-prophylactic institution, sanatorium, elderly persons' and invalids' house, expedition, hospital, military-training institution, military unit, enterprise, organisation, place of confinement.

342.3 Complaints against incorrect verification of a will or refusal from verification by captain of sea vessel sailing under the Flag of the Azerbaijan Republic or by captain of internal voyage vessel shall be submitted to a court at the place of location of port of registry of the vessel.

342.4 Complaint shall be submitted to court within 10 days of the date of petitioner's awareness of notary act or of refusal in performance of notary act.

342.5 Dispute between interested persons concerning law based upon performed notary act shall be reviewed by court in the claim proceeding order.

**Article 343. Review of complaint**

Complaint shall be reviewed by court with participation of petitioner, notary public against whom the complaint is filed representative of body, provided that their absence shall not preclude resolution of the case.

**Article 344. Court resolution in respect of complaint**

Court's resolution satisfying petitioner's complaint shall repeal the performed notary act or order performance of such act.

CHAPTER 39.

Child adoption

**Article 345. Submission of petition**

Petition concerning child adoption shall be submitted by person (persons) willing to adopt a child to a court at the child's place of residence (location).

**Article 346. Content of petition**

346.0 Petition concerning child adoption shall contain the following information:

346.0.1 last name, first name, middle name, birth date, place of residence, type of employment of adopting person (persons);

346.0.2 last name, first name, family name, place of residence (location), information about parents, existence of brothers and sisters of a child being adopted;

346.0.3 circumstances serving as a basis for request concerning child adoption of persons (persons) adopting a child, and proofs confirming these circumstances;

346.0.4 request concerning change of adopted child's last name, first name, middle name, birth date (in the event of adoption of children under 1 year of age), and request of adopting persons (person) concerning registration of them as parents (parent) in record on child's birth.

**Article 347. Documents appended to petition**

347.1 The following information shall be appended to petition concerning child adoption:

347.1.1 copy of birth certificate of person adopting a child where a child is being adopted by unmarried person;

347.1.2 copy of marriage certificate of persons (person) adopting a child where a child is being adopted by married persons (person);

347.1.3 document confirming consent the other spouse, or confirming their non-joint dwelling for period exceeding 1 year after termination of their marriage where a child is being adopted by one of spouses. In the event it is impossible to append relevant document to petition, petition shall contain proofs of these facts.

347.1.4 medical opinion concerning health condition of persons (person) adopting a child;

347.1.5 notification letter from work place of persons adopting a child concerning his

position at work and salary or other document concerning his income;

347.1.6 document confirming his right of use or his ownership right to his place of residence;

347.2 Petition concerning adoption of child being the citizen of the Azerbaijan Republic by foreign citizen or stateless person shall be appended with documents stipulated in Articles 347.1.1-347.1.6 of this Code, as well as opinion of authorized bodies of country of citizenship of adopting persons (opinion of authorized bodies country of permanent place of residence of adopting persons in the event a child is being adopted by stateless persons) concerning their living conditions and capacity to adopt, and permission of the relevant body of state authority allowing the entrance and residence of adopted child on its territory.

347.3 Petition concerning adoption of child being a foreign citizen by citizens of the Azerbaijan Republic shall be appended with document stipulated in Articles 347.1.1-347.1.6 of this Code, as well as consent of child's legal representative and authorised state body of country of adopting persons' citizenship, and where required by the legislation of that country and international treaty which the Azerbaijan Republic is a party to, consent of a child concerning his adoption.

347.4 Documents of adopting persons being foreign citizens shall be legalised in accordance with determined procedures. Legalised documents shall then be translated into Azeri and such translations shall be notarised.

#### **Article 348. Preparation of case to court review**

348.1 Judge shall, in the process of preparation of case to court review, issue a ruling on sending petition, together with appended documents, to the custodian and guardianship body, at the adopted child's place of residence (location), responsible for sending to court opinion concerning justification of adoption and concerning whether adoption serves child's best interests.

348.2 Opinion of the custodian and guardianship body submitted to court shall be appended with the following information:

348.2.1 act of examination of adopting persons' (person) living conditions drafted by the custodian and guardianship body at the place of residence (location) of child or the custodian and guardianship body at the place of residence of adopting persons (person);

348.2.2 medical opinion concerning health condition, physical and intellectual development of a child being adopted;

348.2.3 birth certificate of a child being adopted;

348.2.4 consent of child of 10 years of age being adopted concerning his adoption, as well as probable changes of the first name, last name, middle name, and recordation of the adopting persons (person) as his parents (except for circumstance where such consent is not required in accordance with law);

348.2.5 consent of child's parent concerning his adoption, except in circumstances indicated in law permitting adoption of child without his parents' consent;

348.2.6 consent of child's custodian (guardian), head of institution where child stays in case of deprivation of child of stepparents' or parents' custodian-ship;

348.2.7 document confirming adopting parents' centralised registration in the event of adoption of child by non-relative persons, citizens of the Azerbaijan Republic permanently residing out of the boundaries of the Azerbaijan Republic, foreign citizens

and stateless persons, as well as document confirming impossibility of adoption of child by his relatives irrespective of citizenship and place of residence.

348.3 Court may require other information where necessary.

348.4 Upon submission to court of custodian and guardianship body's opinion, proceeding in respect of case shall, by judge's ruling, be renewed and the case shall be scheduled to be heard in court session.

#### **Article 349. Review of petition**

Case shall be heard in closed court session with obligatory participation of adopting persons (person) and custodian and guardianship body's representative, and where necessary, with participation of other interested persons and child of 10 years of age being adopted.

#### **Article 350. Court decision in respect of petition**

350.1 Courts shall, upon review of petition, issue decision on satisfaction or rejection of adopting persons' (person) request concerning child adoption. Court shall, upon satisfaction of child adoption request, acknowledge a child as adopted by specific persons (person) and indicate in its ruling all information concerning adopted child and adopting persons (person) necessary for registration of the adoption in bodies of registration of acts of civil state.

350.2 Court may, by rejecting adopting persons' (person) request concerning recordation of them in child's birth record act as his parents as well as concerning change of child's birth date and birth place, satisfy adopting persons' (person) request on child adoption.

350.3 Upon satisfaction of request, mutual rights and obligations of adopting persons (person) and adopted child shall be established starting from the day of entry into legal force of court's resolution concerning child adoption.

350.4 Court resolution concerning child adoption shall be sent, for the purposes of state registration of child adoption, within 3 days of entrance of court resolution into legal force, to bodies of registration of acts of civil state at the place of issuance of court resolution.

#### **Article 351. Termination of child adoption**

Review and resolution of cases concerning termination of child adoption shall be carried out in claims proceeding order.

### **CHAPTER 40.**

Proceeding in respect of motion concerning verification of conformity of normative legal act with the Constitution

#### **Article 352. Right to commence motion concerning verification of conformity of normative legal act with the Constitution**

352.1 Physical or legal person participating in general and specialised courts may commence motion in the Supreme Court of Azerbaijan Republic concerning sending of an inquiry to the Constitutional Court of Azerbaijan Republic relating to verification of conformity with the Constitution of normative legal acts specified in paragraphs 1-6 and

8 of Section III of Article 130 of the Constitution of the Azerbaijan Republic.

352.2 Motion concerning conformity of normative acts with the Constitution may be commenced in the following circumstance:

352.2.1 where at the time of court review person participating in case deems normative legal act applied or which may be applied to the case to violate his basic rights and freedoms provided in the Constitution of the Azerbaijan Republic;

352.2.2 where at the time of proceeding in general and specialised courts in respect of case, person participating in the case deems, after opportunities to submit a complaint in appellate or cassational order has been exhausted, the normative act applied to the case to violate his basic rights and freedoms provided in the Constitution of the Azerbaijan Republic.

352.3 In circumstances stipulated in Article 352.2.1 of this Code, motion concerning verification of conformity of normative legal act with the Constitution may be commenced at the time of hearing of case in court of first, appellate and cassational instance.

352.4 In circumstances stipulated in Article 352.2.2 of this Code, motion concerning verification of conformity of normative legal act with the Constitution may be commenced directly in front of Plenum of the Supreme Court of the Azerbaijan Republic only after review of the case in cassational order by the relevant board of the Supreme Court of the Azerbaijan Republic.

### **Article 353. Requirements relating to motion concerning verification of conformity of normative legal act**

353.1. Motion concerning verification of conformity of normative legal act with the Constitution shall be submitted in written form.

353.2 Motion shall contain the following information:

353.2.1 name of court where motion is submitted;

353.2.2 mailing or legal address person submitting motion;

353.2.3 body or official adopting disputed act;

353.2.4 explanation of case's factual circumstances;

353.2.5 purpose and legal justification of motion;

353.2.6 request addressed to the Plenum of the Supreme Court of the Azerbaijan Republic concerning sending an inquiry to the Constitutional Court of the Azerbaijan Republic.

353.3 Motion concerning verification of conformity of normative legal acts with the Constitution shall be appended with the following information:

353.3.1 text of disputed normative legal act published in official publications;

353.3.2 court acts (in case of acceptance) violating, according to petitioner, his basic rights and freedoms provided in the Constitution of Azerbaijan Republic;

353.3.3 copy of claim petition and other documents necessary for examination of case circumstances.

353.4 Motion concerning verification of conformity of normative legal act with the Constitution shall be signed by the petitioner or his representative where he is authorised to do so. In the event of commencement of motion by legal entity it shall be signed by its manager.

**Article 354. Actions of courts of first, appellate and cassational instance relating to motion concerning verification of conformity of normative legal act with the Constitution**

354.1 In circumstances stipulated in Article 352.2.1 of this Code, court (judge) of first, appellate or cassational instance receiving motion concerning verification of conformity of normative legal act with the Constitution shall:

354.1.1 check conformity of motion with the requirements of Article 353 of this Code;

354.1.2 examine whether normative legal act has in fact been applied or can be applied at the time of the case proceeding;

354.1.3 shall issue resolution on rejection of motion and shall hear case till conclusion - in the event a non-observance by person participating in the case of the requirements relating to motion, or non applicability or impossibility of applicability of disputed normative legal act in this case has been established;

354.1.4 shall issue ruling on sending the motion to the Plenum of the Supreme Court of the Azerbaijan Republic and on suspension of case proceeding - in the event an observance by person participating in the case of the requirements relating to motion and applicability or possibility of applicability of disputed normative legal act to this case has been established.

354.2 Court's (judge's) resolution shall conform to the requirement stipulated in Chapter 21 of this Code. Copies of court's (judge's) resolution shall be given to participating in case persons.

354.3 Court's (judge's) sending to the Plenum of the Supreme Court of the Azerbaijan Republic of motion concerning verification of conformity of normative legal act with the Constitution and ruling on rejection of such motion shall not be complained against.

354.4 Arguments contained in motion concerning verification of conformity of normative legal act with the Constitution may be commented upon in complaint addressed to court of higher instance relating to act of court where the case has been finalised.

354.5 Case proceeding shall renew in the event of rejection of motion by the Plenum of the Supreme Court of Azerbaijan Republic.

354.6 In the event the Plenum of the Supreme Court of the Azerbaijan Republic sends inquiry to the Constitutional Court of the Azerbaijan Republic, case proceeding shall renew after making by the Constitution Court of decision relating to the inquiry.

**Article 355. Actions of the Supreme Court of Azerbaijan Republic in respect of motion concerning verification of conformity of normative legal act with the Constitution**

355.1 Chairman of the Supreme Court of Azerbaijan Republic receiving motion concerning verification of conformity of normative legal act with the Constitution directly from petitioner or motion concerning ruling of court of first, appellate or cassational instance, shall order to one of judges of relevant board of the Supreme Court of Azerbaijan Republic:

355.1.1 to verify conformity of motion with the requirement of Article 353 of this Code;

355.1.2 to examine whether disputed normative legal act has in fact been could be applied at the time of case proceeding;

355.1.3 to prepare opinion and talk about the motion at the meeting of the Plenum of the Supreme Court of Azerbaijan Republic.

355.2 The Plenum of the Supreme Court of Azerbaijan Republic shall:

355.2.1 establish conformity of motion concerning conformity of normative legal act with the Constitution of Azerbaijan Republic with requirement stipulated in Article 353 of this Code;

355.2.2 establish whether there is a basis for sending an inquiry to the Constitutional Court of Azerbaijan Republic.

355.3 Decision in respect of motion concerning verification of conformity of normative legal act with the Constitution shall be adopted by the Plenum of the Supreme Court of the Azerbaijan Republic in order provided in Chapter 44 of this Code not later than 1 month from the date of entering of motion to the Supreme Court of the Azerbaijan Republic.

355.4 Inquiry to the Constitutional Court of Azerbaijan Republic shall be sent in order provided in the law of Azerbaijan Republic On Constitutional Court .

355.5 Petitioner or court (judge) issuing ruling on sending motion to the Plenum of the Supreme Court of the Azerbaijan Republic shall be informed immediately in writing concerning results of review of motion concerning conformity of normative legal act with the Constitution.

355.6 The Plenum of the Supreme Court of the Azerbaijan Republic shall, on its own initiative, send inquiry to the Constitutional Court of Azerbaijan Republic in the event normative legal act violates any person's rights.

#### **Article 356. Consequences of finding by the Constitutional Court of the Azerbaijan Republic of violation by normative legal act of basic rights and freedoms**

Decision of the Constitutional Court of Azerbaijan Republic relating to finding violation by normative legal act in force of any person's basic rights and freedoms shall be a ground for repeal of the entire court act or a part of it issued on the basis of the same normative legal act in order provided in Chapter 44 of this Code.

### SECTION 3.

#### RE-HEARING OF COURT ACTS

### CHAPTER 41.

#### Proceeding in court of appellate instance

#### **Article 357. Right to file an appellate complaint**

357.1 Parties, third parties, petitioners and interested persons in special proceeding cases may file appellate complaint against issued but not entered into legal force resolutions and rulings of courts of first instance of the Azerbaijan Republic, except for circumstances specified in the same Code.

357.2 Other persons not involved in a case but whose rights and duties are affected by resolution thus issued shall also have this right. Prosecutor shall have a right to file a protest against court acts in the event he is a claimant or petitioner in court hearing in circumstances provided in Articles 50 and 306 of this Code.

357.3 Prosecutor's protest shall be a complaint filed by him to a court of appellate instance in respect of case where he participates, and shall be equivalent of appellate complaint by its legal nature and legal consequences.

### **Article 358. Courts hearing case on appeal**

358.0 Complaint on appeal against ruling of court of first instance may be submitted to the following courts:

358.0.1 to the Appellate Court of the Azerbaijan Republic against resolutions of district courts;

358.0.2 to the Appellate Economic Court of the Azerbaijan Republic against resolutions of local economic courts and courts for economic disputes arising out of international agreements;

358.0.3 to the appellate board for civil cases of the Supreme Court of the Nakhchivan Autonomous Republic against resolutions of district courts of the Nakhchivan Autonomous Republic.

### **Article 359. Possibility of appellate complaint (appeal)**

Appellate complaint (appeal) may be filed against all resolutions of court of first instance not entered into legal force, except for disputes where a claim amount does not exceed an amount equal to 100 minimum monthly salaries or disputes specifically provided in law.

### **Article 360. Period for submission of appellate complaint**

Appellate complaint (appeal) may be submitted within 1 month of presentation (receipt) of resolution.

### **Article 361. Content of appellate complaint**

361.1 Appellate complaint shall contain the following information:

361.1.1 name and address of court where complaint is filed;

361.1.2 last name, first name, middle name, place of employment, place of residence or place of location of person filing complaint, and his procedural position in a case;

361.1.3 complained resolution, date of its issuance, its resolution part, and name of court issuing it;

361.1.4 demands of person filing complaint and grounds for non-consideration by petitioner, by referring to laws, other normative acts and materials of case, of resolution as correct;

361.1.5 list of documents appended to a complaint.

361.2 Appellate complaint shall be signed by person filing complaint, his legal representative or representative. Appellate complaint submitted by legal representative or representative shall be appended with power of attorney or other document confirming his authority, provided that such is not among case documents.

361.3 Proofs confirming payment of state duty shall be appended to complaint.

361.4 Reference of person filing complaint to new evidence not presented to court of first instance shall be permitted only upon his justification in complaint of impossibility of submission of such evidence to court of first instance.

361.5 Complaint against resolutions subject to immediate enforcement shall be appended with documents confirming execution of resolution.



### **Article 362. Submission of appellate complaint**

Appellate complaint and appended to it written documents shall be submitted, taking into account number of persons participating in case, to court hearing the case on first instance.

### **Article 363. Return of appellate complaint**

363.1 Appellate complaint shall be returned by court of first instance in the following circumstance:

363.1.1 where appellate complaint has not been signed or has been signed by person not authorised to sign it or person without specifying his position;

363.1.2 where document confirming payment of state duty in specified order and amount has not been appended to appellate complaint, and where law allows for deferral of payment of state duty, payment in instalments or decrease of its amount in the absence of motion in that respect or in the event of rejection of the motion;

363.1.3 where appellate complaint is submitted after expiry of specified period;

363.1.4 where there has been filed a petition by person submitting appellate complaint on return of such complaint prior to sending to persons participating in case of ruling on acceptance of appellate complaint to proceeding.

363.2 There shall be issued ruling on return of appellate complaint.

363.3 There may be filed a complaint against ruling on return of appellate complaint.

363.4 Person filing complaint may re-submit appellate complaint to court in general order upon elimination of circumstances specified in Articles 363.1.1 and 363.1.2 of this Code.

### **Article 364. Actions of court of first instance after receipt of appellate complaint**

Court of first instance shall, after verifying compliance of parties with the requirements of Article 361 of this Code, send compliant together with case or related to case documents to appellate court within 7 days of its acceptance.

### **Article 365. General conditions**

Provisions of this Chapter of this Code shall apply to appellate proceeding.

### **Article 366. Examination of possibility of appeal**

366.1 Court of appellate instance shall examine possibility of appeal. This shall include presence of procedural grounds for review of case on appeal.

366.2 In the event there are no grounds for possibility of appeal, it may be considered to be unaccepted.

366.3 Court shall issue ruling on possibility of appeal.

366.4 There may be submitted a complaint to cassational instance against ruling on impossibility of appeal.

### **Article 367. Official presentation of appeal, objection to appeal and rendering of explanation in respect of appeal**

367.1 In the event appeal is found to be possible, court shall officially present (send) appeal and appended documents to counter-party.

367.2 Persons participating in case may, within 20 days of receipt of copy of appellate

complaint, send their objections or explanations in respect of appeal to court.

367.3 Objection or explanation shall be signed by person participating in case, his legal representative or representative. Objection or explanation signed by legal representative or representative shall be appended with power of attorney certifying their authority to participate in case.

367.4 Objections or explanations may be appended with other documents by explaining reasons for their none submission earlier to court of first instance.

**Article 368. Setting case for hearing. Periods for review of case in appellate court**

368.1 Court shall set a time for case hearing in the event appeal is found to be possible.

368.2 Appellate court shall carry out necessary preparatory actions for ensuring timely hearing of case.

368.3 Case shall be heard in appellate court within 2 months of its submission to court.

**Article 369. Refusal from appellate complaint**

369.1 Refusal of person participating in case from his appellate complaint shall result in recognition of resolution of court of first instance.

369.2 Person filing appellate complaint may, until issuance of resolution in court of appellate instance, refuse from it in writing.

369.3 Court may, in the event of presence of grounds specified in Article 191 of this Code, reject refusal from complaint and hear case on appeal.

369.4 Court shall issue ruling on acceptance of refusal from complaint and shall, by this ruling, terminate appellate proceeding in respect of person refusing from appellate complaint.

**Article 370. Refusal of claimant from claim and amicable agreement of parties**

370.1 Refusal of claimant from claim and amicable agreement of parties entered into after acceptance of appellate complaint shall be reflected in written statement addressed to court of appellate instance.

370.2 Order of statement examination, consequences of acceptance or non-acceptance of refusal from claim, approval or rejection of amicable agreement shall be determined in accordance with the procedures stipulated in Article 191 of this Code.

**Article 371. Submission of new evidence**

371.1 Persons participating in case may submit new evidence to appellate court.

371.2 Court of appellate instance may reject evidence, in the event it deems new evidence not submitted by party to court of first instance as belated or directed at delaying appellate process or not submitted due to gross negligence.

**Article 372. Limits of case review at court of appellate instance**

372.1 Court of appellate instance shall, as a court of full authorities, hear case and evidence present in case or additionally submitted evidence on merits.

372.2 Additional facts and evidence shall be accepted by the court only in the event petitioner justifies impossibility of submission of such evidence to court of first instance due to reasons beyond his control.

372.3 Parties may change legal ground of their claims initially submitted to court of first

instance for review.

372.4 Court of appellate instance shall not accept and shall not review new demands that were not subject of case hearing in court of first instance.

372.5 Parties may submit new demands to court of appellate instance only in the event such demands are directed at resolution of matter based on satisfaction of counter-demand, rejection of counter party's demand, bringing of third parties into the case, finding of fact or presentation of information in respect of fact.

372.6 Court of appellate instance shall verify justifiability of resolution of court of first instance in respect of its part directly or circumstantially disputed, and in the event complaint is directed at repealing resolution or where subject of dispute is indivisible in accordance with arguments stated in appellate complaint and objections to it shall verify justifiability of the entire resolution.

372.7 Court of appellate instance shall, irrespective of arguments listed in complaint, verify observance by court of material and procedural norms of law.

### **Article 373. Review of case**

Presiding judge shall open court session and announce which case, upon whose complaint and resolution of which court shall be reviewed, clarify who from persons participating in case and representatives appeared in court session, shall further verify authority of officials and representatives.

### **Article 374. Announcement of court composition and explanation of objection right**

Presiding judge shall announce composition of court and shall explain to persons participating in case the right of objection. Grounds for objection, order of resolution of made objections and consequences of satisfaction of objections shall be determined by Articles 19-23 and this Chapter of this Code.

### **Article 375. Explanation to persons participating in case of their rights and obligations**

Presiding judge shall explain to persons participating in case their procedural rights and obligations.

### **Article 376. Consequences of non-appearance at court session of persons participating in case**

376.1 Court shall postpone review of case in the event of non-appearance of any of persons participating in case at court session because of undue notification of place and time of case review.

376.2 Non-appearance of persons specified in this article who have been duly notified of place and time of case review shall not prevent review of the case. However court may postpone case review in the event of non-appearance of persons participating in case due to excuse.

376.3 Procedures for review of case in absentia specified in this Code shall also apply to appellate proceeding.

### **Article 377. Resolution by court of appeals of persons participating in case**

Appeals and motions of persons participating in case relating to matters concerning

review of case in court of appellate instance shall be resolved by court after acquaintance with opinion of other persons participating in case.

**Article 378. Case reporting**

Review case in court of appellate instance shall commence by report of presiding judge or one of the judges. Reporting person shall explain circumstances of case, content of resolution of court of first instance, arguments contained in appellate complaint and objections in its respect, content of submitted to court new evidence, as well as shall provide any other information on other materials important for verification of court resolution.

**Article 379. Explanations of persons participating in case**

Court shall, after report, hear explanations of persons participating in case and their representatives appearing in court session. Person filing appellate complaint and his representative shall speak first. In the event both parties have filed a complaint against resolution, claimant shall speak first.

**Article 380. Examination of evidence**

380.1 Court shall, after parties' explanations, and where necessary, announce evidence of case, as well as examine newly presented evidence provided that it finds submission of these evidence to court of first instance impossible.

380.2 Parties may file motion on calling and examination of additional witnesses, on demanding other evidence, examination of which was refused by the court of first instance.

**Article 381. Court pleadings**

There may be allowed court pleadings at the time of examination by court of appellate instance of new evidence. At such event, person filing appellate complaint shall speak first.

**Article 382. Issuance of resolution and its announcement**

Court shall, after court pleadings, go to conference room for issuance of judgement. Judges shall announce resolution after conference.

**Article 383. Protocol of the court session**

Protocol in appellate proceeding shall be written in order contemplated in Chapter 22 of this Code.

**Article 384. Competence of court of appellate instance**

384.0 Court of appellate instance may:

384.0.1 keep resolution unchanged and appellate complaint without satisfaction;

384.0.2 partially or completely repeal resolution and issue new resolution in court of first instance on the basis of established circumstances or additionally submitted evidence;

384.0.3 change resolution;

384.0.4 partially or completely repeal resolution, terminate proceeding in respect of case or keep petition without consideration.

**Article 385. Grounds for repeal of resolution on appeal**

385.1. The followings shall be grounds for repeal of court resolution on appeal:

385.1.1 violation or incorrect application of material or procedural norms of law;

385.1.2 non-clarification of all factual circumstances important for court reached conclusion;

385.1.3 non-proof of circumstances important for case established by court of first instance;

385.1.4 non-correspondence of results indicated in resolution of court first instance to circumstances of the case.

385.2 Resolution of court of first instance being legal and justifiable from factual point of view and being correct on merits shall not be repealed only because of formal considerations.

**Article 386. Violation or incorrect application of material norms of law**

Material norms of law shall be considered violated or incorrectly applied only in the event of court of first instance making a mistake during application of law, not applying applicable law or other normative legal act, or incorrectly interpreting the law.

**Article 387. Violation or wrongful application of procedural norms of law**

387.1 Violation or incorrect application of norms of procedural law shall cause repeal of resolution only in the event it leads to issuance of incorrect resolution.

387.2 Resolution of court of first instance shall, irrespective of arguments contained in complaint, be repealed in the following cases:

387.2.1 where case has been heard by judge not having competence to hear it;

387.2.2 where case has been heard by court in absence of any persons participating in case not being duly notified of place and time of court session;

387.2.3 where rules concerning language of proceeding have been violated in course of case review;

387.2.4 where court has resolved matter relating to rights and obligations of parties not involved in case proceeding resulting in violation of their rights;

387.2.5 where resolution has not been signed by judge indicated in it;

387.2.6 where resolution has not been issued by judge hearing the case;

387.2.7 where there is no protocol of court session or where protocol has not been signed;

387.3 Presence of circumstance stipulated in Articles 387.2.1-387.2.7 of this Code shall be treated as gross violation by court of first instance of procedural norms.

**Article 388. Examination of all factual circumstances of significant importance to reached by court conclusion**

In the event other factual circumstances having influence on conclusion of case are found during examination by court of appellate instance of new evidence, then it shall be considered that not all factual circumstances of significant importance to reached by court conclusion have been determined.

**Article 389. Non-proof by court of first instance of important circumstances in respect of case considered by court to be definite**

Non-proving by first instance court of circumstances important for case that is considered

to be determined by court takes place where the facts available under case are not confirmed and, which is confirmed by non-reputable, contradicting and irrelevant evidence.

**Article 390. Non-conformity with case circumstances of arguments indicated in court's resolution**

Arguments indicated in court's resolution shall be considered non-conforming with case circumstances only in the event court reached, from determined facts, wrong conclusion in respect of mutual relationship of parties.

**Article 391. Repeal of resolution through termination of proceeding or keeping petition without consideration**

Court resolution shall, in the event of existence of grounds specified in Chapters 19-20 of this Code, be repealed in appellate order through termination of proceeding on appeal or keeping petition without consideration.

**Article 392. Content of resolution of court of appellate instance**

392.1 Resolution of court of appellate instance shall contain the following information:

392.1.1 place and time of issuance of resolution;

392.1.2 name and composition of court issuing resolution;

392.1.3 person filing appellate complaint;

392.1.4 brief content of complained resolution, appellate complaint, presented evidence, explanations of persons submitted at the time of review of case on appeal;

392.1.5 motives of court conclusion and laws applied by court;

392.1.6 results of court relating to review of appellate complaint.

392.2 In the event of non-satisfaction of appellate complaint or change of court's resolution, appellate court shall be obliged to indicate reasons upon which complaint has not been satisfied or decision has been changed.

**Article 393. Entry into legal force of resolution of court of appellate instance**

Resolution of court of appellate instance shall enter into legal force from the moment of its issuance.

**Article 394. Special ruling of court of appellate instance**

Court reviewing case on appeal may issue special ruling in circumstances specified in Article 265 of this Code.

**CHAPTER 42.**

Submission of complaint against rulings of courts of first instance

**Article 395. Right to submit complaint against rulings of court of first instance**

395.1 Persons participating in case may submit separately from resolution compliant against rulings of court of first instance in the following cases:

395.1.1 in cases provided in this Code;

395.1.2 in the event court ruling impedes further course of case.

395.2 There shall be filed no complaint against other rulings of court of first instance. In the event persons participating in case have objections against ruling, they may include their objections in respect of ruling into appellate complaint.

**Article 396. Period for filing complaint**

396.1 Complaint may be submitted to court of first instance within 10 days of official presentation of ruling of court of first instance.

396.2 Period for filing complaint shall be calculated from the time of announcement of ruling in the event ruling is announced with participation of parties.

**Article 397. Period and procedure for review of complaint by court of appellate instance**

397.1 In the event of presence of grounds specified in Article 269.3 of this Code, initial complaint against ruling of court shall be sent together with a case to court of appellate instance.

397.2 Court of appellate instance shall review complaint in order determined for appeal within 20 days of its submission to court.

**Article 398. Competence of court of appellate instance**

398.0 Court of appellate instance shall, in the course of issuance of ruling after review of complaint, have the right:

398.0.1 to keep ruling of court without change and complaint without satisfaction;

398.0.2 to entirely or partially repeal ruling, or change it and send a case to court of first instance;

**Article 399. Obligatory nature of directives of court of appellate instance**

In the event of repeal of ruling of court of first instance and sending case for a new review, directives stated in ruling of court of appellate instance shall be obligatory for court of first instance reviewing the case.

**Article 400. Legal force of ruling in respect of complaint issued by court of appellate instance**

Ruling of court of appellate instance in respect of complaint shall enter into legal force from the moment of its issuance.

**Article 401. Return of case**

Upon issuance by court of appellate instance of court act on keeping resolution or ruling of court of first instance without change or on repeal of ruling and sending of case to court of first instance, case shall, in the event of absence of any complaint against it, be sent together with a certified copy of act of court of appellate instance to court of first instance.

CHAPTER 43.

Proceeding in court of cassational instance

**Article 402. Right to submit cassational complaint**

There may be submitted cassational complaint against resolutions and rulings of board for civil cases of the Appellate Court of the Azerbaijan Republic, the Economic Court of the Azerbaijan Republic and the Supreme Court of Nakhchivan Autonomous Republic.

**Article 403. Right of appeal with cassational complaint**

403.1 Parties, third parties, and petitioners and interested persons in respect of special proceeding cases may submit complaint against entered into legal force resolutions and rulings of court of appellate instance.

403.2 Chairman of the Supreme Court of the Azerbaijan Republic may give recommendation in respect of entered into legal force resolution and ruling of court of appellate instance on the basis of application of persons not involved in case whose interests are touched upon by court act.

403.3 Prosecutor shall, in the event he is a claimant or petitioner in the course of court examinations, have the right to file protest in cases specified in Articles 50 and 306 of this Code.

403.4 Prosecutor's protest shall be a complaint filed by him to a court of cassational instance in respect of case where he participates, and shall be equivalent of cassational complaint by its legal nature and legal consequences.

**Article 404. Court hearing case on cassation**

404.1 Complaint on cassation against resolutions and rulings of courts of appellate instance may be submitted to the following courts:

404.1.1 to judicial board for civil cases of the Supreme Court of the Azerbaijan Republic against resolutions and rulings of the Appellate Court of the Azerbaijan Republic and appellate board for civil cases of Nakhchivan Autonomous Republic;

404.1.2 to judicial board for cases relating to economic disputes of the Supreme Court of the Azerbaijan Republic - against resolutions and rulings of the Economic Court of the Azerbaijan Republic.

404.2 Cassational complaint relating to matter of jurisdiction may be heard by mixed composition of judges being members of board for civil cases and economic disputes.

**Article 405. Period for submission of cassational complaint**

405.1 Cassational complaint may be submitted within 3 months of issuance of resolution or ruling by court of appellate instance.

405.2 This period shall be calculated starting from time of giving to a party of resolution or ruling by court of appellate instance.

**Article 406. Procedure for submission of cassational complaint**

406.1 Cassational shall be submitted in written form via court of appellate instance.

406.2 In the event cassational complaint is submitted directly to court of cassational instance, then this court shall send the complaint to court of appellate instance for the purposes of fulfilment of requirements stipulated in Articles 407-409 of this Code.

**Article 407. Content of cassational complaint**



- 407.1 Cassational complaint shall contain the following information:
- 407.1.1 name of court where complaint is filed;
  - 407.1.2 last name, first name, middle name, place of employment, place of residence or place of location of person filing complaint, and his procedural position in a case;
  - 407.1.3 name of court issuing court act against which complaint is filed, date of issuance of act, subject-matter of dispute;
  - 407.1.4 demands of person filing complaint, composition of correct application of material and procedural norms of law;
  - 407.1.5 list of documents appended to a complaint.
- 407.2 Reference in cassational complaint to proof of case circumstances, to non-discovery of significant factual circumstances important for court-reached conclusion, or to non-conformity of case conclusions reflected in resolution or ruling to a case's factual circumstances shall not be permitted.
- 407.3 Complaint shall be signed by person filing complaint, his legal representative or representative. Complaint submitted by legal representative or representative shall be appended with document confirming their authorities.
- 407.4 Proofs confirming payment of state duty shall be appended to complaint.

#### **Article 408. Return of cassational complaint**

- 408.1 Cassational complaint shall be returned in the following circumstances:
- 408.1.1 where cassational complaint has not been signed or has been signed by person not authorised to sign it or person without specifying his position;
  - 408.1.2 where complaint has not been sent through court issuing resolution and ruling;
  - 408.1.3 where document confirming payment of state duty in specified order and amount has not been appended to cassational complaint;
  - 408.1.4 where cassational complaint has been filed after expiry of specified period and there has not been filed motion on restoration of missed period;
  - 408.1.5 where cassational complaint does not specify violation of material and procedural norms of law or their incorrect application;
  - 408.1.6 where there has been filed a petition by person submitting cassational complaint on return of such complaint prior to sending to persons participating in case of ruling on acceptance of cassational complaint to proceeding.
- 408.2 Cassational complaint shall be returned by court of appellate instance in circumstances specified in Articles 408.1.1 and 408.1.3-408.1.5 of this Code, by court of cassational instance in circumstances specified in Article 408.1.2 of this Code, and by courts of appellate or cassational instance depending on the fact in court of which instance was the case together with complaint at the time of receipt of petition on return of cassational complaint in circumstances specified in Article 408.1.6 of this Code.
- 408.3 There shall be issued ruling on return of cassational complaint.
- 408.4 There may be filed to court of cassational instance complaint against ruling in respect of return of cassational complaint by court of appellate instance.
- 408.5 Person filing complaint may re-submit appellate complaint to court in general order upon elimination of defects specified in Articles 408.1.1-408.1.6 of this Code.

#### **Article 409. Sending of case to court of cassation instance**

Court of appellate instance shall, after submission of cassational complaint and

verification of its conformity with requirements of Article 407 of this Code, send cassational complaint together with case and case related materials to court of cassational instance.

**Article 410. Refusal from cassational complaint**

410.1 Person filing appellate complaint has a right to refuse from it until issuance of cassational decision.

410.2 Court has a right, in the event of presence of grounds specified in Article 191 of this Code, to reject refusal from complaint and hear case on cassation. Proceeding in cassational instance shall be terminated in the event other persons participating in case have not filed complaint against resolution and ruling and where court accepts refusal from cassational complaint.

410.3 Cassational court shall issues decision on termination of proceeding in cassational instance.

**Article 411. Ruling on acceptance of cassational complaint to proceeding**

Judge of court of cassational instance shall issue ruling on acceptance of cassational complaint to proceeding.

**Article 412. Official submission of cassational complaint**

412.1 Cassational complaint and appended to it documents shall be officially submitted to counter-party.

412.2 Persons participating in case shall have a right to send to court objections and explanations in respect of cassational complaint within 20 days of receipt of copy of cassational complaint.

**Article 413. Suspension of execution of resolution or ruling**

413.0 Cassational court may, by motion of persons participating in case, suspend execution of resolution or ruling of court of appellate instance and resolution, ruling of court of first instance related thereto until completion of cassational proceeding in the following cases:

413.0.1 where persons participating in case have family with many children;

413.0.2 where persons participating in case are in difficult financial situation as a result of loss of work capacity, bread-winner, illness, disability;

413.0.3 where persons participating in case have lost their place of residence and do not have possibility to live elsewhere.

**Article 414. Period for review of cassational complaint**

Cassational complaint submitted together with case to cassational board for civil cases or judicial board for economic disputes of the Supreme Court of the Azerbaijan Republic shall be reviewed within 2 months of its receipt.

**Article 415. Notification of persons participating in case**

415.1 Court of cassational instance shall appoint a case review at such time as to allow persons participating in case an opportunity to provide their written objections against submitted complaint.

415.2 Persons participating in case and their representatives shall be notified of time and place of court review.

**Article 416. Limits of case review at cassational instance**

Court of cassational instance shall verify correct application by court of appellate instance of material and procedural norms of law.

**Article 417. Competence of court of cassational instance**

417.0 In the course of case review cassational court may:

417.0.1 keep resolution and ruling of court of appellate instance unchanged and complaint without satisfaction;

417.0.2 make changes to resolutions and rulings of court of appellate instance;

417.0.3 partially or completely repeal resolution or ruling of court of appellate instance and send case to court of appellate instance for new review;

417.0.4 partially or completely repeal resolution or ruling of court of appellate instance, and keep claim completely or partially without examination in accordance with Articles 259.0.1, 259.0.2 and 259.0.8-259.0.10 of this Code or terminate case proceeding in accordance with Articles 261.0.1-261.0.3, 261.0.6 and 261.0.7 of this Code.

**Article 418. Grounds for repeal of resolution or ruling of court of appellate instance**

418.1 Violation or incorrect application of material and procedural norms of law shall be a ground for repeal of resolution or ruling of court of appellate instance.

418.2 Material norms of law shall be deemed to be violated in circumstances specified in Article 386 of this Code.

418.3 Violation or incorrect application of procedural norms of law shall be a ground for repeal of resolution or ruling only where the said violation has resulted or can result in issuance of incorrect resolution.

418.4 Resolution or ruling of court of appellate instance shall, irrespective of complaint's arguments, be repealed in the following circumstances:

418.4.1 where case has been heard by court with its illegal composition;

418.4.2 where resolution or ruling has not been signed by any of judge or en signed by judges not indicated in resolution;

418.4.3 where ruling has been issued by judges not members of court reviewing case;

418.4.4 where there is no protocol of court session or where protocol has not been signed by persons specified in Article 272.8 of this Code;

418.4.5 where case has been hear by court in absence of any persons participating in case not being duly notified by court of place and time of court session;

418.4.6 where court has issued resolution or ruling relating to rights and obligations of parties not involved in case proceeding resulting in violation of their rights;

418.4.7 where resolution or ruling issued by court does not contain reference to law or other normative legal act applied by court;

418.4.8 where rules concerning language of proceeding have been violated in course of case review.

418.5 Presence of circumstance stipulated in Articles 418.4.1-418.4.3 and 418.4.6 of this Code shall be treated as gross violation by court of appellate instance of procedural norms.

### **Article 419. Decision of court of cassational instance**

- 419.1 Review of cassational complaint shall result in decision signed by all judges.
- 419.2 Decision shall contain the following information:
- 419.2.1 name of court issuing decision and name of case, date of its issuance, composition of court, last names of persons participating in case with indication of their authorities;
- 419.2.2 name person filing cassational complaint and names of persons participating in case;
- 419.2.3 name of court of first instance and court of appellate instance hearing case, case's reference number, date of issuance of resolution or ruling and last names of judges issues them;
- 419.2.4 brief content issued resolution and ruling;
- 419.2.5 grounds put forward relating to verification of legality of issued resolution or ruling;
- 419.2.6 arguments contained in objection against cassational complaint;
- 419.2.7 explanations of person participating in court hearing;
- 419.2.8 motives for non-application by court of laws and normative legal acts referred to by persons participating in case, as well as laws and normative legal acts governing issuance of court's decision;
- 419.2.9 arguments of court of cassational instance on violation of material and procedural norms of law or their incorrect application in the event of repeal of acts of court of appellate instance;
- 419.2.10 results of review of cassational complaint;
- 419.2.11 actions to be performed in the event case is transferred for new court review.
- 419.3 Decision shall, within 1 month of its issuance, be either sent to persons participating in case through registered mail or be delivered in person upon signing by them of a receipt.
- 419.4 Decision shall enter into force from the moment of its issuance.

### **Article 420. Obligatory nature of directives of court of cassational instance**

Directives indicated in decision of court hearing case in cassational instance shall be obligatory for court re-hearing the case.

### **Article 421. Return of case**

Upon review of case by court of cassational instance, the said case shall, together with a certified copy of decision of court of cassational instance, be returned to court of appellate instance.

## **CHAPTER 44.**

Additional cassational proceeding

### **Article 422. Re-hearing of cassational decision**

Decisions of judicial board for civil cases and judicial board for cases relating to economic disputes of the Supreme Court of the Azerbaijan Republic may be re-heard,

upon recommendation, objection or protest, in additional cassational order in the Plenum of the Supreme Court of the Azerbaijan Republic.

**Article 423. Right to submit recommendation, complaint and protest**

Chairman of the Supreme Court of the Azerbaijan Republic shall, upon appeal of persons not involved in case whose interests are touched upon by court act, have a right to give recommendation in respect of decisions of judicial board for civil cases and judicial board for cases relating to economic disputes of the Supreme Court of the Azerbaijan Republic. Complaint may be submitted by person participating in case with attorney. Prosecutor General of the Azerbaijan Republic shall have a right to file protest in the event relevant prosecutor has served in the course of court examination as claimant or petitioner in circumstances specified in Articles 50 and 306 of this Code.

**Article 424. Grounds for review of case by the Plenum of Supreme Court of the Azerbaijan Republic**

424.1 The Plenum shall hear cases relating exceptionally to legal matters.

424.2 The followings shall be grounds for repeal of cassational decisions:

424.2.1 where decision of court of cassational instance has been issued on the basis of legal norm found by the Constitutional Court of the Azerbaijan Republic to be non-conforming with the Constitution of the Azerbaijan Republic;

424.2.2 where court of cassational instance has resolved matters relating to rights and obligations of persons not involved in case and resulting in violation of their rights;

424.2.3 where there do not exist grounds of motives referred to in decision of court of cassational instance;

424.2.4 where resolution part of decision of court of cassational instance contradicts its descriptive part and part relating to grounds for issuance of such decision.

**Article 425. Content of recommendation, protest and complaint**

Recommendation, protest or complaint shall conform to the requirements contemplated in Article 361 of this Code.

**Article 426. Sending of recommendation, protest or complaint**

426.1 Chairman of the Supreme Court of the Azerbaijan Republic shall, in the event of presence of grounds, send recommendation, protest or complaint together with case to the Plenum of the Supreme Court of the Azerbaijan Republic.

426.2 Recommendation, protest or complaint may be filed by boards of the Supreme Court of the Azerbaijan Republic within 2 months of issuance of decision.

426.3 Copy of recommendation, protest or complaint shall be sent to persons participating in case.

**Article 427. Withdrawal of recommendation, protest or complaint**

427.1 Person filing recommendation, protest or complaint shall have right to withdraw it.

427.2 Withdrawal of recommendation, protest or complaint shall result in termination of proceeding in the Plenum of the Supreme Court of the Azerbaijan Republic.

**Article 428. Review of case**

428.1 Plenum of the Supreme Court of the Azerbaijan Republic shall hear report of judge not participating in previous court hearing concerning case circumstances and arguments relating to recommendation, protest or complaint.

428.2 Persons filing protest of complaint as well as other parties participating in case may be called to appear in the Plenum's session for the purposes of rendering explanations. In that even, they shall be send notice of place and time of plenum session. Their non-appearance shall not preclude case review.

428.3 All matters shall be resolved with majority of votes in the course of case review. In the event of equality of votes for and against satisfaction of recommendation, protest or complaint, recommendation, protest or complaint shall be deemed rejected.

#### **Article 429. Competence of the Plenum of the Supreme Court of the Azerbaijan Republic**

429.0 Plenum of the Supreme Court of the Azerbaijan Republic hearing case in additional cassational order shall have the right to:

429.0.1 keep decision of court of cassational instance unchanged and recommendation, protest or complaint without satisfaction;

429.0.2 make changes to decision of court of cassational instance;

429.0.3 partially or completely repeal decision of court of cassational instance and related to it resolution or ruling of court of appellate instance, and send case to court of appellate instance for new review;

429.0.4 partially or completely repeal decision of court of cassational instance, and keep claim completely or partially without examination in accordance with Articles 259.0.1, 259.0.2 and 259.0.8-259.0.10 of this Code or terminate case proceeding in accordance with Articles 261.0.1-261.0.3, 261.0.6 and 261.0.7 of this Code;

429.0.5 repeal decision of court of cassational instance and keep in force resolution or ruling of court of appellate instance.

#### **Article 430. Decision of the Plenum of the Supreme Court of the Azerbaijan Republic**

430.1 Plenum of the Supreme Court of the Azerbaijan Republic shall issue decision in respect of result of case review.

430.2 Decision shall contain the following information:

430.2.1 name of court issuing decision;

430.2.2 time and place of issuance of decision;

430.2.3 case in respect of which decision is issued;

430.2.4 person filing complaint;

430.2.5 person submitting recommendation or protest;

430.2.6 reference to complained act of lower court;

430.2.7 law in accordance with which decision is issued;

430.2.8 issued decision in respect of result of protest review.

430.3 Decision of the Plenum of the Supreme Court of the Azerbaijan Republic shall be signed by its chairman and sent to persons participating in case.

#### **Article 431. Review in the Plenum of the Supreme Court of recommendation of chairman of the Supreme Court of the Azerbaijan Republic in the event of finding**

**by the Constitutional Court of the Azerbaijan Republic of normative-legal act applied by court to violate basic rights and freedoms**

In the event of finding by the Constitutional Court of the Azerbaijan Republic, via inquiry of the Plenum of the Supreme Court of the Azerbaijan Republic, of violation by normative legal acts of basic rights and freedoms, the Plenum shall, upon recommendation of chairman of the Supreme Court of the Azerbaijan Republic, partially or completely repeal in additional cassational order court acts issued on the basis of those acts in accordance with provisions of this Chapter.

**CHAPTER 45.**

Proceeding on re-hearing of entered into legal force court acts on new established circumstances

**Article 432. Re-hearing of case**

432.1 Court acts entered into legal force may be re-heard on new established circumstances.

432.2 The followings shall be grounds for re-hearing of court acts on new established circumstances:

432.2.1 discovery, after issuance of court act, of decisive materials not known in the course of previous hearing;

432.2.2 intentional rendering of false testimony by witness, of false opinion by expert, of false translation by interpreter, forgery of documents or material evidence established by entered into legal force court verdict and resulting in issuance of illegal or groundless resolution;

432.2.3 criminal activities in the course of case review of parties, other persons participating in case or their representatives as well as criminal actions of judges established by entered into legal force court verdict;

432.2.4 repeal of resolution, verdict, ruling or decision of court or decision of other body serving as a basis for issuance of the court act.

**Article 433. Court re-hearing court acts on new established circumstances**

Entered into legal force court acts shall be re-heard on new established circumstances by the Plenum of the Supreme Court of the Azerbaijan Republic.

**Article 434. Procedure and period for submission of petition**

434.1 Petition in respect of re-hearing of entered into legal force court acts on new established circumstances shall be submitted by persons participating in case to the Supreme Court of the Azerbaijan Republic within 1 month of discovery of circumstances specified in Article 432 of this Code serving as ground for case re-hearing.

434.2 Petition shall be obligated to send to other persons participating in case copy of his petition and appended to it documents.

434.3 Documents confirming dispatch of copies of petition and appended to it documents to persons participating in case shall be appended to petition.

434.4 Petition shall be returned to petitioner in the event petition is submitted after expiry of certain period and where there is no motion in respect of restoration of missed period,

or in the event of failure to present documents confirming dispatch to persons participating in case of copies of petition and appended to it documents.

**Article 435. Content of petition in respect of re-hearing of cases on new established circumstances**

435.1 Petition relating to re-hearing of cases on new established circumstances shall contain the following information:

435.1.1 accurate indication of disputed act;

435.1.2 reference to legal ground for filing of petition;

435.1.3 information on observance of periods of limitation for filing of petition and indication of means of proof in this respect;

435.1.4 motives for repeal of issued act.

435.2 Petition shall be appended with originals or copies of documents serving as a basis for petition as well as documents stated in Article 432 of this Code.

**Article 436. Calculation of period of limitation for submission of petition**

436.1 Period of limitation for submission of petition shall be calculated in the following order:

436.1.1 starting from the day of establishment of material for case circumstances - in circumstances specified in Article 432.2.1 of this Code;

436.1.2 starting from the day of entrance into legal force of verdict in respect of criminal case in circumstances specified in Article 432.2.2 and 432.2.3 of this Code;

436.1.3 starting from the day of entry into legal force of court verdict, resolution, ruling, decision, or day of issuance by state body of other body of decision contradicting to verdict, resolution, ruling or decision serving as a basis for a contextual re-hearing of resolution, ruling or decision - in circumstance specified in Article 432.2.4 of this Code.

436.2 There shall be no re-hearing of petition upon expiry of 3 years from establishment of circumstances specified in Article 432 of this Code.

**Article 437. Review of petition**

437.1 Plenum of the Supreme Court of the Azerbaijan Republic shall review petition in respect of re-hearing of court act on new established circumstances in court session.

Petitioner and other persons participating in case shall be notified of place and time of court session. However their absence shall not preclude review of petition.

437.2 Petition and case shall be heard in order specified in Article 44 of this Code.

**Article 438. Ruling in respect of re-hearing of case**

438.1 Plenum of the Supreme Court of the Azerbaijan Republic shall, in the course of review of resolution, ruling or decision on new established circumstances, either repeal court acts by satisfying petition or reject re-hearing.

438.2 In the event of repeal of court act, case shall be send to court having jurisdiction in accordance with Chapters 3 and 4 of this Code and shall be re-heard by court in accordance with procedures specified in this Code.

SECTION 4.

PROCEEDING WITH PARTICIPATION OF FOREIGN PERSONS



## CHAPTER 46.

### Courts international jurisdiction

#### **Article 439. Procedural rights of foreign persons**

439.1 Foreigners and stateless persons, foreign legal entities and international organisations (hereinafter the foreign persons ) shall have a right to appeal to courts of the Azerbaijan Republic for protection of their violated or disputed rights and interests protected by law.

439.2 Foreign persons shall enjoy procedural rights and bear procedural obligations equal with procedural rights and obligations of citizens and legal entities of the Azerbaijan Republic.

#### **Article 440. Proceeding in respect of cases with participation of foreign persons**

440.1 Courts of the Azerbaijan Republic shall have international jurisdiction in respect of civil and economic disputes only where any of persons participating in case is a foreign person having his place of residence, place of location or place of usual attendance in the Azerbaijan Republic.

440.2 Court proceeding in respect of cases with participation of foreign persons shall be carried out in accordance with this Code and other laws.

440.3 The Azerbaijan Republic may establish counter restrictions in respect of foreign persons whose countries permit an imposition of special restrictions in respect of procedural right of citizens and legal entities of the Azerbaijan Republic.

#### **Article 441. Civil procedural legal and action capacities of foreigners, stateless persons and refugees**

441.1 Civil procedural legal and action capacity of foreigners shall be determined by laws of country of their citizenship.

441.2 In the event foreigner has multiple citizenship, his civil procedural legal and action capacity shall be determined by law of country with closest connection to him.

441.3 Procedural legal and action capacity of stateless person shall be determined by laws of country of his permanent residence and in absence of such state by laws of country of his usual residence.

441.4 Civil procedural legal and action capacity of refugees shall be determined by laws of country of their refuge.

#### **Article 442. Procedural legal and action capacity of foreign legal entities and international organisations**

442.1 Procedural legal and action capacity of foreign legal entities shall be determined by law of country of their incorporation. Foreign legal entity lacking procedural legal capacity pursuant to this law may be deemed to possess legal capacity on the territory of the Azerbaijan Republic in accordance with law of the Azerbaijan Republic.

442.2 Procedural legal and action capacity of international organisation shall be determined by establishing it international agreement, its constituent documents or by

agreement concluded with authorised state body of the Azerbaijan Republic.

**Article 443. Jurisdiction of courts of the Azerbaijan Republic relating to cases with participation of foreign persons**

443.0 Courts of the Azerbaijan Republic shall have the right to hear the following cases with participation of foreign persons:

443.0.1 where any of joint claimants or joint respondents have place of residence, place of location or place of usual visit in the Azerbaijan Republic;

443.0.2 where management body of foreign person, its branch or representative office is located on the territory of the Azerbaijan Republic;

443.0.3 where respondent possesses property on the territory of the Azerbaijan Republic;

443.0.4 where in cases relating to recovery of alimonies or establishment of paternity claimant has place of residence on the territory of the Azerbaijan Republic;

443.0.5 where in cases relating to compensation of losses in respect of caused physical damage, other damage to health or death of a bread-winner, a damage has been inflicted on the territory of the Azerbaijan Republic or claimant has place of residence on the territory of the Azerbaijan Republic;

443.0.6 where in cases relating to compensation of losses in respect of damage inflicted on property, action or other circumstance serving as a ground for filing petition for compensation of losses has occurred on the territory of the Azerbaijan Republic;

443.0.7 where execution of claim arises out of agreement to be fully or partially enforced or which has been enforced on the territory of the Azerbaijan Republic;

443.0.8 where claim arises out of unjust enrichment occurred on the territory of the Azerbaijan Republic;

443.0.9 where in cases relating to dissolution of marriage, claimant has place of residence in the Azerbaijan Republic or where at least one of the spouses is citizen of the Azerbaijan Republic;

443.0.10 where in cases relating to protection of honour, dignity and business reputation, claimant has place of residence in the Azerbaijan Republic;

443.0.11 intestacy cases where testator had place of residence or place of visit in the Azerbaijan Republic at the time of his death or where testator's property is located in the Azerbaijan Republic.

**Article 444. Exclusive jurisdiction**

444.0 Exclusive jurisdiction of courts of the Azerbaijan Republic shall consist of the followings:

444.0.1 cases relating to property right over immovable property including claims in respect of lease or pledge of the property where property being their subject matter is located on the territory of the Azerbaijan Republic;

444.0.2 cases relating to recognition of validity or invalidity of legal entity and dissolution of legal entity or repeal of its decisions where legal entity has legal address (place of location) in the Azerbaijan Republic;

444.0.3 cases relating to claims in respect of recognition of validity of patents, marks or other rights where registration or application for registration of these rights has been carried out in the Azerbaijan Republic;

444.0.4 resolution relating to obligatory enforcement actions issued in the course court

review ¶ where its has been raised or enforced in the Azerbaijan Republic;  
444.0.5 cases relating to claims against carriers arising out of carriage contracts;  
444.0.6 cases relating to dissolution of marriage of citizens of the Azerbaijan Republic with foreigners or stateless persons ¶ where both spouses have place of residence in the Azerbaijan Republic.

#### **Article 445. Special proceeding cases**

445.0 Courts of the Azerbaijan Republic shall examine special proceeding cases in following circumstances:

445.0.1 where persons in whose respect a case on acknowledgement as missing or dead is commenced has been citizen of the Azerbaijan Republic or had last know place of residence in the Azerbaijan Republic;

445.0.2 where person in whose respect a case on acknowledgement as having restricted action capacity is commenced is citizen of the Azerbaijan Republic or has usual place of location on the territory of the Azerbaijan Republic;

445.0.3 where property in which respect petition on acknowledgement as ownerless is submitted is located on the territory of the Azerbaijan Republic;

445.0.4 where security in which respect petition on acknowledgement as lost or on restoration of respective rights over it (writ proceeding) is submitted has been issued by person or legal entity residing or located on the territory of the Azerbaijan Republic;

445.0.5 where records of acts of civil state in which respect petition on acknowledgement of incorrectness is submitted are carried out by relevant bodies of executive authority of the Azerbaijan Republic;

445.0.6 where complained notary actions (refusal of carrying out notary actions) have been carried out by notary public or other body of the Azerbaijan Republic.

#### **Article 446. Cases arising out of marital relationships**

446.0 Azeri courts shall have international jurisdiction in court cases arising out of marital relationships in the following circumstances:

446.0.1 where one of the spouses is citizen of the Azerbaijan Republic or was citizen of the Azerbaijan Republic at the time of marriage;

446.0.2 where filing complaint husband or wife have usual place of location in the Azerbaijan Republic;

446.0.3 where one of the spouse is stateless person from time of coming to the Azerbaijan Republic.

#### **Article 447. Cases between parents and children**

Courts of the Azerbaijan Republic shall have exclusive jurisdiction in court cases between parents and children relating to personal relationships only where on of the parties is citizen of the Azerbaijan Republic or has usual place of location in the Azerbaijan Republic.

#### **Article 448. Adoption**

Courts of the Azerbaijan Republic shall have exclusive jurisdiction in court cases only where one of adopting spouses or child are citizens of the Azerbaijan Republic or have usual place of location in the Azerbaijan Republic.

**Article 449. Custodianship, guardianship**

449.1 Courts of the Azerbaijan Republic shall, in the course of execution of directives relating to custodianship or guardianship, have exclusive jurisdiction only where person or child given into custodianship or guardianship are citizens of the Azerbaijan Republic or have usual place of residence in the Azerbaijan Republic.

449.2 In the event person or child given into custodianship or guardianship have a need for custodianship of courts of the Azerbaijan Republic, courts of the Azerbaijan Republic shall have international jurisdiction in this respect.

**Article 450. Contractual jurisdiction**

450.1 Regardless of absence of jurisdiction of court of the Azerbaijan Republic pursuant to this section, parties may come to an agreement in respect of international jurisdiction of court of the Azerbaijan Republic. Such agreement shall be in written form.

450.2 In the event one of the parties has place of residence, place of business or place of usual location in foreign country, parties may come to an agreement concerning international jurisdiction of foreign court pursuant to Article 450.1 of this Code.

**Article 451. Non-changing of place case review**

Case accepted for proceeding by court of the Azerbaijan Republic with observance of jurisdictional rules shall be resolved on merits even if it falls under jurisdiction of court of another country due to subsequent change by parties of their citizenship, place of residence or place of usual location or any due to any other circumstances.

**Article 452. Procedural consequences of review by foreign courts of disputes between same parties, relating to same subject and based on same grounds**

452.1 Court of the Azerbaijan Republic shall refuse from accepting petition for review or shall terminate proceeding in respect of case in the event courts of foreign country have issued resolution relating to disputes between same parties, relating to same subject and based on same grounds.

452.2 Court of the Azerbaijan Republic shall refuse from accepting petition for review or shall keep application without consideration in the event there is a case raised previously in court of foreign country relating to dispute between same parties, relating to same subject and based on same grounds and decision must be recognised or executed on the territory of the Azerbaijan Republic.

452.3 Provisions of Articles 452.1 and 452.2 of this Code shall not apply in the event resolution issued or to be issued by courts of foreign country is not to be recognised or executed on the territory of the Azerbaijan Republic or where a case is subject to exclusive competence of courts of the Azerbaijan Republic.

**Article 453. Members of diplomatic mission**

Members of diplomatic missions established in the Azerbaijan Republic, their family members and private house employees shall be released from civil judicial liability in accordance with the Vienna Convention dated April 18, 1961. This shall also apply in the event countries are not members of the said Convention.

**Article 454. Members of consular representations**

Members of consular representations established in the Azerbaijan Republic, including consulates and elected servants shall be released from civil judicial liability in accordance with the Vienna Convention dated April 24, 1963. This shall also apply in the event their countries are not members of agreement relating to the said liability.

**Article 455. Other immunity**

Civil judicial liability shall not apply to representative of other states present in the Azerbaijan Republic on business invitation as well as to accompanying them persons.

**Article 456. Court assignments**

456.1 Courts of the Azerbaijan Republic shall execute assignments of foreign courts relating to execution of particular procedural actions (issuance of writs and other documents, taking explanations from parties, testimonies from witnesses, opinion from experts, conduct of examination at place, and so forth) in order provided in laws of the Azerbaijan Republic and international agreements which the Azerbaijan Republic is party to.

456.2 Assignments shall not be executed in the following circumstances:

456.2.1 where execution of assignment is contrary to the sovereignty of the Azerbaijan Republic or to general principles of its legislation;

456.2.2 where execution of assignment is not within court's competence.

456.3 Execution of particular procedural assignments of foreign courts shall be carried out in order specified in this Code, unless provided otherwise in international treaties which the Azerbaijan Republic is a party to.

456.4 Courts of the Azerbaijan Republic may appeal to courts of foreign countries with assignment relating to execution of particular procedural actions.

456.5 In the event diplomatic or consular representations of the Azerbaijan Republic can carry out necessary actions, an appeal in that regard may be made to them.

456.6 Relationships between courts of the Azerbaijan Republic and foreign courts shall be defined by laws of the Azerbaijan Republic and international treaties of the Azerbaijan Republic.

**Article 457. Recognition of documents issued by bodies of foreign state**

Documents issued, drafted or certifies in order provided by the authorised bodies of foreign countries outside the boundaries of the Azerbaijan Republic in respect of citizens or legal entities of the Azerbaijan Republic or foreigners shall be accepted by courts of the Azerbaijan Republic after legalisation by consular bodies, unless provided otherwise by law or international treaties which the Azerbaijan Republic is a party to.

**Article 458. Recognition and enforcement of resolutions of foreign courts**

458.1 Resolutions of foreign courts shall be recognised and enforced in the Azerbaijan Republic in circumstances provided in laws or international treaties which the Azerbaijan Republic is a party to or on the basis of mutual understanding.

458.2 Conditions and procedure for recognition and enforcement of resolutions of foreign courts shall be determined in accordance with procedure specified in this Code, unless provided otherwise in international treaties which the Azerbaijan Republic is a party to.

458.3 Resolutions of foreign courts may be directed for compulsory enforcement within 3 years of its entry into legal force.

**Article 459. Recognition of not requiring enforcement resolutions of foreign courts**

459.0 Following resolutions of foreign courts not requiring enforcement by their nature shall be recognised in the Azerbaijan Republic:

459.0.1 resolutions concerning personal status of citizens of country court of which rendered decision;

459.0.2 resolutions concerning dissolution or acknowledgement as invalid of marriage between citizens of the Azerbaijan Republic and foreigners in the event one of the spouses has resided out of the boundaries of the Azerbaijan Republic at the moment of dissolution of marriage or acknowledgement of it as invalid;

459.0.3 resolutions concerning dissolution or acknowledgement as invalid of marriage between citizens of the Azerbaijan Republic in the event both spouses have resided out of the boundaries of the Azerbaijan Republic at the moment of dissolution of marriage or acknowledgement of it as invalid.

**Article 460. Delivery to other countries**

460.1 Delivery of correspondence to other countries shall be carried out in accordance with agreement on rendition of legal assistance, which the Azerbaijan Republic is a party to.

460.2 Delivery shall be confirmed by the body requesting rendition of legal assistance.

460.3 In the event delivery of correspondence is to be carried out in country not having agreement on rendition of legal assistance, information shall be sent with registered mail with condition of providing notification confirming its delivery. In this case, presentation of confirming statement of post office delivering letter conforming to international law shall suffice for the purposes of confirmation of delivery.

**Article 461. Right of appointment of representative**

461.1 Party having place of residence, place of location or office outside the boundaries of the Azerbaijan Republic and not having representative residing in the Azerbaijan Republic shall have the right to appoint an authorised representative in the Azerbaijan Republic.

461.2 Court shall explain via registered letter and within specified period to person specified in Article 461.1 of this Code his or his authorised representative's rights relating to their participation in court hearing.

461.3 In the event party has not appointed authorised representative within this period, then certified letter shall be considered delivered 1 month after giving the letter to post office even in the absence of notification of its delivery.

461.4 Parties shall be informed of circumstances and consequences that may occur relating to this Article.

**CHAPTER 47.**

Recognition and enforcement in the Azerbaijan Republic of resolutions of foreign courts and arbitration tribunals

## General Provisions

### **Article 462. Enforcement and recognition of resolutions of foreign court and arbitration tribunals**

Resolutions of courts and arbitration tribunals of foreign countries may be enforced and recognized in the Azerbaijan Republic in the event they are not contrary to legislation, legal order of the Azerbaijan Republic and where the reciprocity is provided.

### **Article 463. Basic provisions**

Resolutions of courts and arbitration tribunals of foreign countries shall be understood as resolutions in respect of civil cases and economic disputes, parts of verdicts in criminal cases relating to compensation of losses caused by a criminal action, resolutions of arbitration tribunals, as well as other acts of foreign countries.

### **Article 464. Court reviewing petition in respect of recognition and enforcement of resolutions of courts and arbitration tribunals of foreign countries**

The Supreme Court of the Azerbaijan Republic shall review petitions in respect of compulsory enforcement and recognition of resolutions of courts and arbitration tribunals of foreign countries.

### **Article 465. Refusal from compulsory execution and enforcement of resolutions of courts and arbitration tribunals of foreign countries**

465.1 Refusal from compulsory enforcement of court resolution shall be permitted in the following circumstances:

465.1.1 where review of case relates to exclusive jurisdiction of court of the Azerbaijan Republic;

465.1.2 where person participating in case has been deprived of possibility of participation in proceeding due to untimely delivery of notification of case hearing or due to delivery of notification of case hearing in improper manner;

465.1.3 where there is an entered into legal force judgment of courts of the Azerbaijan Republic between same parties, relating to same subject and based on same grounds or where courts of the Azerbaijan Republic had commenced, prior to commencement of case in courts of foreign countries, proceeding on case between same parties, relating to same subject and based on same grounds;

465.1.4 where judgment has not entered into legal force in accordance with legislation of the state where the judgment has been issued;

465.1.5 where enforcement of resolution is contrary to general principles of legislation of the Azerbaijan Republic or its sovereignty;

465.1.6 where mutual relations of foreign state are not secured.

465.2 Court shall suspend review of petition relating to compulsory enforcement and recognition of resolution in the event of commencement of proceeding in courts of the Azerbaijan Republic on case between same parties, relating to same subject, and based on same grounds. Court shall terminate proceeding in respect of case in the event of issuance

of decision on compulsory enforcement and recognition of resolution. Dispute shall be heard on merits in the event of rejections of petition.

#### CHAPTER 48.

##### Compulsory enforcement of resolutions of foreign courts

#### **Article 466. Application for compulsory enforcement of resolutions of foreign courts**

466.0 The following shall be appended to an application for compulsory enforcement of resolutions of foreign courts:

466.0.1 registered copy of a resolution of a foreign court confirming effect of the resolution, document certifying notification of a person against whom the resolution has been issued and who has failed to participate in court of time and place of hearing of the case;

466.0.2 certified translations of documents into Azeri language.

#### **Article 467. Consideration of application**

467.1 Application on recognition and enforcement of a resolution of foreign court shall be reviewed in course of an open court session with notification of persons participating in case of time and place of hearing.

467.2 Failure of a person participating in case to appear before the court shall not prevent the application from being considered, provided that the court has in its possession proof of submission of writ to a relevant person. Where a person participating in case appeals to court with request to adjourn consideration of application and where such a request is deemed by the court valid, court shall adjourn the hearing and shall notify debtor of time of a new session.

467.3 Where in course of hearing of the case court refuses to recognize and enforcement resolution of a foreign court, it shall verify availability or otherwise of circumstances specified by Article 465 of this Code.

467.4 Court shall issue a ruling on compulsory enforcement or otherwise of resolution of a foreign court.

#### **Article 468. Execution of ruling**

468.1 Resolution of a foreign court and execution writ dealing with settlement of procedures associated with compulsory execution of such resolution under the ruling of the Supreme Court of the Azerbaijan Republic shall be sent to place of execution of such resolution.

468.2 Authorities empowered under the legislation of the Azerbaijan Republic to execute a resolution shall perform actions on compulsory enforcement of a resolution of foreign court.

#### CHAPTER 49.

##### Recognition of resolution of foreign courts

#### **Article 469. General rules**



Resolutions of foreign courts not requiring any compulsory execution, shall, in the event of absence of any objections by interested persons, be recognized without any further proceeding.

**Article 470. Compulsory obligation to pass resolution on family cases**

470.1 Where a marriage is dissolved or declared void further to resolution of foreign court, such resolution shall require recognition of the Supreme Court of the Azerbaijan Republic for its execution. Such recognition shall not be dependent upon reciprocity of an opposite foreign state.

470.2 Recognition of a resolution shall not be required where both wife and husband have been citizens of a state whose authority has passed a relevant resolution.

**Article 471. Objection to recognition**

Person participating in case shall, within 1 month from the date of receiving information on receipt of a resolution of foreign court, have the right to apply to the Supreme Court of the Azerbaijan Republic with objection to recognition of such resolution.

**Article 472. Consideration of objection**

472.1 Objection of a person against recognition of resolution of foreign court shall be considered in an open session with notification of persons participating in case under the procedure specified by this Code.

472.2 Where the fact of submission of writ is know to the court, failure of a person participating in case to appear before the court for an invalid reason shall not prevent an objection from being considered.

472.3 Where a person appeals to court with request to adjourn consideration of objection and where such a request is deemed valid by the court, court shall adjourn the hearing and shall notify persons participating in case of time of a new session.

472.4 Court shall issue a ruling on consideration of objection to recognition of a resolution of foreign court.

**Article 473. Refusal to recognise resolution of foreign court**

473.1 Refusal to recognize a resolution of foreign court not being subject to compulsory execution shall be permitted in cases specified by Article 465 of this Code.

473.2 Copy of ruling shall within 3 days from the date of its issue be sent to person who has applied for issue of the resolution or a representative thereof, as well as to a person who has raised objection against recognition of resolution.

**CHAPTER 50.**

Enforcement and recognition of foreign arbitral awards

**Article 474. General rules**

Rules of this section shall also apply to resolutions on enforcement or recognition of foreign arbitral award.

**Article 475. Application for enforcement or recognition of foreign arbitral award**

Legal entity or physical person referring to enforcement and recognition of a foreign arbitral award shall submit original of such resolution or a certified copy thereof, as well as an original of arbitration agreement or copy thereof. Where an arbitration decision or an agreement is in a foreign language, parties shall submit certified Azeri translations of said documents.

**Article 476. Refusal from compulsory enforcement of foreign arbitral award**

476.0 Refusal from compulsory enforcement of a foreign arbitral award shall be permitted under the following circumstances:

476.0.1 where the following evidence have been submitted to the court reviewing application on compulsory enforcement or recognition of a foreign arbitral award made against a person participating in case:

476.0.1.1 where any of the parties was, to any extent, lacking action capacity, or where, in accordance with laws governing upon the parties, in case of absence of any relevant contractual provision, award has been deemed to be invalid under the laws of jurisdiction where the award was issued;

476.0.1.2 where a person against whom an award is issued has not been duly notified of time of hearing or has, for some different reasons, failed to submit his statements;

476.0.1.3 where an award is issued with respect to a dispute not provided for in arbitration agreement or to a dispute which does not correspond to the provisions of such an agreement, or contains items on matters going beyond the frame of arbitration agreement; provided however that where matters covered by arbitration agreement can be separated of matters not covered by such agreement, items of arbitration resolution dealing with such covered matters can be recognized and proceeded with execution;

476.0.1.4 composition of arbitration panel or arbitration rules and absence of the same do not, respectively, correspond to the agreement of the parties and laws of place of arbitration;

476.0.1.5 where an award is not yet compulsory for the parties or has not yet been cancelled, or has been cancelled or suspended under the laws of a state under which laws such an award has been issued.

476.0.2 where it is determined by court reviewing application for enforcement and recognition of foreign arbitral award that under the laws of the Azerbaijan Republic subject matter of the dispute cannot be submitted to arbitration or that enforcement of arbitration resolution violates sovereignty of the Azerbaijan Republic and main principles of laws thereof.

**Article 477. Arbitral award**

It shall be permitted to apply rules of this Code to enforcement and recognition of foreign arbitral awards. Furthermore, provisions of the New York Convention of June 10 1958 On Enforcement and Recognition of Foreign Arbitration Awards shall apply.

Appendix to Civil Procedural Code of the Azerbaijan Republic

Restoration of lost court or execution proceeding

1. Full or partial restoration of lost court proceeding or execution proceeding on civil case, which has been finalised through issue of resolution or has been terminated, shall be carried out by court in accordance with rules of this Appendix.

2. Case on restoration of lost court or execution proceeding shall be initiated upon application of persons participating in case.

3. Application on restoration of court proceeding shall be filed with the court passing a resolution on the essence of the dispute or issuing a ruling termination of proceeding on case. Application on restoration of lost execution proceeding shall be filed with the court at place of execution.

4. Application shall show restoration of which proceeding applicant requests, whether a court passed a resolution in essence or rendered a ruling on termination of proceeding, procedural status of the applicant, address or place of residence of the applicant, information on facts of loss of proceeding, information on copies of proceeding documentation and their location, document which restoration is deemed by the applicant necessary, purpose of restoration of documentation. Documents and copies available and pertinent to the case shall be attached to application, even if said documents and copies are not duly certified.

5. No state duty shall be payable by the applicant on application for restoration of lost proceeding.

6. Where application for restoration of lost proceeding fails to refer to the purpose of application, court shall leave application without action and shall grant time for expressing such necessary facts in the application.

Where restoration of lost proceeding is not related to protection of rights and protected by law interests of the applicant, court shall either refuse to initiate a case on restoration of proceeding or, where a case has been initiated, shall by a motivated ruling leave such case without consideration.

7. Court proceeding, lost before examination in essence, shall not be subject to restoration in accordance with rules of this Appendix. In such case claimant shall have the right to bring a new claim. Such circumstances shall necessarily be indicated in court ruling on initiation of case upon a new claim from loss of court proceeding.

8. In course of review of the case, court shall use remains of the proceeding, documents issued to individuals and organisations prior to loss of the case, copies of such documents, notes and documents pertinent to the case.

Court shall have the right to interrogate persons who participated in course of procedural actions, and, where necessary, members of a court board which has considered the lost case, as well as persons who have executed resolution of the court as witnesses.

9. Court resolution or ruling on termination of proceeding, if applicable shall be subject

to immediate execution.

10. Court resolution on restoration of lost court proceeding or a ruling on termination of case proceeding shall refer to part of act which shall be deemed to established in accordance with information provided to court and examined in court session with participation of participants of the lost proceeding.

In motivating part of resolution on restoration of lost proceeding court shall also refer to court opinion in respect of proof of evidence examined by court and procedural actions performed in connection with lost proceeding.

11. Where collected materials are not sufficient for full restoration of court act on lost proceeding, court shall terminate the proceeding and shall explain to persons participating in case their right to bring a claim under the rules of general application.

12. Review of application on restoration of court act on lost proceeding shall not be limited by time of its retaining.

However, where an application for restoration of lost proceeding is file with the purpose of execution of court act, court shall terminate proceeding on application, provided that term for submission of writ of execution for compulsory execution and such term has not been restored by the court.

13. Lost execution proceeding shall be restored if decision has been proceeded with execution.

Act on execution of court resolution shall be restored through court resolution making reference to the essence of actions of a court executor with respect to the provisions of the act and actual performance of such executor.

14. Where in course of loss of execution proceeding and prior to execution of resolution it is possible to issue a copy of an execution writ (duplicate), court shall, through a motivated ruling, refuse to initiate a case on restoration of lost execution proceeding.

15. It shall be permitted to file appeals from court acts issued with respect to applications on restoration of lost proceeding.

16. Court expenses incurred with respect to restoration of lost proceeding shall be recovered from an applicant filing a deliberately false application.