

**100/1931 Coll.
Act
of 19 June 1931
on the basic provisions of non-contentious proceedings**

The National Assembly of the Czechoslovak Republic resolved on this Act:

Part One

**§ 1
Scope of applicability of the Act**

(1) Provisions of this Act shall only apply if it shall be proceeded in non-contentious proceedings based on legal regulations.

(2) The provisions of special legal regulations on matters covered by this Act shall not lose their effectiveness.

[tags: applicability of the Act]

Part Two

**Chapter One
On subject matters of non-contentious proceedings**

Courts

**§ 2
Jurisdiction**

(1) Jurisdiction on subject matters of non-contentious proceedings pertains to ordinary courts exclusively.

(2) Unless the jurisdiction of courts is established otherwise, the district court in whose district is the general court having jurisdiction in disputes concerning the person against whom the application for commencement of proceedings is filed or, if there are several such persons, one of them, shall have the jurisdiction in the first instance. If there are no such persons or if the proceedings takes place ex officio, the jurisdiction pertains to district court in whose district is the general court having jurisdiction over the person in whose interest the proceedings takes place.

(3) If under provisions of the preceding paragraph, several courts have jurisdiction, the jurisdiction pertains to the first court to take action.

[tags: jurisdiction, district court]

§ 3

Composition of collegiate courts

(1) Matters of the non-contentious proceedings hold by regional courts, if they decide in the first instance, shall pertain to the member of the court nominated in the yearly work schedule as to single judge, unless it is specifically provided that the jurisdiction in non-contentious proceedings is reserved to the senate.

(2) In the second and the third instance the decision always pertains to senates.

(3) Matters reserved to the senate shall be prepared by the judge-rapporteur. Unless stipulated otherwise by special legal regulations, the individual actions and oral hearings are held by the judge-rapporteur only.

[tags: composition of court]

§ 4

General provisions on courts

Provisions on instance order of courts, on establishment of a general court, and how long jurisdiction lasts, on exceptional establishment of jurisdiction by the Supreme Court, on limitation of jurisdiction to judicial district, on exclusion of domestic jurisdiction over extraterritorial persons, foreign consuls, and persons of equal status, on review of jurisdiction, on legal aid, on jurisdictional disputes between domestic courts and between these courts and foreign authorities, on delegation, on exclusion and refusal of judges and other judicial bodies, on debate and voting, on judicial office and executive bodies are set out in the Act on the Exercise of Judicial Power and on the Jurisdiction of Ordinary Courts in Civil Legal Matters (Jurisdictional Regulation).

[tags: application of other acts]

§ 5

Ancillary judicial bodies

Which acts of non-contentious proceedings may be transferred to notaries public, judicial office, or other ancillary bodies is established by special laws.

[tags: jurisdiction, ancillary judicial bodies, notary, judicial office]

Parties

§ 6

Who is the party

The party of the non-contentious proceedings is a subject who may be directly affected by the court's decision in his/her rights or who has legal interest in the court making a decision.

[tags: a party]

§ 7

Eligibility to act at court

(1) As a rule, only persons having full legal capacity are eligible to act independently at court in non-contentious proceedings.

(2) If the person lacks legal capacity, he/she shall be usually represented by legal representative. Cases when they can make statements or proposals themselves, or file appeals, is established by special laws.

[tags: a party, legal capacity, procedural capacity]

Proxies

§ 8

Eligibility to act as a proxy

(1) The parties may act alone or through a proxy. Provisions on admissibility of lawyers and notaries public to act as proxies in non-contentious proceedings is established in the Bar and Notary Code.

(2) If the party is not able to express its position clearly, the court may order him/her to appoint a proxy.

[tags:a party, a proxy]

§ 9

Power of attorney

(1) In occasion of the first act at the court, the power of attorney shall be proved by a document or declared orally into the protocol. The scope, effect, and duration of such power of attorney are governed by the content of the power of attorney and civil law.

(2) If the proxy is not able to express or act in a comprehensible manner, the party shall be ordered to act alone or appoint another proxy, depending on the circumstances of the legal representative.

(3) Although the parties are represented by proxies, they may be asked to appear at court in person.

[tags: a party, a proxy, power of attorney]

Interpreter

§ 10

If under a special provision an interpreter who is still not appointed is to be invited to the hearing, there is no need to take him/her under oath, unless the parties so request.

[tags: an interpreter]

Chapter Two

On costs of non-contentious proceedings and rights of the poor

§ 11

a) If proceedings is conditioned by an application

(1) If filing a proposal is condition for commencement of the proceedings, proceedings costs shall be borne by the party in whose interest the proceedings is held. The applicant may be ordered to pay adequate advance payment; if he/she fails to do so, the application may be omitted.

b) In all other cases

(2) In all other cases if the costs are to be covered in advance and if these are not personal expenditures ((3(2))), such costs shall be paid by the State. If the result of the proceedings is vain, the costs shall be borne by the State; otherwise these shall be borne by the parties. However, the court may order to pay such costs in full or in part to a subject, who filed an application for the proceedings, if he/she was or should have been aware, that such application is not justified.

What are the costs

(3) The costs in the meaning of (1) and (2) include:

1. special costs incurred by the court by carrying out all or part of the proceedings, such as travel expenses, cash expenses, and allowances of judicial bodies, witness

allowances, expert fees, delivery fees, advertising and postage fees, costs of establishing a guardian or joint representative,

2. personal expenses of the parties, i.e., travel expenses and compensation for loss of time if it was necessary for the party to appear at the court in person. Except in the case referred to in (5), the represented party shall not be entitled to reimbursement of costs of legal representation.

If there are more obligated subjects

(4) If pursuant to provisions of (1) and (2) there are several persons obligated to pay the costs, they shall bear them jointly and severally. However, costs arising from individual acts done in the interest of only one party shall be borne by such party. The court may also determine the reimbursement obligation differently, taking into account different interests of individual parties.

Obligation to reimburse costs caused

(5) Based on an application the court may order to a party to reimburse the full or part of proceedings costs incurred to the other party clearly without cause or caused by gross negligence, including legal representation costs. Such application shall be filed within 15 days as of the day when the party was notified of the termination of the proceedings.

Obligation of legal representatives, lawyers, and other proxies to reimburse costs

(6) The court may, based on an application or ex officio, order legal representatives, lawyers, and other proxies to bear or reimburse costs they have caused through gross negligence. This applies in particular to the costs caused by unnecessary lengthiness in files or by inclusion of data apparently not belonging to the case into the files. Before taking the decision, either the representative or the proxy concerned shall be heard. If the resolution is not included in the decision in the main subject matter, it shall be delivered separately. When this resolution comes into force, it is enforceable against the property of such persons.

Court's obligation to reimburse the costs

(7) The provisions of the Adversary Procedure Act shall apply mutatis mutandis to cases when the court whose decision has been annulled by a higher instance may be ordered to reimburse the costs.

[tags: costs of proceedings, reimbursement of costs of proceedings]

§ 12

Right of the poor

A party enjoying the rights of the poor does not have the right to request the appointment of a representative of the poor, however it may file applications, make proposals, or make oral statements into the protocol also at the collegiate court and, if the case is heard in a court other than party's court of residence or stay, also at the district court of party's residence or stay.

[tags: a party, rights of the poor]

Chapter Three

Parties' communication with the court

§ 13

Requests and applications

The parties not represented by a legal representative may file requests and applications at district courts in writing or orally into the protocol, at collegiate courts usually in writing and, only in simple matters, also orally into the protocol.

[tags: form of requests and applications]

§ 14

Written submissions

(1) Written submissions shall meet general appurtenances of a submission in adversary procedure. Provisions applicable for submissions by telegraph in adversary procedure shall also apply for non-contentious proceedings.

(2) Provisions on general appurtenances of submission shall apply mutatis mutandis also to appurtenances of protocol replacing a submission.

[tags: form of requests and applications, document in writing]

§ 15

Submission with offensive content

(1) The court may impose a disciplinary punishment to persons who insult the court, parties, proxies, witnesses, informants, or experts in their submissions, namely in accordance with the provisions of the Adversary Procedure Act.

(2) For the same reasons, a disciplinary punishment may also be imposed on the lawyer who signed the submission.

[tags: a party, a proxy, a witness, a court, document in writing, an insult, disciplinary punishment]

Chapter Four

Procedure in the first instance

§ 16

How it is initiated

Unless the law establishes the need of party's application, or unless such need results from the nature of the subject matter, the court shall initiate the proceedings ex officio.

[tags: initiation of non-contentious proceedings]

§ 17

Particular obligations of the court

The court shall provide advice and guidance to party not represented by a legal representative. Unless stipulated otherwise, submissions made incorrectly by such party shall not be refused due to lack of appurtenances until the moment when advice is provided to the party as well as possibility to amend the submission pursuant to law. Care shall also be taken, so that the parties are not harmed by unnecessary doubts or technicalities. In the case of persons under special legal protection, care shall be taken to avoid their harm through the fault of legal representatives.

[tags: a party, a legal representative, a court, obligations of a court]

§ 18

Hearing of parties

(1) Oral hearings are held only when specifically required by law.
(2) All parties shall be given the opportunity to comment on the matter, usually orally. If the case is simple or if the cost of appearing before the court would be disproportionate, the court may notify the party of the state of the subject matter in writing and invite him/her to comment either into the protocol or in writing within certain time limit.

[tags: a party, a hearing, an oral hearing]

§ 19

Servings

(1) The resolution shall only be served to the party or its proxy if required by law, if the originals of important documents are delivered, or if the court orders it for important reasons.

(2) If the delivery shall be made in form of public decree pursuant to the Adversary Procedure Act, in the case connected costs would be disproportionate, it can be replaced by decree in the municipality. Unless stipulated otherwise by the law, the place and method of decree shall be decided by the court.

[tags: serving]

§ 20

Urgent matters

In the case of risk of default, the court shall resolve urgent matters also on Sundays, public holidays, or memorial days.

[tags: urgent matters, court vacation]

§ 21

Court vacation

(1) Court vacations shall have no effect on the following matters of non-contentious proceedings:

1. matters of lands, mines, and railways registers,
2. matters of commercial, association, and shipping registers,
3. guardianship and custody matters,
4. proceedings on deprivation of legal capacity,
5. proceedings on extinction of deeds,
6. proceedings on applications for the establishment of necessary road and for the adjustment of borders,
7. certification acts.

(2) The head of the court or the chairman of the senate whom the case is assigned shall, based on an application or ex officio, declare as a “holiday matter” also other cases of non-contentious proceedings requiring expeditious resolution to avoid harm to the parties concerned, or if public or judicial services interests so require.

(3) There is no right of appeal against the resolution of the head of the court (chairman of the senate).

[tags: court vacation]

§ 22

No public hearing

The hearings are not public. However, each party may bring a maximum of 2 people to the hearing as confidants. Persons known to the court as criminals cannot be taken as confidants. There is no right of separate appeal against the decision of the court on inadmissibility of such person as confidant.

[tags: a hearing, non-publicness of a hearing]

§ 23

Investigation activities of the court

The court is obliged to investigate ex officio all the circumstances and facts relevant to the decision. Hence it shall hear all parties, as well as other persons as needed, request an explanation from authorities, and is entitled to use all the ancillary means under the Adversary Procedure Act. By doing it, the court is not limited to the facts stated by the parties.

[tags: activity of a judge, investigation activities]

§ 24

Obligations of the court by legal acts

(1) The court is obliged to ensure that no legal acts are done without such persons whose hearing or permission is required for its validity.

(2) If the court draws up an agreement between the parties, if allowed at all, it should advise the parties about the meaning and legal consequences of the act; it is also obliged to make sure of the true will of the parties.

[tags: a party, a court, obligations of a court]

§ 25

Predetermining issues

(1) If the decision of the judge within the non-contentious proceedings is dependent on previous establishment of right or legal status, these may be established within non-contentious proceedings, nonetheless such right or legal status is subject to dispute between the parties, however only with effects for this proceedings.

(2) If the decision on predetermining issue pursuant to (1) is dependent on matter being subject of a dispute, the court may, based on an application or ex officio, refer the parties to adversary procedure or, based on the nature of the matter, to administrative proceedings; until the time such issue is settled, the court may take

such measures that are necessary to protect public interest or to secure the parties or purpose of the proceedings.

[tags: predetermining issues, a party, a court]

§ 26

Inactivity of the parties

It cannot be established that certain facts will be considered true as a result of party's failure to appear. However, if the party is invited to comment on certain proposal, it may be added that if the party does not comment within a certain time limit, he/she will be deemed to have agreed to the proposal. If the party is invited to make further proposal necessary to close the case, it may be added that, if the party does not make such proposal within a certain time limit, he/she will be deemed to have agreed to staying of the proceedings.

[tags: a party, inactivity of a party]

§ 27

Obligation to appear in person

(1) The parties residing in the district of another court may be summoned by the court to appear in person only if it can speed up the proceedings and if the party can appear without significant inconvenience and disproportionate costs.

(2) Persons who disobey the summon to appear in the court may be compelled to do so in accordance with the provisions laid down for the enforcement of witnesses in the Adversary Procedure Act. Bringing anyone before the court may only apply in necessary cases and only through bailiff.

[tags: a party, obligatory personal appearance before court]

§ 28

Witnesses and informants

(1) The examination of witnesses and experts is usually held without an oath, unless the judge would consider it necessary to take the person interrogated under oath in order to establish the truth.

(2) Persons examined to contribute with their testimony to the assessment of the necessity or appropriateness of the proposed or intended measure (informants), shall be cautioned to testify to the best of their knowledge and conscience. Only witnesses can be examined about past facts that are the subject of evidence. The provisions on inadmissibility and refusal of testimony shall apply *mutatis mutandis* to the examination of informants.

(3) Informants have the same right to witness allowance as witnesses if they are examined at court.

Document authenticity

(4) If the authenticity of a private document is to be established, the court may order that the signatures on it be verified by a court or notary public. Appurtenances necessary to authenticate documents issued abroad are established in special regulations. In the absence of such regulations, authentication by the competent embassy of the Czechoslovak Republic or, if special circumstances so require, by the Ministry of Foreign Affairs is sufficient to prove the authenticity of a document issued by a foreign court, authority, or person having public trust.

Evidence by examination of the parties

(5) Evidence by examination of the parties is admissible only if the court cannot establish reliable basis for its decision by other means. Examination shall proceed pursuant the provision of (1).

[tags: evidence, examination of evidence, a witness, a document, a party]

§ 29

Time limits for closing the proceedings

If the court is obliged to insist on closing of the case, it will set a reasonable time limit for the parties to comply with the order issued, and if such time limit passes in vain, it shall use legal coercion measures.

[tags: closing of proceedings]

§ 30

Protocol

(1) A protocol shall be drawn up on the procedure in the non-contentious proceedings to be signed by the parties. Other persons examined orally shall confirm the correctness of the protocol regarding their hearing by signature. If a party or other person interviewed withdraws before the protocol was drawn up or if he/she refuses to sign the protocol, this fact shall be recorded in the protocol or its addendum, together with the reasons provided. Judicial rules of procedure shall establish cases, when the record is sufficient.

(2) Apart to the place and time of the the hearing, and the persons present, the protocol shall include brief but concise description of the content of hearing and evidences given, as well as description of the procedure and proposals made and not

recalled before the decision, and finally, final decision of the court delivered orally as well as advice on remedies.

(3) The protocol may be drawn up by the judge himself/herself or by a sworn recorder.

[tags: a protocol, a party]

§ 31

Decision

(1) In its decision, the court shall evaluate results of evidences presented at its discretion. The court shall ensure that its decision complies with limits of legal regulations as well as the legitimate interests of the parties.

(2) If an obligation is imposed on the parties, a reasonable time limit shall also be established for them to comply.

(3) The decision shall become a resolution and, if possible, it shall be delivered to the parties present orally and, in addition, in writing, if the parties so request, or if they have a right to appeal against the resolution, or the enforcement right based on it.

(4) Absent parties shall be served with the resolution not only in the cases referred to in (3), but also whenever the conduct of the proceedings so requires.

(5) The resolution shall take effect against the parties as of the date of delivery, but if it is not to be delivered in writing, as of the date of the oral delivery.

(6) If the parties are not represented by a legal representative, they shall always be advised whether an appeal can be filed, in which time limit, and with which court. The oral advice shall be recorded in the protocol and, if the resolution is delivered in writing, it shall be included into the resolution deed. If no advice was provided or if it has been incorrect, the resolution may not take effect against the party who has not been properly advised of the appeal before elapse of 90 days as of the date of delivery.

[tags: a court, a party, a legal representative, evaluation of evidence, discretion of court, a decision, a resolution, serving, an appeal, effectiveness of a resolution]

§ 32

Binding nature of the decision

(1) The court is bound by its resolution.

(2) However, the court may change the resolution it has made in the care of persons under special legal protection, if it is established subsequently, that such decision was incorrect or inappropriate, however, only if no third persons acquired any rights based on it.

[tags: a court, a resolution, binding force of a resolution]

§ 33

Legal power

(1) A decision against which no appeal is allowed, shall have legal effect against the parties.

(2) Special legal regulation provides cases, when the party may proceed based on law despite it.

[tags: a decision, an appeal, effectiveness of a decision]

§ 34

Application of Adversary Procedure Act

Unless otherwise provided in this Act, the provisions of the Adversary Procedure Act shall apply mutatis mutandis in non-contentious proceedings with regard to parties, proxies, right of the poor, proceedings, oral hearings, evidences, resolutions, and restitution.

[tags: application of other acts, Adversary Procedure Act, adversary proceedings]

Chapter Five Remedies

§ 35

When an appeal is allowed

(1) An appeal is admissible against resolutions in non-contentious proceedings, unless it is precluded by an express statutory provision.

(2) The parties may file an appeal against the resolution against which a separate appeal is not admissible, to be filed against the nearest resolution, against which an appeal may be filed separately.

[tags: an appeal, a resolution]

§ 36

Time Limit

(1) The time limit for filing an appeal is 15 days and it cannot be extended.

(2) However, it is also possible to file an appeal even after expiration of such time limit, if no third persons acquired any rights based on the resolutions, namely from the following reasons:

a) that the decision was made by disqualified judge, or
b) that the party was not represented in the proceedings at all, or, if he/she requires legal representative and he/she was not represented by such representative, unless the proceedings was subsequently approved.

(3) The provisions of the preceding paragraph shall not apply if the ground for exclusion or lack of legal representation has already been raised without success in the proceedings.

(4) In addition, appeal may be filed after the expiry of the time limit laid down in (1) in proceedings for the care of persons under special legal protection, unless any third parties have acquired rights based on the resolution. Special laws establish in which other matters of non-contentious proceedings an appeal may be filed after the expiration of the time limit.

[tags: an appeal, a time limit for filing an appeal]

§ 37

Who is entitled to file an appeal

The party considering himself/herself harmed by the resolution may file an appeal. If the resolution can only be made based on an application of a certain party, and if the application has been rejected, only the applicant is entitled to file an appeal. Special laws establish when the closest relatives, certain public corporations or associations recognized by law have the right to file an appeal.

[tags: an appeal, a party, entitlement to file an appeal]

§ 38

Where an appeal is to be filed

(1) Appeals shall be filed with the first instance courts. Appeals filed with the higher instance courts shall be immediately assigned ex officio to the first instance courts. The day of filing is considered to be the day when the appeal reached the first instance court.

(2) An appeal may also be filed orally into the protocol. There is no need for signature of the lawyer.

[tags: an appeal, jurisdiction]

§ 39

Resolution of the appeal by the first instance court:

a) by refusing it

(1) The first instance court with which the appeal was filed, shall refuse it by a resolution, if the appeal is filed late, or if it is filed against the resolution, against which the appeal is excluded by the law.

b) by granting it

(2) The first instance court may grant the appeal itself, if its resolution may be changed without detriment to any third person rights. If the original resolution is changed in such way, a copy of the new resolution shall be delivered to the parties. The parties are entitled to file a complaint against such changed resolution.

c) by submitting it to a higher court

(3) Otherwise, the first instance court shall submit the appeal immediately to a higher court including all files and necessary explanation.

[tags: an appeal, resolution of the filed appeal]

§ 40

Appeal content

- (1) The appeal may include new facts and reasons.
- (2) The appeal may be filled due to nullity or other reasons.

[tags: an appeal, content of an appeal]

§ 41

Nullity reasons

- (1) There are general and special reasons for nullity.
- (2) General reasons for nullity include:
 - a) that a judge participated on decision who was disqualified by law from exercising office in the case or by a judge whose refusal was found justified by the court,
 - b) that the court was not properly staffed,
 - c) that a decision has been taken on a matter for the administrative authorities to decide,
 - d) that by law the matter should have been decided by adversary procedure,
 - e) that the court did not take into account that another proceedings has already been initiated on the same matter, or that the case had already been validly decided,
 - f) that the party was not qualified to act, that he/she was not represented at all in the proceedings, or, if he/she needs a legal representative, that he/she was not represented by such representative, or that the representative did not have the special authorization needed, unless the proceedings were subsequently duly approved,
 - g) that the principle of the need to hear the parties before a decision has been infringed,
 - h) that the decision contradicts itself or is so insufficient that it cannot be safely reviewed.
- (3) The special reasons for nullity arise from violating such provisions of special laws that are to be followed under threat of nullity.
- (4) Nullity reasons shall be considered ex officio.

[tags: an appeal, content of an appeal, grounds for an appeal]

§ 42

Other grounds for an appeal

Other grounds for appeal may include, in particular, lack of jurisdiction, incompleteness of the proceedings or decisions, illegality, inconsistency with the files, defective evaluation of proceedings results, incorrect legal assessment, and disproportionate or unsuitable decision.

[tags: an appeal, content of an appeal, grounds for an appeal]

§ 43

Decision of the court of appeal

(1) The court of appeal shall amend the proceedings if needed, shall decide on the appeal in writing by a resolution including its reasoning, usually in merits.

(2) If it establishes any reason for nullity, it shall set aside the first instance court's decision, and shall make further measures based on nature of the nullity.

(3) If the court of appeal set the first instance court resolution aside, and if it is necessary to decide in the merits again, it may order to the first instance court to make such new resolution, amending the proceedings if needed.

(4) Decision of the court of appeal may be more unfavorable to the appellant than the contested resolution, unless it would represent breach of such provisions application of which cannot be validly waived, or in cases of such illegality that would cause harm to persons requiring special care.

[tags: an appeal, an appellate court, resolution of an appellate court]

§ 44

(1) The decision on the appeal shall be delivered to the parties.

(2) The first instance court is bound by the legal opinion of the court of appeal.

[tags: an appeal, an appellate court, resolution of an appellate court, serving, binding force of a resolution of an appellate court]

§ 45

Measures of the first instance court against the decision on the appeal

If the first instance court considers that the decision of the second instance court causes irreparable harm to persons under special protection of the law, it may withhold the delivery of the resolution and submit the matter for decision to the Supreme Court.

[tags: an appeal, an appellate court, the Supreme Court, resolution of an appellate court, binding force of a resolution of an appellate court]

§ 46

Appellate review

(1) If the higher court changed or set aside the first instance court resolution, appellate review may be filed with the Supreme Court based on same reasons for the appeal to the second instance court. However, no appellate reviews are admissible against the second instance court decision on issue of costs of proceedings or expert fees.

(2) If the higher court confirmed the first instance court resolution, the appellate review may be filed with the Supreme Court only based on illegality, apparent inconsistency with the files, or nullity.

(3) Otherwise provision on appeal above shall apply.

[tags: an appeal, an appellate court, the Supreme Court, resolution of an appellate court, an appellate review]

§ 47

Penalty for arbitrariness

If the Supreme Court establishes that the appellate review against the second instance court decision was filed arbitrarily or only to delay the case, either the appellant or, as the case may be, his/her legal representative, shall be imposed a penalty for arbitrariness under the provisions of the Adversary Procedure Act applicable to appeal proceedings.

[tags: the Supreme Court, an appellate review, arbitrariness, penalty for arbitrariness]

§ 48

General rules for corrective proceedings

Unless stipulated otherwise in this Chapter, provision of Chapter Four shall apply also for corrective proceedings.

[tags: corrective proceedings]

§ 49

Reopening of proceedings

Proceedings may be reopened similarly for reasons and under conditions under which it would be possible to demand reopening in accordance with the provisions of the Adversary Procedure Act, if no third persons acquired any rights.

[tags: reopening of proceedings]

Chapter Six

Enforcement of the resolution

§ 50

(1) Resolutions issued in non-contentious proceedings may be enforced before they become final, unless it is excluded by special laws, or unless the court considers it appropriate to await its finality. However, resolutions on the obligation to reimburse costs pursuant to § 11 can only be enforced after they have become final.

(2) The appeal shall have suspensive effect, however the court against whose resolution an appeal is filed, may order immediate enforcement or necessary precautionary measures if there is a risk of default for interests of the parties, or if the public interest is to be protected. It shall do so based on an application or, in the case of the exercise of care of persons under special legal protection, ex officio.

(3) Also the court of appeal may order appropriate precautionary measures before deciding on the appeal itself.

(4) There is no appeal against resolutions ordering enforcement or precautionary measures.

(5) The suspensive effect of the appeal is precluded in the case of measures to maintain order.

(6) Against parties who do not comply with the court's decision, coercive measures according to the Enforcement Code or other appropriate means shall be used based on an application, and if the proceedings take place ex officio, even without an application. Means that are most appropriate based on the nature of the matter shall apply. Depending on circumstances, the court may order enforcement ex officio or appoint a guardian to make the necessary applications or perform the necessary acts. The provisions of the Enforcement Code shall apply to the expenses of the enforcement proceedings.

(7) The provisions of (6) do not affect the possibility of enforcement according to the general principles of enforcement laws.

[tags: enforcement of a resolution, suspension of enforcement, precautionary measures, coercive measures]

Chapter Seven

Files

§ 51

With the exception of minutes from meetings and voting of judges, the parties may inspect the files relating to their case and may, at their own expense, obtain copies or extracts thereof. With the consent of the parties, third parties may also inspect the files and request copies. If the parties have not granted their consent, the chairman of the court may allow a third party to do so only if he/she has proved legal or scientific interest.

[tags: files of the case, inspecting files, a party]

Chapter Eight

Imposing monetary penalties and fines

§ 52

Monetary penalties and fines imposed in the non-contentious proceedings belong to the State.

[tags: monetary penalties, fines]

Part Three

Final provisions

§ 53

(1) The provisions of §§ 1 – 19 of the Act of 9 August 1854, No. 208 of the Imperial Code, on court proceedings in uncontested legal matters, are hereby abolished. If any laws and regulations refer to these regulations, similar provisions of this Act shall apply instead.

(2) In Slovakia and Carpathian Ruthenia, this Act shall apply where the law requires the court to act in non-contentious proceedings. However, the regulations regulating special cases of non-contentious proceedings in these regions shall remain untouched.

[tags: abolishment of provisions, Slovakia, Carpathian Ruthenia]

§ 54

(1) The provisions of other legal regulations on remonstrance in non-contentious proceedings are hereby abolished.

(2) The time period of 14 days for filing an appeal established by special laws shall be replaced by time period of 15 days.

[tags: abolishment of provisions, time limit for filing an appeal]

§ 55

In Slovakia and Carpathian Ruthenia the adversary procedure shall be replaced by the non-contentious proceedings in cases regarding extension of infancy or annulment of such extension pursuant to §§ 702 – 717 of Art. I/1911, on civil court proceedings, on status under guardianship, and its annulment according to §§ 718 – 729 of Art. I/1911. The district court, which is the guardianship (custody) court, has jurisdiction in these matters. Provisions of Art. I/1911 non connected with the nature of adversary procedure still applicable, shall remain untouched.

[tags: Slovakia, Carpathian Ruthenia, non-contentious proceedings, adversary proceedings, extension of infancy, guardianship, custody]

§ 56

- (1) As of the day when this Act enters into force, the ordinary courts in Slovakia and Carpathian Ruthenia shall also have jurisdiction in matters that belong, pursuant to provision of the Act of 13 July 1922, No. 246 Coll. of Laws and Regulations, on the provisional regulation of guardianship and custody agenda in Slovakia and Carpathian Ruthenia, to jurisdiction of guardianship (orphan) authorities.
- (2) This justice will be applied by district courts as the first instance courts, regional courts as the second instance courts, and the Supreme Court as the third instance court.
- (3) Jurisdiction until now pertaining to the second instance authorities, except of the appeal proceedings in guardianship (orphan) matters, shall pass to the regional courts.
- (4) Jurisdiction of the third instance guardianship (orphan) authority pursuant to § 6 of the Act of 20 December 1922, No. 391 Coll. of Laws and Regulations, amending certain provision on guardianship and custody, shall pass to the High Courts. Decision on assignment of guardianship (custody) matter from the district of one High Court to another pertains to the Supreme Court.
- (5) Jurisdiction in guardianship and custody matters reserved to the Minister of Interior pursuant to Art. XX/1877, on regulation of guardianship and custody matters, as subsequently amended, pertains to the Minister of Justice.

[tags: Slovakia, Carpathian Ruthenia, jurisdiction, guardianship, custody]

§ 57

- (1) Courts executing jurisdiction pursuant to § 56 shall proceed with non-contentious proceedings.
- (2) Conceptual officials appointed at guardianship (orphan) bodies and not having capacity to serve as judges (§ 36 of the Government Decree of 9 November 1922, No. 326 Coll. of Laws and Regulations, on implementation of the Act on Provisional Regulation of Guardianship and Custody Agenda in Slovakia and Carpathian Ruthenia), will be assigned to the district courts, to which guardianship and custody matters are passed under this Act, and may be entrusted with the independent resolution of guardianship and custody matters under the Act of 27 March 1931, No. 57 Coll. of Laws and Regulations, on the use of higher ancillary judicial service official at courts and guardianship (orphan) authorities.
- (3) Provisions of § 171 (1 – 5), §§ 174 – 200, 204, 212 – 218 of the Art. XX/1877, and provisions of § 730 and 731 of the Art. I/1911 are hereby abolished. At the same time, also the Act No. 246/1922 Coll. of Laws and Regulations together with the Government Decree No. 326/1922 Coll. of Laws and Regulations and the provision of §§ 2 – 4 of the Act No. 391/1922 Coll. of Laws and Regulations, amending certain provision on guardianship and custody, are also abolished. Accounting and cash services for orphans' coffers, if they have not been liquidated according to § 9 of the

Act No. 391/1922 Coll. of Laws and Regulations and the Government Decree of 15 December 1925, No. 261 Coll. of Laws and Regulations, on the liquidation of orphan's coffers in Slovakia and Carpathian Ruthenia, will be provided by tax offices and accounting departments of financial directorates until the new regulation.

(4) Decision on association of several municipalities to appoint a joint public guardian, establishment of his/her seat, and determination of the ratio in which the individual associated municipalities shall contribute to the costs pursuant to § 173 of the Art. XX/1877, pertains to the district office.

(5) Tasks of a public guardian according to § 170 of the Art. XX/1877 may be transferred to another appropriate public authority or youth care association. More detailed provisions will be established by a Government Decree.

(6) The Government shall regulate the existing co-operation of municipalities in matters of guardianship and custody pursuant to the Art. XX/1877, as subsequently amended, by a Government Decree, taking into account the organization pursuant to the provision of § 56 of this Act.

[tags: Slovakia, Carpathian Ruthenia, abolishment of provisions, guardianship, custody]

§ 58

(1) The provisions of § 117 of the Act of 1 August 1895, No. 111 of the Imperial Code, on the Exercise of Judicial Power and on the Jurisdiction of Ordinary Courts in Civil Legal Matters (Jurisdictional Regulation) will read as follows: The execution of all real acts, such as, in particular, searches and expert findings, inventories, evaluations, auctions, nomination of trustee, pertain to the district court in whose district the case is located, unless otherwise provided for individual acts or certain proceedings.

(2) Provisions of §§ 83 – 86 of the Act of 27 November 1896, No. 217 of the Imperial Code, establishing regulations on staffing, internal organization, and rules of procedure of courts (Act on the Organization of Courts) are hereby abolished.

[tags: abolishment of provisions, application of prior provisions, execution of judicial acts, jurisdiction]

§ 59

(1) As replacement for the provisions of § 4, the relevant provisions of the Art. I/1911 and supplementary and amending laws shall apply *mutatis mutandis* in Slovakia and Carpathian Ruthenia. However, the principles of this Act should be taken into account.

(2) If a court in Slovakia or Carpathian Ruthenia where the case has been initiated finds that another court has jurisdiction, it shall declare its lack of jurisdiction in any state of the proceedings *ex officio* or based on an application, and if it is competent, based on the nature of the matter, to establish the competent court, it shall refer the case to the competent court. Such reference resolution shall be made without prior oral hearing and the parties shall be informed accordingly. The court declaring its lack

of jurisdiction without issuing the reference resolution may take all measures necessary to safeguard the public interest or the interests of the parties or the purpose of the proceedings until such judgment becomes final.

[tags: Slovakia, Carpathian Ruthenia, abolishment of provisions, jurisdiction]

§ 60

(1) This Act shall also apply to the continuation of proceedings in matters already being discussed. In the cases pursuant to § 55, the current regulations shall apply to proceedings in which an oral hearing has already been established on the day when this Act takes effect.

(2) Time limits running on the day this Act takes effect should be calculated in accordance with current legal provisions.

(3) In the case of annulment of the exercise of paternal power, which was legally delivered by the guardianship office before the the day when this Act takes effect, an appeal may be filed only in form of an application on annulment of such resolution within 90 days as of the day when such resolution becomes final. Decision on such an application shall be made in non-contentious proceedings by the regional court in whose district the guardianship office that issued the resolution is located.

[tags: continuation of current proceedings, annulment of the exercise of paternal power]

§ 61

(1) This Act becomes effective in four months after announcement.

(2) Execution of this Act is imposed to Minister of Justice under agreement of all participating ministers.

[tags: implementation of this act]

Mr. T.G.Masaryk b.h.

Mr. Udržal b.h.

Mr. Dr. Meissner b.h.