

Civil Procedure Code

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PART ONE:
CHAPTER ONE:
GENERAL RULES/PROVISIONS

ARTICLE ONE

This Code has been enacted pursuant to the provisions of Article 108 of the Constitution of the Republic of Afghanistan, for the purpose of managing the affairs related to the judgment and manner of proceedings in civil cases in the courts of the Republic of Afghanistan.

ARTICLE TWO

The principal objectives of this Code are as follows:

- 1- Observing the equality of the rights of citizens and implementation of the provisions of the laws of the Republic of Afghanistan in civil cases.
- 2- Management of the due process in judicial proceedings.
- 3- Determining the limits of rights and duties of the parties to the claim, witnesses and experts.
- 4- Management of the manner of giving testimony and evaluation of the legal documents, absolute evidence, circumstantial evidence and grounds for judgment.
- 5- Management of affairs related to appeal, final appeal and review of the decisions and final rulings of the courts.
- 6- Expediting the proceedings in civil actions.

ARTICLE THREE

It is within the jurisdiction of the courts in Afghanistan to hear civil actions.

ARTICLE FOUR

The terms below contained in this Code have the following meanings:

- 1- Judge: Is the person who issues a judgment.

- 2- Acquitted: Is the persons in whose favor a judgment has been issued.
- 3- Convicted: Is the persons against whom a judgment has been issued.
- 4- Subject matter of the claim: That which has been the subject matter of the judgment.
- 5- Manner of Judgment: Is the procedure and manner of issuance of the ruling and decision.
- 6- Judgment: Is a decision issued by the judge though special words, in absolute and definite manner.
- 7- Decision: Is the judgment of the judge issued through such words as “I have decided that you in the matter of are bound” and explains his judgment as to whether the subject matter of the claim be dismissed or it should be submitted (for further proceedings); or “I have judged that you must not interfere with the defendant concerning the subject matter of the case.”
- 8- A binding judgment is issued based on the proof of the subject matter of the claim.
- 9- Judgment of dismissal: is a decision issued in the absence of proof (of the claim).
- 10- Appeal: Is that in which the appellant (the convicted person) is not satisfied with the judgment of the city, municipal, district or sub-district courts whereupon he/she presents a complaint and objection to the provincial or the district superior court.
- 11- Final Appeal: Is that in which the appellant is not satisfied with the judgment of the provincial or the district superior court and whereby he/she presents his/her complaint and objection to the Supreme Court.
- 12- Experts: Are professional persons who have sufficient expertise and experience in specific fields.

CHAPTER TWO: CLAIM

ARTICLE FIVE

Claim is demanding a right from another in front of a court of law.

ARTICLE SIX

The person who demands a right is the plaintiff and the person from whom the right is demanded is defendant.

ARTICLE SEVEN

The parties to an action must according to the provisions of the law possess legal capacity.

If there is a lack or absence of legal capacity and there are no provisions providing for guardianship, rules related to executorship and custodianship shall be applicable.

ARTICLE EIGHT

The subject matter of a claim is the requested object and it involves such rights that the laws of the Republic of Afghanistan have provided for and that they can become the subject matter of claims.

ARTICLE NINE

1- The legal representative of the government can become a plaintiff or a defendant in the civil cases in which the rights and responsibilities related to the advantage or disadvantage of the government are absolutely or relatively involved.

2- The representative of the government for the purpose of the provisions of clause 1 of this Article is the office of the government cases.

ARTICLE TEN

The cases in which residents of a village are involved in a common manner, like grazing lands, public way and the like, the presence of some of them as plaintiff or defendant in the court of law is sufficient.

ARTICLE ELEVEN

1- Claims that are brought for the benefit of or against a deceased or bequest, the presence of one of the heirs as plaintiff or defendant in the proceedings before the court is sufficient.

2- If the claims relate to a moveable bequest, the heir in whose protection the bequest is shall be considered an adversary.

PART TWO:

CHAPTER ONE: PETITION

ARTICLE TWELVE

- 1- A petition for a civil right is made by an official request letter.
- 2- A legal request is directly presented to the courts or through legal bureaus to the courts whereupon proceedings are held regarding them.

ARTICLE THIRTEEN

A legal request contains the following matters:

- 1- Name, father's name, place, permanent and current residences, occupation, national identification number of the plaintiff and the defendant.
- 2- Determination of the extent of the subject matter of the claim and a summary of the purpose of the claim.
- 3- Declaration of the nature, type and price of the subject matter of the claim, in case it is moveable.

If the subject matter of the claim is a piece of land, a mention of its location, type and area is also necessary.

- 4- Signature or fingerprint of the requesting party.

If the requesting party is a proxy, executor or curator, a mention of the number and date of power of attorney document, executorship and custodianship with their full identification is necessary.

- 5- Date of the establishment of the right and the date of the presentation of the request.

ARTICLE FOURTEEN

If the subject matter of the claim is common and there are multiple plaintiffs, claim for relief is made by a single request.

ARTICLE FIFTEEN

If there is a single ground for the claim in the subject matter of the claim, and there are multiple defendants, petition is made through a single request letter.

ARTICLE SIXTEEN

1- As for the request that is submitted to the authorized court, the court examines the request after summoning the party against whom the request is made and, in case of consent by the latter, issues a legal writ and refers it to the legal office for its execution.

2- In case of a denial by the person against whom the request has been made, the court shall proceed according to the rules of the law.

ARTICLE SEVENTEEN

In the absence of consent of the party against whom the request is made with the parties, the request that is presented to the legal office is assigned to the court.

CHAPTER TWO: SOURCES OF CLAIM

ARTICLE EIGHTEEN

The office of the authorized court's documents receives the incoming requests and, after they are reviewed by the president of the court, records it in the relevant office.

ARTICLE NINETEEN

If the court considers itself incompetent to hear the case, it shall issue a ruling of dismissal of the claim.

ARTICLE TWENTY

In a case in which preliminary objections are made, the court shall hear the objections in a legal proceeding determined by the court and shall take a legal decision to that effect.

ARTICLE TWENTY-ONE

Preliminary objections are as follows:

1- Lack of jurisdiction by the court to hear the case.

- 2- Lack of legal capacity on the part of the plaintiff and the defendant.
- 3- Inapplicability of the claim contained in the pleading to the defendant.
- 4- Issuance of a prior legal ruling related to the issue at dispute between the requesting party and the party against whom request is made.
- 5- Absence of documented proof of the possession of the immovable subject matter of the claim.
- 6- Relation of the case with a claim that is under proceedings in another court.
- 7- The case contained in the request being heard in another court.
- 8- The case being subject to the limitation period.

ARTICLE TWENTY-TWO

In situations that are contained in Article 21 of this Code, the legal panel shall hear the matter in the presence of the parties and shall issue a legal ruling and announce it to the parties.

ARTICLE TWENTY-THREE

The party not satisfied with the legal ruling issued pursuant to Article 22 of this Code can present its objection to the setting court or the superior court within twenty days. In this case, the setting court is obligated to give to the objecting party a date-stamped receipt and refer the objection to the superior court after recording it in the relevant office.

ARTICLE TWENTY-FOUR

The period of presentation of the claim and response to it cannot be more than fifteen days, unless reasonable excuse is given.

ARTICLE TWENTY-FIVE

The office of the court documents is obligated to give a date-stamped receipt related to the receipt of the claim paper, response to the claim and their annexes to the plaintiff and defendant.

ARTICLE TWENTY-SIX

The office of the court documents shall, after receipt of the claim, in case it is determined by the legal panel to be accurate, proceed with the issue according to the law and, with the written order of the president of the court, record the claim (x) in the specific form and give a copy of it at a specific time to the defendant for the purpose of preparing the response.

In case of inaccuracy of the claim, the plaintiff is bound to correct the claim.

ARTICLE TWENTY-SEVEN

After the preparation of response by the defendant, the court shall announce the date of the trial to the parties.

ARTICLE TWENTY-EIGHT

In simple claims and in claims that require speedy trial, the proceedings take place by taking into account the request for relief and the oral declarations of the parties.

Simple claims depend on the determination of the authorized court, in view of the environment and circumstances of the plaintiffs.

ARTICLE TWENTY-NINE

If the plaintiff does not present his/her claim to the court within the legal time period, the court shall issue a legal ruling dismissing the claim and shall return the request to the concerned authorities.

ARTICLE THIRTY

If the defendant does not present his/her written response to the court within the specified time period, the court shall rely on his/her oral response and hold legal proceedings concerning the issue.

ARTICLE THIRTY-ONE

If the plaintiff approaches the court after the issuance of the legal ruling pursuant to Article 29, the court shall demand the background information regarding the matter and shall, after summoning the opposing party, proceed with the issue.

The plaintiff is obligated to pursue his/her claim in this situation.

ARTICLE THIRTY-TWO

If the plaintiff does not attend the hearing of his/her claim for the second time and does not inform the court of his/her legal excuse, the court shall again issue a ruling of dismissal of the case.

ARTICLE THIRTY-THREE

According to the provisions of Article 32, this Code is subject to the provisions relating to appeal, unless the law has provided otherwise.

ARTICLE THIRTY-FOUR

1- A court that has issued a ruling pursuant to the provisions of Article 32, and that ruling has been overruled by a superior court, the former is obligated to hold (new) proceedings concerning the case.

2- The superior court is obligated to announce to the parties its decision to overrule the ruling of the lower court and to order a re-trial of the case by the lower court.

ARTICLE THIRTY-FIVE

After arrival of the case in office of the court for the purpose of retrial, the plaintiff is obligated to bring within one month its claim to the relevant court. In case the plaintiff does not without legal excuse bring its claim within the specified time period, the court shall issue a ruling of dismissal and this ruling shall be the final ruling.

ARTICLE THIRTY-SIX

In a claim relating to marriage, the plaintiff is obligated to submit its claim for purpose of the trial proceeding within one month to the relevant court in the absence of a proper excuse from the date of the arrival of request. With the expiry of this period, the court can issue a ruling of dismissal. The plaintiff is given the right of appeal only once.

If the trial court issues a ruling of dismissal for the second time, this ruling shall be final.

ARTICLE THIRTY-SEVEN

The court has the following offices:

- 1- Book of records and filing
- 2- Book of records of criminal files
- 3- Book of records of civil and commercial cases
- 4- Agenda of trial of urgent cases
- 5- Agenda of trial of ordinary cases
- 6- Form of the judicial ruling papers
- 7- Form of records of the judicial ruling papers
- 8- Form of the original and records of the judicial rulings
- 9- Office of accounting of executors
- 10- Office of recording of complaints and objections to the final and non-final judgments of the courts of the provinces
- 11- Office of appeals registration
- 12- Declaration
- 13- Book of records of customs documents
- 14- Exhibit
- 15- Book of record of requests
- 16- Office of custom's tariffs
- 17- Office of attendance
- 18- Office of supervision of absolute decisions
- 19- Other needed offices

ARTICLE THIRTY-EIGHT

The number and type of offices and books of courts vary according to the specifics of the working of every court and each one of the courts according to the specifics of its work utilizes the offices provided for in Article 37 of this Code.

ARTICLE THIRTY-NINE

Subject to the provisions of this Code, other responsibilities of the administrative personnel of the courts are regulated by separate terms of reference that is approved by the high council of the Supreme Court.

CHAPTER THREE: PROCEEDINGS OF CIVIL CASES IN COURTS

ARTICLE FORTY

Proceedings of all the civil cases in the courts of Afghanistan shall be public, unless such public hearing adversely affects public order or leads to the exposure of the secrets of the people's lives.

ARTICLE FORTY-ONE

Public hearings are held on official days and interested persons are allowed to attend.

ARTICLE FORTY-TWO

The judgment of the court in all situations is announced publicly.

ARTICLE FORTY-THREE

Proceedings in the camera are held in the presence of persons involved in the case and their legal representatives and, if needed, witnesses, experts and interpreter shall also attend the proceedings.

ARTICLE FORTY-FOUR

A person who has not completed the age of 15 and who is not involved in the case cannot attend the judicial hearing.

ARTICLE FORTY-FIVE

The office of the court documents is obligated, prior to the holding of the hearing, to place the plaintiff, defendant or their legal representative, witnesses, experts and interpreter in the specifically assigned places.

ARTICLE FORTY-SIX

The judicial panel shall enter the hearing chamber when the time of the hearing has approached and the persons mentioned in Article 45 have attended.

ARTICLE FORTY-SEVEN

Upon the entry of the judicial panel into the hearing chamber, all those in attendance shall stand up and when the judges take their seats, they shall sit down.

ARTICLE FORTY-EIGHT

The presiding judge opens the official hearing in the name of God, the Almighty and Just, informs the attendees of the composition of the judicial panel, prosecutor and experts, interpreter and the secretary of the session.

ARTICLE FORTY-NINE

The presiding judge explains the rights, duties and responsibilities of the persons involved in the case and in the hearing and instructs the secretary of the judicial session to read out the agenda of the hearing; and, after introducing the plaintiff, the defendant or their legal representative shall commence the proceedings of the case.

ARTICLE FIFTY

During the proceedings, the chairman of the session shall first allow the plaintiff or his/her legal representative and then the defendant or his/her representative to read out their claim and defense.

ARTICLE FIFTY-ONE

The parties to the claim shall freely read out their respective statements and give explanations. Before one side has ended reading its statement, the other side does not have the right to interrupt the statement of that side.

ARTICLE FIFTY-TWO

It shall be within the authority of the presiding judge to demand explanations from the plaintiff, the defendant and other persons involved. If during the trial there are issues

concerning which the members of the judicial panel require explanation, the parties shall accordingly be questioned, with the permission of the presiding judge.

ARTICLE FIFTY-THREE

The secretary of the trial session is obligated to record without any addition or omission in the book of the records of the session all the proceedings of the trial in relation to the claim and defenses, testimony of witnesses and declarations of the experts, and obtain the signature of the president and the relevant persons at the end of the trial.

ARTICLE FIFTY-FOUR

The leadership and management of the judicial hearing shall be within the authority of the presiding judge.

ARTICLE FIFTY-FIVE

The persons involved in the case, the legal representative of the parties to the claim, the witnesses, the experts, the interpreters and others involved in the judicial hearing are obligated to observe the orderly conduct of the trial and to follow the orders of the presiding judge.

ARTICLE FIFTY-SIX

The plaintiff, the defendant or their legal representative, the witnesses, the experts and the interpreters are obligated to stand up while reading their statements and while explaining issues, unless the presiding judge gives them permission to sit down.

ARTICLE FIFTY-SEVEN

The presiding judge shall warn the person who disturbs the order of the hearing. In case of violation, the presiding judge can expel the persons creating the disturbance from the trial chamber.

ARTICLE FIFTY-EIGHT

If those disturbing the orderly conduct of the hearing are the plaintiff, the defendant or their legal representative and, in case such violation is repeated, the court can impose a monetary fine of no more than three thousand Afghanis or a sentence of imprisonment of up to one week upon such a person.

ARTICLE FIFTY-NINE

If the person disturbing the order of the hearing is a civil prosecutor, the court shall, by issuing a judicial ruling, take an action to replace him.

ARTICLE SIXTY

If the person who disturbs the order of the hearing is a defense attorney, the court shall discipline him/her according to the provisions of law.

ARTICLE SIXTY-ONE

If a person commits the crime of obscenity or a misdemeanor during the hearing, he/she shall be punished by the court according to the provisions of the law.

ARTICLE SIXTY-TWO

The court shall determine the mandatory punishments provided for under Articles 58 to 60 of this Code and the judgment of the court to this effect shall not be subject to appeal.

ARTICLE SIXTY-THREE

In situations provided for under Articles 58 to 60 of this Code, the court can cancel the judgment that has been issued prior to the end of the hearing.

ARTICLE SIXTY-FOUR

In case of a misdemeanor, if the court does not convict the accused in the same hearing session, or if the wrongdoing is a crime, the court is obligated to prepare the records of the incident and issue an order for the arrest of the accused and refer the issue to the relevant prosecutor. Issuance of judgment in this regard takes place in the nearest court.

CHAPTER FOUR: RECUSAL AND REJECTION OF JUDGE

ARTICLE SIXTY-FIVE

The president and the members of the court shall each remove himself/herself from the composition of the trial and hearing of a civil action in the following situations:

1- If he/she is an interested party in the case before the court or if the claim is related to the principals and proxies, husband, wife or their relatives. For this purpose,

“relatives” means brother and sister and their respective children (nephew/niece), uncle and aunt (on both the mother’s side and the father’s side), father-in-law and mother-in-law.

2- If he/she has written or signed a document related to the case before the court, or if he/she, acting as a prosecutor, has already made a judgment as to the subject matter of the claim or, as an expert or witness, has already expressed an opinion.

3- If there is a conflict between the president and the members of the court or one of the parties to the case.

4- If there is an existing enmity between the president and the members of the court or one of the parties to the case.

ARTICLE SIXTY-SIX

The judges that pursuant to the provision of clause 1 of Article 65 of this Code are related to each other cannot be involved in the composition of the trial and the hearing of the civil case.

ARTICLE SIXTY-SEVEN

In case of the occurrence of circumstances beyond those provided for under Articles 65 and 66 of this Code, a judge can refuse to participate in the hearing of a case.

ARTICLE SIXTY-EIGHT

Involvement of the president and the members of the court in the subsequent hearing is not allowed in the following situations:

1- In case of participation in the preliminary hearing of the case.

2- In case of participation in the hearing of the case before the tribunals of the Supreme Court.

ARTICLE SIXTY-NINE

In situations provided for under Articles 67 and 68 of this Code, the judge is obligated to submit to the court his/her recusal from the case.

ARTICLE SEVENTY

The parties to a claim can in case of the existence of one of the situations provided for under Articles 67 and 68 of this Code request the exclusion of a judge from the proceedings of the case.

ARTICLE SEVENTY-ONE

A demand for exclusion/rejection of the judge is submitted to the court in a written and documented form within three days prior to the commencement of proceedings of the case.

ARTICLE SEVENTY-TWO

1- The judicial panel of the court shall examine during a judicial hearing the grounds and reasons for the rejection, and shall make a decision and issue a ruling with a majority of opinions regarding acceptance and non-acceptance.

2- If opinions are evenly divided, rejection of the judge is preferred.

ARTICLE SEVENTY-THREE

If there is one judge in the preliminary court, the request for rejection is presented to the superior court and, in case of acceptance of the rejection, another judge is assigned to hear the case.

ARTICLE SEVENTY-FOUR

If demand for rejection is directed against the whole judicial panel of the preliminary court, in case of the acceptance of rejection, another judicial panel is assigned for the purpose of hearing the claim and issuance of judgment by the superior court.

ARTICLE SEVENTY-FIVE

If the grounds for rejection are directed against the judicial panel of one of the tribunals of the state court or an equivalent court, the president of the court shall with the participation of another judge make a decision regarding acceptance or non-acceptance of the rejection.

If the grounds of rejection are directed against the head of the state court, an equivalent court or against members of the Supreme Court, the high council of the Supreme Court shall make a decision regarding this matter.

ARTICLE SEVENTY-SIX

When the rejection of a judge is at issue, the hearing of actual claim shall be postponed.

ARTICLE SEVENTY-SEVEN

If the grounds for rejection of the judge are not proven, the court deciding that there is no proof to allow rejection shall impose a monetary fine of up to three thousand Afghani upon the party requesting the rejection in bad faith (plaintiff or defendant).

ARTICLE SEVENTY-EIGHT

The rulings that are issued by the court regarding rejection shall be final.

CHAPTER FIVE: JURISDICTION IN CIVIL CASES

ARTICLE SEVENTY-NINE

Civil claims at the trial stage shall be decided by the city, municipal, district or sub-district courts, except in situations where the law provides otherwise.

ARTICLE EIGHTY

The court shall take measures to hear claims whose solution has been requested by legal or juridical personalities.

ARTICLE EIGHTY-ONE

1- Civil claims are resolved in the defendant's place of residence.

2- In case the defendant possesses multiple residences, civil claims against him/her are heard in such court in whose jurisdiction the defendant resides while making the claim.

ARTICLE EIGHTY-TWO

If the defendant is a married woman, the hearing of the case shall be within the jurisdiction of the court located in the place of residence of the husband.

ARTICLE EIGHTY-THREE

In the defendant is a girl who has attained the age of marriage (age of majority) or who possesses full legal capacity, the court which is located in the place of residence of her father or her close relatives who are responsible for her feeding and upbringing shall have jurisdiction to hear the claim.

ARTICLE EIGHTY-FOUR

If the defendant lacks legal capacity or is not competent, the court located in the place of residence of the guardian, administrator or custodian shall have jurisdiction to hear the claim.

ARTICLE EIGHTY-FIVE

The place of residence of interdicted, missing and absentee persons shall be the residence of their legal representative.

ARTICLE EIGHTY-SIX

If the defendants are employees of the government, appointees of the armed forces in civil cases, the court which is located in the place of their employment shall have jurisdiction to hear the claim.

ARTICLE EIGHTY-SEVEN

Claim by a traveler or nomad, in case they are the plaintiff or defendant, are heard in the city, municipal, district or sub-district courts, if both parties accept the jurisdiction of the relevant court.

ARTICLE EIGHTY-EIGHT

If either of the parties to the claim has an objection to the jurisdiction of the court to hear the claim, it shall present its objection to the same court before the commencement of the hearing; otherwise, the jurisdiction of the court is considered accepted.

ARTICLE EIGHTY-NINE

If the defendant has spent at least one year in the place of residence of the plaintiff, the court located in the place of residence of the plaintiff shall have jurisdiction.

ARTICLE NINETY

In claims related to the civil contracts of a trader or a professional person as defendants, the court located at the place of the trade, profession or the court of the place of his/her actual residence shall have jurisdiction.

ARTICLE NINETY-ONE

If a place of residence is chosen for the purpose of the performance of a specific legal dealing, the court with jurisdiction to hear a claim arising from such dealing shall be the court located in that chosen residence.

ARTICLE NINETY-TWO

Hearing of a claim related to the division or assignment of bequest shall be within the jurisdiction of the city, municipal, district or sub-district courts within whose jurisdiction the property subject to the division or assignment is located.

In case of the existence of the property in different jurisdictional zones, the court in whose territory the major part of the property is located shall have jurisdiction to conduct the proceedings.

ARTICLE NINETY-THREE

A case cannot be transferred to another court after a hearing has commenced in a court and after it has been recorded in the special form. In case of a recusal by the judge or a rejection of the judge by the defendant, another judicial panel shall be assigned in the same court to hear the claim.

ARTICLE NINETY-FOUR

If the spatial or the factual jurisdiction of the court is changed pursuant to the enactment of a new law, the court in which the claim is being heard shall have jurisdiction.

ARTICLE NINETY-FIVE

Hearing of the claims related to foreign citizens residing in Afghanistan shall be within the jurisdiction of the courts of the Republic of Afghanistan.

ARTICLE NINETY-SIX

In a claim related to a foreign citizen that does not have a place of residence in Afghanistan, the courts of the Republic of Afghanistan shall have jurisdiction to hear such a claim in the following situations:

- 1- In case the foreigner has a residence of choice in the Republic of Afghanistan.
- 2- In case the subject of a contract or the place of its implementation is the Republic of Afghanistan.
- 3- In case the claim related to a demand for division/assignment of bequeathed property has commenced in the Republic of Afghanistan.
- 4- In case the whole or part of the bequeathed properties is in the Republic of Afghanistan.

ARTICLE NINETY-SEVEN

Hearing of a claim related to separation for reason of the absence of husband or his being missing shall be within the jurisdiction of the court located in the place of residence of the plaintiff.

ARTICLE NINETY-EIGHT

Hearing of a claim of confirmation for reasons of detention of husband according to the provisions of the law shall be within the jurisdiction of the court that is located in the place of detention of the husband.

ARTICLE NINETY-NINE

Hearing of a claim for reason of harm against a wife by a husband who has a place of residence or a place of stay in Afghanistan, whereby he has left his wife and has escaped abroad after causing the harm, shall be held in the court of the place of residence of the wife.

ARTICLE ONE HUNDRED

An authorized court to hear a claim against a person who has left Afghanistan without legal reason shall in the following situations be the court of the place of residence of the plaintiff:

- 1- Claim related to maintenance of wife, the principal and the interest.
- 2- Claim related to proof of lineage.
- 3- Claim related to revocation of guardianship.
- 4- Claim related to revocation of executorship and custodianship.

CHAPTER SIX: PROCEEDINGS RELATED TO FAMILY CASES

ARTICLE ONE HUNDRED ONE

The following matters shall fall within the family cases:

- 1- Marriage and rights arising from it.
- 2- Rights arising from marital relationship.
- 3- Financial disputes arising from marital relationship.
- 4- Claim related to lineage.
- 5- Issues related to protection and maintenance of child.
- 6- Dissolution of marriage for whatever reason.
- 7- Issues related to an absentee and missing husband.
- 8- Other issues that are considered as part of family cases according to the provisions of law.

ARTICLE ONE HUNDRED TWO

- 1- Relinquishing a claim of engagement in case of transfer to the court is heard within the judicial ruling.
- 2- The ruling of the court regarding relinquishment of the claim of engagement is final and cannot be heard by a higher court.

ARTICLE ONE HUNDRED THREE

Return of gifts can only be demanded from fiancé according to the provisions of the law.

ARTICLE ONE HUNDRED FOUR

- 1- The court shall prior to the commencement of the proceedings of the claim assure itself of the accuracy of the marriage.

2- Information as to the accuracy of the marriage shall be obtained from those present in the marriage ceremony.

ARTICLE ONE HUNDRED FIVE

The proceedings and hearing of a claim by the court after receipt of information regarding the process of the claim related to marriage or the rejection of the claim take place within the judicial ruling and this ruling shall be absolute.

ARTICLE ONE HUNDRED SIX

1- If during the proceedings of a claim related to marriage, a dispute emerges regarding the place of residence of the defendant, the court shall make a determination to specify the place of residence of the defendant by taking into consideration the interests of the parties.

2- The place of residence of father, grandfather, brother and close relatives of the woman (wife) and the location of welfare organizations are taken into account by the court when it determines the place of residence of wife.

ARTICLE ONE HUNDRED SEVEN

If the woman (wife) is a resident in one of the places specified in clause 2 of Article 106 of this Code, resolution of the claim is subject to urgent agenda.

ARTICLE ONE HUNDRED EIGHT

Bringing a claim for dissolution of marriage of the wife for reason of absence of (legal) capacity to marry at the time of marriage is not allowed after completion of the age of 17.

ARTICLE ONE HUNDRED NINE

Determination of capacity to marry shall be made according to the provisions of Chapter Ten of this Part.

ARTICLE ONE HUNDRED TEN

In a claim of separation for reason of harm, if the harm in question is not justified and if the court envisions a fear of disagreement and division between the husband and wife, the court shall assign two just persons, one from the relatives of the husband and another from the relatives of the wife as arbitrators for the purpose of repairing their relationship.

ARTICLE ONE HUNDRED ELEVEN

In a claim of separation for reasons of harm, an arbitrator cannot be assigned more than twice.

ARTICLE ONE HUNDRED TWELVE

The court shall issue a justified judgment based on the reasons and evidence provided by the two arbitrators.

ARTICLE ONE HUNDRED THIRTEEN

In claims of separation for reason of harm no oath shall administered.

ARTICLE ONE HUNDRED FOURTEEN

If the defect of the husband is not removed within one year, the court shall by taking into account the provisions of Article 179 of Civil Law order separation between the husband and wife.

ARTICLE ONE HUNDRED FIFTEEN

In a claim of separation for reason of absence, if the husband possesses a place of residence which is clear and specific, the court shall serve a written notice on the absentee husband and shall specify a time period for his return to the residence of his wife or shall require him to return to his own residence.

ARTICLE ONE HUNDRED SIXTEEN

In case the absentee husband continues to be absent, despite the receipt of the notice from the court and the expiry of the time specified therein, the court shall by assigning an agent for the absentee (husband) adjudicate the issue.

ARTICLE ONE HUNDRED SEVENTEEN

In case the absentee husband does not possess a clear and specific residence, or if the service of the written notice upon the absentee husband is not possible, the issue specifying the time period for (his) appearance shall be announced through radio. The time period for this purpose cannot be less than one month from the time of the announcement.

ARTICLE ONE HUNDRED EIGHTEEN

If the absentee husband continues to be absent without legal justification despite the radio announcement, the court shall proceed with the issue by assigning an agent for the absentee (husband).

ARTICLE ONE HUNDRED NINETEEN

In view of the provisions of Article 326 of the Civil Law, a claim for the dissolution of marriage against a missing husband whose state of life or death is not clear is not allowed before the expiry of a period of four years.

ARTICLE ONE HUNDRED TWENTY

In determining a judgment and issues related to it and the rejection of claims of separation for reasons of defect, harm, absence of maintenance and absence of the husband, the court shall also observe the rules of the Civil Law.

CHAPTER SEVEN: PROCEEDINGS RELATED TO PUBLIC INTEREST CASES

ARTICLE ONE HUNDRED TWENTY-ONE

Requests related to the public interest claims are directly submitted to the Kabul city court, state courts or main district court, and proceedings related to them take place as follows:

- 1- Written notice of the contents of the request to the office of government cases.
- 2- Demand for background information regarding the case, the presence of representative of the office of government cases and the legal representative of legal persons along with specifying the date.
- 3- Listening to the statements and defenses of the parties to the case in the preliminary hearing.

ARTICLE ONE HUNDRED TWENTY-TWO

If the court, after listening to the statements and the defenses and as a result of evaluating the reasons presented by both parties, concludes that the resolution of the dispute requires a hearing, it shall issue a ruling in favor of the proceedings of the claim.

ARTICLE ONE HUNDRED TWENTY-THREE

In case the court concludes in the preliminary hearing that the dispute actually does not require a court proceeding, it shall declare the claim as non-justiciable.

ARTICLE ONE HUNDRED TWENTY-FOUR

The judicial ruling provided for under Article 122 of this Code is not final and can, as a result of complaint by a party to the case or of an objection by the representative of the office of the government cases can be heard again in a tribunal related to the Supreme Court.

ARTICLE ONE HUNDRED TWENTY-FIVE

If the satisfaction of the opposing party in a case that is referred to the office of the government cases is not obtained without hearing by the court, the office of government cases shall refer the case to the court for the purpose of resolution.

ARTICLE ONE HUNDRED TWENTY-SIX

In relation to the matters that are referred to the court by the office of the government cases, compliance with the provisions of Articles 122 and 123 of this Code is mandatory.

ARTICLE ONE HUNDRED TWENTY-SEVEN

The court in a public interest claim shall issue its judgment based on sources of proof, such as documents and witnesses.

CHAPTER EIGHT: NOTICE, SUMMON AND APPEARANCE

ARTICLE ONE HUNDRED TWENTY-EIGHT

The court shall directly inform the party to a claim or summon him/her through relevant authorities.

ARTICLE ONE HUNDRED TWENTY-NINE

The court can request the presence of an expert and a third party whose statements for the clarification of the case are effective.

ARTICLE ONE HUNDRED THIRTY

If either party does not come to the court on the day specified, it shall be summoned by the court.

ARTICLE ONE HUNDRED THIRTY-ONE

One original and two copies of the summons form are prepared and shall contain the following:

- 1- Name and address of the court.
- 2- Identity and accurate address of parties to the claim.
- 3- Date and time of presence.
- 4- Introduction of the issue.
- 5- Reminders to the person summoned regarding preparation and presentation of documents related to the issue.
- 6- Warning about consequences of non-appearance

ARTICLE ONE HUNDRED THIRTY-TWO

The court can request in any manner possible, including telephone and telegraph, the presence of the parties to the claim, witnesses and experts.

ARTICLE ONE HUNDRED THIRTY-THREE

The summons form of the court shall be issued to the office of summons and appearance together with an official letter.

ARTICLE ONE HUNDRED THIRTY-FOUR

The office of summons and appearance is obligated to give the summons form to the relevant person or his legal representative, and to obtain his signature and agreement to appear on the second copy and send it to the court.

ARTICLE ONE HUNDRED THIRTY-FIVE

If the person summoned is illiterate, his fingerprint shall be put on paper in a professional and clear manner.

ARTICLE ONE HUNDRED THIRTY-SIX

In case the person summoned refuses to sign or give his fingerprint, the matter shall be recorded in the form accordingly and the signature of one of the followings persons is taken on it:

- 1- Signature of the head of the council of the place of residence or two neighboring persons or residents of the place.
- 2- Signature of the head of the office of summons and, in case the person refusing is a worker of the government office or organizations, the signature of the head of the concerned office.

ARTICLE ONE HUNDRED THIRTY-SEVEN

The office of summons and appearance shall in compliance with the steps provided for in Article 136 return the form to the court together with an official letter.

ARTICLE ONE HUNDRED THIRTY-EIGHT

If the person summoned is a staff member of the government offices, organizations or companies, the summons form can also be sent to his relevant office.

ARTICLE ONE HUNDRED THIRTY-NINE

If finding the person is temporarily postponed for some reasons, the relevant places are obligated to officially inform the court of the issues and, after the removal of the obstacles, shall proceed with processing of the summons form.

ARTICLE ONE HUNDRED FORTY

If the person summoned is an escapee, absentee or missing the documents related to his/her investigations shall be completed and the matter recorded in the summons form and then sent to the court.

ARTICLE ONE HUNDRED FORTY-ONE

If the person summoned is a member of the armed forces, the summons form is served on him through the relevant military squad/unit.

ARTICLE ONE HUNDRED FORTY-TWO

If the steps contained in this Code are not observed in the summons form, the form is returned by the court to the relevant authorities for completion, and the authorities issuing the summons are obligated to complete the steps of the form.

ARTICLE ONE HUNDRED FORTY-THREE

If the person summoned appears before the court and if his subsequent appearance in the following hearing sessions is also necessary, the date of the next hearing session for the purpose of appearance is announced to him and the proceeding recorded in the concerned office.

ARTICLE ONE HUNDRED FORTY-FOUR

If it is feared that a party to the claim withdraws or escapes, the court can force him to guaranty his/her presence.

ARTICLE ONE HUNDRED FORTY-FIVE

If the person summoned pursuant to the summons contained in the summons and appearance form issued by the authorities issuing summons and request for appearance refuses to reappear in the court, the court shall summon him for the second or third time.

ARTICLE ONE HUNDRED FORTY-SIX

If the person summoned despite implementation of the provisions of Article 145 of this Code still does not appear in the court, or according to Article 140 of this Code, he/she is considered an escapee, absentee or missing, the request for his presence during the time specified by the court is made for the last time through radio or a popular and widely-circulated newspaper.

ARTICLE ONE HUNDRED FORTY-SEVEN

If the person summoned refuses to appear in the court at the specified time without reasonable excuse, the court shall issue judgments in absentia regarding him/her.

ARTICLE ONE HUNDRED FORTY-EIGHT

The court summons and requires the appearance of the parties to the claim based on the date of the agenda. Expedited claims are exempt from this rule.

ARTICLE ONE HUNDRED FORTY-NINE

The time of presence of the person summoned is made by the court at its discretion based on the distance of his/her place of residence and the availability of transportation

ARTICLE ONE HUNDRED FIFTY

Any reluctance on the part of the places/offices of summons and appearance as contained in this Chapter shall be announced to the head offices of these offices by the court in order that the office/person in violation is subject to legal questioning.

ARTICLE ONE HUNDRED FIFTY-ONE

The court shall control the implementation of the rule of Article 150 of this Chapter every fifteen days.

ARTICLE ONE HUNDRED FIFTY-TWO

The office of the court documents is responsible to the president of the court for the implementation of the rules contained in this Chapter.

CHAPTER NINE: ABSENT RULES

ARTICLE ONE HUNDRED FIFTY-THREE

If the applicant does not follow his/her application in the court within 30 days of the recorded claim, a ruling of dismissal of the claim shall be issued in his/her absence according to the rules of this Code.

ARTICLE ONE HUNDRED FIFTY-FOUR

If the plaintiff submits his/her claim to the court and after commencement of the proceedings of the claim he/she disappears without legal excuse, the court shall summon the plaintiff according to the rules of Chapter 8 of this Part and, in case he/she does not appear in the court within the specified time period, a decision of dismissal shall be issued.

ARTICLE ONE HUNDRED FIFTY-FIVE

If the defendant confesses after a claim has been brought by the plaintiff, and at the time of the issuance of judgment the defendant retracts his/her confession, if he/she

disappears after the testimony of witnesses, the court shall in both cases consider the defendant as legally present and shall issue a judgment in the matter.

ARTICLE ONE HUNDRED FIFTY-SIX

If the plaintiff expresses inability to present witnesses and requests an oat by the opposing party, but during the performance of the oath he/she withdraws himself/herself (from the proceedings), the court shall consider the plaintiff as legally present and shall issue an order for the taking of an oath or a withdrawal by the defendant.

ARTICLE ONE HUNDRED FIFTY-SEVEN

In cases where the return of an oath is allowed, if the defendant returns the taking of the oath to the plaintiff, and the plaintiff disappears thereafter, the court shall rule for the withdrawal of the plaintiff.

ARTICLE ONE HUNDRED FIFTY-EIGHT

If the defendant after the submission of request does not actually appear pursuant to the summons, or if he/she disappears before the commencement of the claim or thereafter, and the plaintiff insists on the resolution of the issue, the court shall in compliance with the rules of Chapter 8 of this Part take appropriate actions, and after the specified time has become due, one of the close relatives in the first degree shall assign a representative for the absentee husband or wife and proceed with the hearing of the claim.

ARTICLE ONE HUNDRED FIFTY-NINE

If the relatives in the first degree are absent, her/his husband or wife does not qualify to be a representative or his/her relatives refuse to accept becoming a representative, as a result of written recommendation of the court, the civil prosecutor is assigned as the representative of the absentee (party) and the claim is heard.

ARTICLE ONE HUNDRED SIXTY

Assignment of a representative for the absentee person by the court takes place within the papers of judgment. This representative shall possess the defensive authorities of the absentee person.

ARTICLE ONE HUNDRED SIXTY-ONE

If the absentee defendant has reasonable excuse and has given notice to the court, the hearing of the case is postponed up to two months for the purpose of removal of the excuse.

ARTICLE ONE HUNDRED SIXTY-TWO

If the period of postponement exceeds the two months, the court can take action by using the possible legal means, and in special situations the court can extend the said time period.

ARTICLE ONE HUNDRED SIXTY-THREE

1- If the absentee person makes an appearance after being assigned by the court, the trial shall take place in his presence.

2- If his absence is repeated or is a result of disobedience or distress against the opposing side, this appearance shall have no validity and the trial shall proceed in the presence of the representative assigned by the court.

ARTICLE ONE HUNDRED SIXTY-FOUR

If in the face of the defendant's defense, the oath is returned to the plaintiff and thereafter the defendant disappears, in such a case the court on behalf of the absentee person appoints a representative and returns the oath to the actual plaintiff. The oath and refusal in such situations have legal effects.

ARTICLE ONE HUNDRED SIXTY-FIVE

If the plaintiff does not have witnesses and demands the oath of the absentee defendant, the court shall issue a judgment pending the oath by the absentee party.

ARTICLE ONE HUNDRED SIXTY-SIX

If the defendant appears in the court during a period of two months, but declines to take an oath in the court, this refusal shall be actual denial and the non-appearance of the defendant in the court without reason during the specified time period as stated shall be legal denial. In both cases, the court shall issue a judgment for his refusal.

ARTICLE ONE HUNDRED SIXTY-SEVEN

1- If the absentee defendant appears during the specified time period and takes an oath against the claim of the plaintiff, a judgment of dismissal shall be issued.

2- Readiness of the defendant to take the oath after the expiry of the period of two months is not valid.

ARTICLE ONE HUNDRED SIXTY-EIGHT

If the guardian, executor, custodian or the proxy of the absentee do not follow up the claim, the court shall not make a judgment of dismissal due to non-appearance and non-follow-up, and in the face of continuing absence shall assign another person as legal representative instead of the custodian, executor or proxy of the absentee and, in case of cancellation of the guardianship, shall assign another guardian as executor and shall issue its judgment in the matter.

ARTICLE ONE HUNDRED SIXTY-NINE

If the proxy/attorney of the plaintiff does not follow the claim of the latter, the court shall notify the latter only once, and in case of the presence of the latter or with the assignment of a new proxy it shall act to resolve the claim and, in case of a lack of attention by the latter to the notification, the court shall issue a ruling of dismissal.

ARTICLE ONE HUNDRED SEVENTY

1- The absent representative is not authorized to make a confession, give a waiver, amendment, satisfaction and other actions that are detrimental to the absentee party.

2- The authority of the assigned representative ends by the court pursuant to the provisions of Article 163 after notification and presence by the absentee party.

ARTICLE ONE HUNDRED SEVENTY-ONE

The party representing public interests is not authorized to make a confession, give a waiver, and make an amendment, unless otherwise provided for in the law.

ARTICLE ONE HUNDRED SEVENTY-TWO

Judgments in absentia are announced to the representative and are brought to the attention of the convicted person. In case of the impossibility of announcing it to the convicted person, the notice is delivered to one of the members of the absentee's family and, in the case of non-existence of members of the family, is submitted to the office of their place of residence or to the office of their workplace.

ARTICLE ONE HUNDRED SEVENTY-THREE

The absentee's proxy/attorney and the public rights representative do not have the authority of satisfaction regarding the issued judgment by the court.

ARTICLE ONE HUNDRED SEVENTY-FOUR

The court's judgments designating representative are also applicable in claims for separation due to the husband being absent or missing.

CHAPTER TEN: USE OF EXPERTS AND INFORMED PERSONS IN CIVIL CASES

ARTICLE ONE HUNDRED SEVENTY-FIVE

1- For the purpose of clarification of facts related to the claim and pursuant to the request of the parties, the court can demand the opinions of the experts who based on their profession and expertise possess sufficient information and based on standards of Islamic law possess good character and attributes.

2- Before commencing his activity, the expert shall swear that he/she shall perform his/her duty with trustworthiness.

ARTICLE ONE HUNDRED SEVENTY-SIX

1- In claims related to land, the court can seek information from the experts about the price of the land, determination of limits, area and structural matters and in case of the emergence of differences between the parties to the claim.

2- The court can seek information from the experts in claims related to moveable properties regarding the determination of the price of the subject matter of the claim.

ARTICLE ONE HUNDRED SEVENTY-SEVEN

1- The experts for the purpose of the provisions of clause 1 of Article 176 of this Code shall be a surveyor, a worker of land registry, an expert of land improvements, an architect, a civil engineer and a neighbor.

2- Experts for the purpose of the rule contained in clause 2 of Article 176 of this Code shall be an accountant, controller, professional technicians and skilled individuals.

ARTICLE ONE HUNDRED SEVENTY-EIGHT

If the identity of the plaintiff or the defendant is in doubt, the court can seek clarifications from the informed neighbors, class representatives or the head of the concerned office about his/her name, identity, occupation and place of residence.

ARTICLE ONE HUNDRED SEVENTY-NINE

1- If determining the age of persons, especially of women and children, is considered important during the trial proceedings and the persons do not possess citizenship document or, if there is a difference between his/her age as recorded in the citizenship document and his/her appearance, the court shall demand the opinion of a judicial doctor or another doctor.

2- In cases where the determination of age based on the opinion of the judicial doctor or another doctor varies from the background of the case and the appearances of the person, the issue of age determination is referred to a medical panel of not less than three persons.

ARTICLE ONE HUNDRED EIGHTY

The court shall seek information about the husband's impotence or his having diseases that are difficult to cure from an expert gynecologist and, in the absence of an expert, from a doctor, nurse and local mid-wife.

ARTICLE ONE HUNDRED EIGHTY-ONE

The court in cases of separation for reason of defect of husband shall obtain information from a relevant expert or a medical board regarding proof of the defect or affliction with incurable diseases or diseases that are curable in the long term.

ARTICLE ONE HUNDRED EIGHTY-TWO

Avoidance and rejection of experts are subject to the general bases of avoidance and rejection of the rules contained in Chapter Four of Part Two of this Code.

ARTICLE ONE HUNDRED EIGHTY-THREE

The parties to a claim have the right, if justifiable grounds exist, to demand rejection of experts. The court within three days from the date of the request for rejection shall make a decision in the matter. In case the grounds for rejection appear to be justifiable, the experts cannot express an opinion in the matter again.

ARTICLE ONE HUNDRED EIGHTY-FOUR

In claims whose complexity is the result of accounting issues and of the examination of papers and documents, or if the complexity of the claims has originated from elsewhere, the court shall assign one of the members of the court or an expert to supervise the issue and to take actions thereafter.

ARTICLE ONE HUNDRED EIGHTY-FIVE

The experts shall in all cases present their opinions in written form to the court and those opinions are then read in the judicial sessions.

ARTICLE ONE HUNDRED EIGHTY-SIX

The experts after their opinions are read in the session can be subjected to questioning. This questioning is conducted first by the person who has been selected based on the request by him/her or by his/her legal representative and then by persons involved in the case and by the court.

ARTICLE ONE HUNDRED EIGHTY-SEVEN

In the absence of sufficient clarification or in case of non-completion of opinion the court can order the experts to give further explanations and conduct complementary examinations.

ARTICLE ONE HUNDRED EIGHTY-EIGHT

In case the court identifies the opinion of the expert or informed person as undocumented or in conflict with reality, it shall require a new opinion from him/her or shall submit the matter to another expert or informed person.

ARTICLE ONE HUNDRED EIGHTY-NINE

In situations where the expert attends the judicial session, the results of his statements and examinations are recorded in the book of judicial records.

ARTICLE ONE HUNDRED NINETY

The court shall not be restricted to the opinion of the expert or the informed person, but shall examine the given opinion like other grounds of proof. If the result of the examination by the court does not comply with the opinion of the expert, the court shall reflect the reasons for the rejection of that opinion in details in the decision.

CHAPTER ELEVEN: MANAGEMENT OF PRELIMINARY PROCEEDINGS IN CIVIL CASES

ARTICLE ONE HUNDRED NINETY-ONE RE

A civil case that is brought to the consideration of the president, deputy or judge of the court by the office of court documents pursuant to the rule of Article 18 of this Code shall be subject to the following considerations:

1- In courts where the number of original/permanent or support/temporary judges is more than three, the president or the deputy of the court shall assign two persons from among the judges for the purpose of preliminary study of the case and the papers are submitted without delay by the office of the court documents to the assigned judicial panel.

2- In the city, district, sub-district and municipal courts in which the number of judges is less than three persons, the judges or the existing judge can conduct the preliminary study of the incoming cases and make a decision in the matter.

ARTICLE ONE HUNDRED NINETY-TWO

In case the proceedings of a civil case would require fixing of a price, limiting or determining the size, cleaning up or identification of other important situations in the subject matter of the claim, the court shall proceed according to the rules of Chapter Two of Part Two of this Code.

ARTICLE ONE HUNDRED NINETY-THREE

While conducting examination of the situations related to the subject of the claim, if the court finds either directly or as a result of oral statements of the parties that the discovery of the actual aspects of the case and the just proceedings of the case on its merit require the analysis of some other issues, the court shall issue a judicial ruling based on the analysis of the specific issues and shall proceed according to the rules contained in Articles 179-182 of this Code.

ARTICLE ONE HUNDRED NINETY-FOUR

If the court feels a need for the discovery of some special situations related to civil cases, it can assure itself of the statements and reasons of both sides and it can otherwise seek information in the matter from concerned authorities.

ARTICLE ONE HUNDRED NINETY-FIVE

The office of the court documents is obligated to present the background information regarding the case to the judicial panel after receipt of information contained in Article 192 to Article 194 of this Code.

ARTICLE ONE HUNDRED NINETY-SIX

The court cannot without justifiable need return the papers related to civil cases.

ARTICLE ONE HUNDRED NINETY-SEVEN

The court cannot without justifiable need postpone the proceedings and hearing of civil cases.

ARTICLE ONE HUNDRED NINETY-EIGHT

Issuance of a judicial ruling on the merits of civil cases is not allowed, except in situations where the law has provided otherwise.

ARTICLE ONE HUNDRED NINETY-NINE

The presidents of the tribunals of the Supreme Court, presidents of the courts, deputies, presidents of the tribunals of provincial courts, and the main district, city, district, sub-district and municipal courts are obligated to prepare the contents of civil cases with the explanation of the type of claim and the identity of the parties and to take relevant actions based on them.

ARTICLE TWO HUNDRED

The completion of trial stages in civil cases, including the follow-up by the parties to the claim, and the issuance of judicial ruling to the effect take place at most within four months.

ARTICLE TWO HUNDRED ONE

The time period contained in Article 200 of this Code is extendable according to the specific nature of some of the cases based on documented and justifiable reasons.

ARTICLE TWO HUNDRED TWO

The beginning of the period of judicial proceedings is valid after the plaintiff's claim is recorded on its special form.

ARTICLE TWO HUNDRED THREE

Differentiation of the plaintiff from the defendant and the separation outside of real possessor (zulyad) takes place at first instance by a judicial ruling. (not clear)

CHAPTER TWELVE: THE TRIAL PROCEEDING AND PRESENCE OF INDIVIDUALS INVOLVED IN THE CASE

ARTICLE TWO HUNDRED FOUR

It is obligatory that the plaintiff and the defendant or their proxy, guardian, executor or custodian appear before the court with the relevant documents.

ARTICLE TWO HUNDRED FIVE

In addition to the parties to the claim and the civil prosecutor, representatives of the governmental bureaus, organizations and third parties can participate in the judicial proceedings.

ARTICLE TWO HUNDRED SIX

The power of attorney is valid until the issuance of the decision by the court in which the claim is being heard. The following situations are exempt from this rule:

If it is clearly stated in the power of attorney document that the authority of making a demand, making an objection to the judgment and retrial, presenting and following up of the claim to the highest courts has been assigned to the representative.

ARTICLE TWO HUNDRED SEVEN

Judges and administrative workers of the courts cannot perform the duty of representation, except in cases where the claim in question concerns their husband, wife, father, grandfather, mother, grandmother, son and daughter.

ARTICLE TWO HUNDRED EIGHT

Judges and workers of the courts can act in their own claim in their own behalf and in the claim of the persons mentioned in Article 207 of this Code as representative, guardian, executor and custodian.

ARTICLE TWO HUNDRED NINE

The parties to the claim are guided to the court chamber in turn and their situations are examined in the following order:

1- The court makes a determination as to which one of them has appeared in the court as the principal, and which of them as proxy, guardian, executor and custodian.

2- The persons who appear in the court as deputies or representatives, the court workers shall file the document of their authority.

3- The request of the plaintiff and all the documents and papers of the parties are regulated by the office of court document.

ARTICLE TWO HUNDRED TEN

The plaintiff shall present its petition in two copies. In case of inaccuracy of the claim, the plaintiff is obligated to correct the claim.

ARTICLE TWO HUNDRED ELEVEN

If the claim is accurate and the provisions of Article 26 of this Code are complied with, the defendant is obligated to present its written response to the court within specified time period.

ARTICLE TWO HUNDRED TWELVE

The court after the presentation of the written response by the defendant shall convey the date of the trial proceedings to the parties to the claim.

ARTICLE TWO HUNDRED THIRTEEN

If the parties to the claim appear in the judicial proceedings on the specified date, the proceedings shall be officially announced and the following steps shall be taken:

1- Following the claim of the plaintiff, the written defense by the defendant is recorded in a special form (a pleading form) and then the claim of the plaintiff and the defense of the defendant are read in the presence of the parties in the judicial session and the contents of the claim and defense are conveyed to the parties.

2- After the reading of the claim of the plaintiff and defense of the defendant, first the plaintiff is given time to explain the claim and the relevant documents, secondly, the defendant is given time to explain its response to the plaintiff's claim with presentation of documents.

3- The president of the session and members of the judicial panel shall question the parties about the lack of clarity and conflict.

4- The secretary of the session is obligated, following an order by the president of the court, to record the proceedings and explanations of the manner of removal of vagueness and conflict in the claim of the plaintiff and the defense of the defendant, and at the end of the trial, to get the record signed by the parties to the claim and by the judicial panel.

ARTICLE TWO HUNDRED FOURTEEN

The full presence of the judicial panel during the judicial negotiations and sessions is necessary. In the absence of the president of the session or one of the members of the judicial panel the session cannot be held.

ARTICLE TWO HUNDRED FIFTEEN

The presentation of a witness to the possession of the immovable subject matter of the claim is obligatory after the (proof of) accuracy of the claim.

ARTICLE TWO HUNDRED SIXTEEN

If during the trial one of the parties to the claim present as proof documents which are not part of the previously studied court papers, the court cannot accept those papers except in the following situations:

1- The court is satisfied that delivery of the mentioned papers was not possible at that time.

2- Existence of another reasonable excuse based on non-presentation of the mentioned papers at that time.

ARTICLE TWO HUNDRED SEVENTEEN

If any of the situations stated under Article 216 of this Code is applicable, the court shall assign another judicial session for the purpose of consideration of the issue.

ARTICLE TWO HUNDRED EIGHTEEN

The parties to the claim can resort to amending, changing, reducing, or increasing the claim and responses that they have submitted to the court separately within the copies only one time, on the condition that the said amendment does not change the merits of the claim and the defense in terms of quality or quantity.

ARTICLE TWO HUNDRED NINETEEN

The parties to the claim cannot demand from the court separate decisions regarding each part of their claims, defenses and objections that have been contained in one claim.

ARTICLE TWO HUNDRED TWENTY

If the proceedings and the trial and the issuance of the judgment do not occur in one session, another date is assigned for the subsequent session and the parties are informed of this.

ARTICLE TWO HUNDRED TWENTY-ONE

If one of the parties to the claim dies during the trial, the heirs of the deceased is summoned to the court pursuant to the demand by the opposite side and the court restarts from the point it had stopped.

ARTICLE TWO HUNDRED TWENTY-TWO

If the plaintiff requests an additional time to prove its case, the court shall give it the necessary time.

ARTICLE TWO HUNDRED TWENTY-THREE

If a need arises during the trial for the papers and documents related to the claim of the plaintiff and the defense of the defendant and such documents exist in the mixed and confidential government offices and organizations, the court shall allow time for the purpose of obtaining such documents and papers.

ARTICLE TWO HUNDRED TWENTY-FOUR

If the arrival of papers by the parties to the claim is not possible, the court can officially demand the needed papers from relevant authorities.

ARTICLE TWO HUNDRED TWENTY-FIVE

If a party to the claim denies the contents of the papers and documents that are presented to the court for the purpose of proof of the claim or claims that they are forged, the issue shall be dealt with and the proceedings shall take place according to the provisions of Chapter 15 of this Part.

ARTICLE TWO HUNDRED TWENTY-SIX

A claim arising from the actual/original claim that is presented by the plaintiff or the defendant during the proceedings of the claim, the court shall deal with the incidental claim during the actual/original claim and make a decision regarding it.

ARTICLE TWO HUNDRED TWENTY-SEVEN

The court shall issue a judicial ruling regarding an emerging claim that requires urgent hearing.

ARTICLE TWO HUNDRED TWENTY-EIGHT

If the emerging claim resulting from the actual claim is raised in the superior courts, it shall be returned to the initial court.

ARTICLE TWO HUNDRED TWENTY-NINE

The emerging claim does not require passage through the preliminary steps.

ARTICLE TWO HUNDRED THIRTY

The court shall recommend the assignment of conciliators in cases where the court senses willingness on the part of the parties for settlement.

ARTICLE TWO HUNDRED THIRTY-ONE

1- If the parties to the claim settle their differences prior to the commencement of the claim and the proceedings, their settlement is put in writing and their dispute is brought to an end.

2- If the settlement takes effect during the proceedings and the trial, the settlement is recorded in the decision and a judgment is issued allowing the settlement and an end to the dispute between the parties.

ARTICLE TWO HUNDRED THIRTY-TWO

If the parties do not agree to settle (their dispute), the court shall proceed with the matter and shall issue a decision accordingly.

ARTICLE TWO HUNDRED THIRTY-THREE

During the proceedings the office of court documents is obligated to observe the following steps and record them in the presence (of the court):

1- Name of the presiding judge and judicial panel, identity of the parties to the claim and name of the interpreter, if one exists.

2- Statements of the parties.

3- Name of the witnesses with their full identities.

4- Summary of the contents of the documents that the parties present.

5- Scrutinies that are performed by the court.

6- The decision that is taken by the court.

ARTICLE TWO HUNDRED THIRTY-FOUR

If the trial is not ended and the proceedings are postponed to next day, the judicial proceedings during the followings days are recorded and performed in the order provided for under Article 233.

ARTICLE TWO HUNDRED THIRTY-FIVE

Minutes (of the proceedings) and other papers and documents to be kept in the court together with the background materials of the case.

ARTICLE TWO HUNDRED THIRTY-SIX

After the investigation and scrutiny of the case and proceedings regarding the reasons, the presiding judge shall demand additional explanations from the parties. In case the parties do not have (further) explanations, the president of the court shall announce the end of the investigation of the case and shall proceed with judicial discussions.

ARTICLE TWO HUNDRED THIRTY-SEVEN

The judicial discussions contain statements involved in the case that take place in the following order:

1- Statements of the plaintiff or his/her legal representative.

2- Statements of the defendant or his/her legal representative.

3- Statements of a third person who presents a separate request during the proceedings of the case.

4- The opinion of the prosecutor involved.

5- Other issues that assists the speedy trial.

ARTICLE TWO HUNDRED THIRTY-EIGHT

The participants in the judicial discussions as provided for in Article 237 of this Code cannot bring as proof in their statements the situations and reasons that have not been explained to the court and have not been investigated in the judicial proceedings.

ARTICLE TWO HUNDRED THIRTY-NINE

If the claim has reached at the stage of issuance of judgment after following procedures, a change in the essence or in the attributes of the parties cannot prevent the issuance of a ruling.

A change in essence or substance means death and a change in attributes means the occurrence of insanity and bankruptcy.

ARTICLE TWO HUNDRED FORTY

The court shall accept the request of a third person for a right of demand, authority to intervene in the claim and presence in the trial.

If the legal stages of the judgment have come to an end, the announcement of the court's judgment to the parties cannot be postponed as a result of this request.

ARTICLE TWO HUNDRED FORTY-ONE

At the conclusion of the investigation and scrutiny, and after judicial discussions and statements by the parties to the effect that they have nothing else to say, the presiding judge shall announce the end of the trial to the parties.

ARTICLE TWO HUNDRED FORTY-TWO

After the announcement and the end of the trial the right of the parties to give statements ends.

ARTICLE TWO HUNDRED FORTY-THREE

After the end of the trial, the judicial panel enters the chamber of the judicial consultations for the purpose of making a decision and arrangement of the text of the

judgment, and before that the issue is announced to those attending the judicial proceedings by the president of the session.

ARTICLE TWO HUNDRED FORTY-FOUR

After a decision has been taken and the text of the judicial panel has been arranged, a reference is made to the chamber of the, the president of the session shall announce the court's judgment, explain the time period for complaints and appeals.

ARTICLE TWO HUNDRED FORTY-FIVE

If the session has been held in the office of the judicial panel, those present in the session shall step out of the session simultaneously with the announcement of the end of the trial, and after the decision is taken the parties to the claim are allowed to enter the session so that the judgment is announced to them.

CHAPTER THIRTEEN: DECISION AND JUDGMENT OF THE COURT

ARTICLE TWO HUNDRED FORTY-SIX

The decisions of the judicial panel on merits or substance of the claim are issued in the form of a judgment.

ARTICLE TWO HUNDRED FORTY-SEVEN

The decision of the court shall be legal and documented.

ARTICLE TWO HUNDRED FORTY-EIGHT

The court issues its decision only on the basis of the evidence that have been gathered and investigated during the judicial proceedings.

ARTICLE TWO HUNDRED FORTY-NINE

While issuing the judgment in the consultations chamber only the relevant judicial panel can be present and the presence of others is not allowed.

ARTICLE TWO HUNDRED FIFTY

The judgment of the court shall be issued with the majority opinion of the judicial panel in such order that first the members and then the president shall express their

opinions. No member of the judicial panel has the right to decline from giving an opinion.

ARTICLE TWO HUNDRED FIFTY-ONE

If one of the members of the judicial panel does not agree with the opinion of the majority, he/she shall write his/her specific opinion in a separate paper and after the signature and seal attach it to the decision. This opinion is not read in the judicial proceedings.

ARTICLE TWO HUNDRED FIFTY-TWO

It is not allowed to disclose opinions that are expressed by the judges in the consultations room.

ARTICLE TWO HUNDRED FIFTY-THREE

The decision is written by the presiding judge or one of the judges participating in the issuance of the judgment and is then sealed and signed by the judicial panel.

ARTICLE TWO HUNDRED FIFTY-FOUR

The decision consists of the introduction, description, reasoning, conclusion and the text of the judgment.

ARTICLE TWO HUNDRED FIFTY-FIVE

The introductory part of the decision consists of the following issues:

- 1- The name of the setting court, name of the president of the session, judicial members, secretary of the session and the prosecutor, if he is a participant in the session.
- 2- The full introduction of the plaintiff and defendant with the explanation of residence, occupation, duty, place of occupation and work, the citizenship document's number and its place of issue, the introduction of other individuals involved in the case, their attorneys and legal representatives.
- 3- The identification of the type of subject matter of the claim.
- 4- Number, date and place of issue of the decision, date of announcement, number of sheets of the decision and its annexes.

ARTICLE TWO HUNDRED FIFTY-SIX

The descriptive part of the decision consists of the following:

- 1- The facts of the plaintiff's case, the defenses of the defendant and other demands by the parties to the claim.
- 2- Confession or denial.
- 3- Testimony of witnesses, its acceptance or rejection.
- 4- Documents, absolute evidence and circumstantial evidence.
- 5- Oath or retraction.
- 6- A summary of the trial proceedings.

ARTICLE TWO HUNDRED FIFTY-SEVEN

The reasoning part of the decision consists of the following:

- 1- The investigative part of the case in the court.
- 2- The means of proof or rejection and explanation of reasons.
- 3- The reasoning that the court accepts or rejects based on the reasons presented.

ARTICLE TWO HUNDRED FIFTY-EIGHT

The conclusion part of the decision consists of the following:

- 1- Non-existence of proof for the claim
- 2- of the defendant.
- 3- The size of restitution or damages related to the subject of the judgment.
- 4- The expense of the court.

ARTICLE TWO HUNDRED FIFTY-NINE

The text of the judgment (ratio decidendi) consists of the following:

- 1- Mention of the date of the judicial session and the issuance of the judgment with a majority of opinion or with a consensus.
- 2- Reliance on specific reasons with the mention of the article of law.
- 3- Mention of the parties to the claim.
- 4- Determination of the subject of the judgment.
- 5- Dismissal of the claim.
- 6- Abandoning of the claim.
- 7- Non-existence of proof of the claim.
- 8- Obligation of the defendant.

ARTICLE TWO HUNDRED SIXTY

The text of the judgment must be clear and clear of any type of verbal and mental limitation.

ARTICLE TWO HUNDRED SIXTY-ONE

- 1- The court's judgment shall be announced to the parties to the claim without delay after the conclusion of the trial.
- 2- The decision of the court shall be organized, prepared and issued within ten days.

ARTICLE TWO HUNDRED SIXTY-TWO

The judicial panel cannot amend or cancel its decision after the announcement of the judgment in the case.

ARTICLE TWO HUNDRED SIXTY-THREE

The court can in any case correct the typing errors, grammatical errors and numerical errors in the decision. The judicial panel shall correct the mistakes and errors in the decision and sign underneath it.

ARTICLE TWO HUNDRED SIXTY-FOUR

If there is vagueness in the judgment or decision, the court shall, pursuant to the request by the individuals involved in the case, get the judicial panel to explain the vagueness in the judicial session on the condition that the decision has not yet been implemented.

ARTICLE TWO HUNDRED SIXTY-FIVE

In case the implementation of final decision requires monetary payment, the court can pursuant to the request of individuals involved in the case and by taking into consideration the determination of the state of wealth of the convicted person or other conditions, prescribe in the text of the judgment that payment be made in installments.

ARTICLE TWO HUNDRED SIXTY-SIX

The decision of the court becomes absolute in the following situations:

- 1- The expiry of the time period allowed for complaints without legal excuse.
- 2- Presentation of complaints or objection to the higher court, in case in the proceedings of the case in the higher court a decision of cancellation is not made.

CHAPTER FOURTEEN: RULING OF THE COURT

ARTICLE TWO HUNDRED SIXTY-SEVEN

The ruling of the court is a judicial decision that is not issued on the merits of the claim but rather in relation to the procedures.

ARTICLE TWO HUNDRED SIXTY-EIGHT

The ruling of the court is issued by the judicial panel in the consultation room according to the provisions of Article 243 of this Code.

ARTICLE TWO HUNDRED SIXTY-NINE

The court can after consultation with the judicial panel issue a ruling regarding ordinary matters without compliance with the provisions of Article 268 of this Code and record the ruling in the minutes of the court.

ARTICLE TWO HUNDRED SEVENTY

The ruling of the court is announced upon issuance.

ARTICLE TWO HUNDRED SEVENTY-ONE

The ruling of the court consists of the following:

- 1- The date and place of the ruling's issuance.
- 2- The name of the court issuing the ruling, composition of the court and the secretary of the judicial session.
- 3- Individuals involved in the claim of an issue at dispute.
- 4- The issue about which a ruling is issued.
- 5- Reasons and grounds upon which the court has issued its ruling.
- 6- Legal reliance by the court.
- 7- Coming to a conclusion and taking a decision by the judicial panel.
- 8- Specifying the time period for complaints against a ruling that is not legally absolute.
- 9- Mention of the ruling being absolute in situations where the ruling has been considered final according to the provisions of the law.

CHAPTER FIFTEEN: GROUNDS OF JUDGMENT (EVIDENTIARY TOOLS)

ARTICLE TWO HUNDRED SEVENTY-TWO

The means of proof that form the grounds of judgment are as follows:

- 1- Confession.
- 2- Evidence (documents, witnesses, absolute evidence and circumstantial evidence)
- 3- Oath (swearing)
- 4- Retraction

ARTICLE TWO HUNDRED SEVENTY-THREE

Confession means information about an issue in the court that proves continuation of the right of the party to the claim or which proves the condition against the person making confession.

ARTICLE TWO HUNDRED SEVENTY-FOUR

The confession of the person making it who is legally competent in the eyes of the court is valid if the apparent conditions do not render it untrue.

ARTICLE TWO HUNDRED SEVENTY-FIVE

The confession by the person making it is not conditioned upon acceptance by the person to whom the confession is made, but its rejection can take place by the person to whom the confession is made. If a part of the confession is rejected by the person to whom it is made, the remainder of the confession stands true.

ARTICLE TWO HUNDRED SEVENTY-SIX

Confession as to an absentee person's right is not valid until the time of notice to and confirmation by the absentee of the confession of the person making it.

ARTICLE TWO HUNDRED SEVENTY-SEVEN

Retracting a confession that has been made according to the provisions of Article 273 of this Code is not valid.

ARTICLE TWO HUNDRED SEVENTY-EIGHT

Confession regarding joint share that has not been separated is correct.

ARTICLE TWO HUNDRED SEVENTY-NINE

If the defendant confesses in front of the court to the claim of the plaintiff, he shall be considered culpable.

ARTICLE TWO HUNDRED EIGHTY

If the defendant denies (the claim) the burden of proving the claim shall be upon the plaintiff.

ARTICLE TWO HUNDRED EIGHTY-ONE

The sources of proof are as follows:

- 1- Documents.
- 2- Testimony of witnesses.
- 3- Evidences

ARTICLE TWO HUNDRED EIGHTY-TWO

Documents are of two types:

- 1- Official documents.
- 2- Customary documents.

ARTICLE TWO HUNDRED EIGHTY-THREE

Official and customary documents are those that have been described in clauses 1 and 2 of Article 991 of the Civil Code.

ARTICLE TWO HUNDRED EIGHTY-FOUR

Official documents regarding confessor, heirs and their alternates are valid and binding prior to the commencement of the claim.

ARTICLE TWO HUNDRED EIGHTY-FIVE

The person who has been accepted as witness of identity in the official documents and if he/she claims the ownership that is contained in the document, the said official document shall be binding on him/her before the commencement of the claim.

ARTICLE TWO HUNDRED EIGHTY-SIX

The claim of the plaintiff against official documents is invalidated by the presentation of invalidating document by the defendant or it shall be proven by the confession of the defendant.

ARTICLE TWO HUNDRED EIGHTY-SEVEN

Edicts, official documents, absolute decisions and rulings of the court, if they are clear of forgery and falsification, and if they have been safely recorded in the government

office of a judicial tribunal, such documents are recognized as bases of proof and they shall be binding.

ARTICLE TWO HUNDRED EIGHTY-EIGHT

The official documents in whose ordering and arrangement the provisions of the law have not been complied with have the status of customary documents.

ARTICLE TWO HUNDRED EIGHTY-NINE

The customary documents that have been written and signed by the parties and their seal or fingerprinted have been placed on them, and in case the two sides confirm their seal, signature and fingerprint, such documents are of the same validity as the official documents.

ARTICLE TWO HUNDRED NINETY

The customary document that has been written and signed in personal hand-writing of a person and, in case his writing and signature is confirmed by a hand-writing expert, such customary document shall have the same validity as an official document.

ARTICLE TWO HUNDRED NINETY-ONE

The persons under whose seal, signature or fingerprint customary documents are presented in a dispute are obligated to confirm or deny their seal, signature or fingerprint. Their silence is considered denial.

ARTICLE TWO HUNDRED NINETY-TWO

A legator cannot be forced to confirm or deny the seal, signature or fingerprint of his legatee. He only has the right of confession, denial or profession of ignorance.

ARTICLE TWO HUNDRED NINETY-THREE

Minute correspondences, telegram and other signed papers belonging to offices that exist in the relevant office have the status of customary documents.

ARTICLE TWO HUNDRED NINETY-FOUR

Recording the testimony of two witnesses of identity who have the capacity to give testimony are mandatory in all courts security documents. Persons known to the court are exempt from this rule.

ARTICLE TWO HUNDRED NINETY-FIVE

If there are numerous legators and partners and if some of them have prepared the security document, this document is valid only in regards to those who have prepared it and cannot involve the remaining legators and partners.

ARTICLE TWO HUNDRED NINETY-SIX

1- The judge cannot prepare in a court where he/she performs his/her duties a security document for himself, his father, grandfather, mother, grandmother, children, brother, sister and for workers of the relevant court.

2- Acceptance by the judge of persons contained in clause 1 of this Article as witnesses, experts or interpreter is not allowed.

ARTICLE TWO HUNDRED NINETY-SEVEN

The security documents of the persons mentioned in Article 296 of this Code is prepared in the neighboring court.

ARTICLE TWO HUNDRED NINETY-EIGHT

The supervision of requests based on dubiousness and forgery of the official documents belongs to the authorized preliminary court.

ARTICLE TWO HUNDRED NINETY-NINE

If requests regarding doubtfulness, forgery or falsification of documents are presented to other authorities, such requests are returned to the relevant sub-district, municipal, city or district courts.

ARTICLE THREE HUNDRED

If the claim regarding doubt and forgery in the documents requires proof, the criminal pursuit of the issue is postponed until the final proceedings regarding right of servitude.

ARTICLE THREE HUNDRED ONE

If the court after evaluating the reasons considers the claim of suspiciousness and forgery as baseless, it shall issue a ruling dismissing the claim. This ruling can be appealed against.

ARTICLE THREE HUNDRED TWO

If the court after evaluation of reasons, consider the claim of suspiciousness and forgery as valid, it shall issue a ruling for the proceedings of claim of suspiciousness and forgery and convey it to the plaintiff to present his/her claim papers.

ARTICLE THREE HUNDRED THREE

1- If on the face of it, a submitted document of one of the parties to the claim appears doubtful in the eyes of the court, the court can officially demand a copy of it from the place that has prepared it.

2- The rule of clause 1 of this Article is also applicable in case of a suspicion in the confirmation presented.

ARTICLE THREE HUNDRED FOUR

1- The protrusions and sentences that have been written between the lines or in the margins are not valid.

2- In case the additions contained in clause 1 of this Article have been confirmed and signed by the person who confesses, the person to whom the confession is made and the witnesses and they have been signed and sealed by the person preparing them, they shall be valid.

ARTICLE THREE HUNDRED FIVE

Statements by the creditor on the front and back of a document in the hands of the debtor indicating whether the whole or part of the debt has been paid is valid only when the creditor admits their accuracy or if they have been written and signed in his handwriting.

ARTICLE THREE HUNDRED SIX

The party whose original document is detained by the official authorities and despite the need to present the document to the court it cannot do so for justifiable reasons, in that case, it can demand the original document through the court. The expenses arising from this demand are born by the owner of the document.

ARTICLE THREE HUNDRED SEVEN

The documents that have been prepared outside the country can be valid only when the said document has been prepared and signed by one of the political missions of the

Republic of Afghanistan and the Foreign Ministry has also officially assured of its accuracy.

ARTICLE THREE HUNDRED EIGHT

If resort is made to a document that has been prepared in a foreign language, the person resorting to such a document is obligated to present the original document simultaneously with its certified translation to the court. If the translation of the document is not accepted by the opposing party or by the court, a new translation of the document is made by the court at the expense of the person presenting it. In case of conformity of the second translation with the first translation the right of the return of the party harmed to the opposite side is not jeopardized.

ARTICLE THREE HUNDRED NINE

If the claims of suspiciousness and forgery of the submitted documents arise during the proceedings of the court, its manner is recorded in the special claim form and the signature and fingerprint of the person making the claim are placed underneath it.

ARTICLE THREE HUNDRED TEN

1- If the document subject to the claim of suspicion or forgery is not material to the claim, it shall not be valid with the court and the court shall hear other evidences and documents of the plaintiff.

2- If the document subject to the claim of suspicion or forgery is material to the claim, the court shall issue a ruling for commencement of proceedings concerning the claim of suspicion or forgery and shall suspend the original claim under proceedings until the passage of final stages.

ARTICLE THREE HUNDRED ELEVEN

The person claiming suspiciousness and forgery is obligated to pursue his/her claim in the authorized court within one month.

ARTICLE THREE HUNDRED TWELVE

If the person claiming suspiciousness and forgery does not attend his/her own claim without justifiable reason at the time specified in Article 311 of this Code, the court shall specify and announce another date for the appearance of the claimant. In case the claimant still does not pursue the claim of suspiciousness and forgery during the specified time there shall be no further time specified for his/her claim of

suspiciousness and forgery, the court shall then summon the parties and proceed with the actual/original claim already under proceedings.

ARTICLE THREE HUNDRED THIRTEEN

If the proceedings regarding the claim of forgery is also taken up by a court other than the court authorized to hear the original claim, the court proceeding with the claim of forgery is obligated to inform from time to time the court that hears the original claim of the result of its proceedings.

ARTICLE THREE HUNDRED FOURTEEN

Compliance with the following points is necessary in proceedings related to suspicious and forged documents:

- 1- Close attention to the hand-writing.
- 2- Close attention to the signature.
- 3- Close attention to the seal.
- 4- Close attention to the fingerprint.
- 5- Clearing and erasure and re-writing without correction.
- 6- Protrusion without seal and signature.
- 7- Photos of those included in the security document.
- 8- Difference in the original and the record of the security document.

ARTICLE THREE HUNDRED FIFTEEN

The manner of proceeding with the claim of suspiciousness and forgery is regulated in addition to the rules that are provided in this Code by a separate bill in which the writing of the instruments and mistake of the instruments are explained and the high council of the Supreme Court approves it.

ARTICLE THREE HUNDRED SIXTEEN

Appeal in the civil and public interest cases that are raised in relation to the suspiciousness of instruments of exoneration and settlement or in relation to decisions regarding confession, exoneration and settlement are valid from the date of

presentation of the claim of suspiciousness and forgery, and not from the date of the issue of the original instrument or decision.

ARTICLE THREE HUNDRED SEVENTEEN

The superior court shall evaluate the instruments and decisions contained in Article 316 of this Code from the point of view of suspiciousness or forgery and their reasons, and in case suspiciousness and forgery did not exist, it shall issue a judgment approving them.

ARTICLE THREE HUNDRED EIGHTEEN

If the judgment of the (lower) court has been issued based on a confession, settlement, exoneration or in reliance upon instruments and official documents being duly recorded in the justice tribunal and if there has not been a claim of forgery and suspiciousness regarding the mentioned documents, the superior court shall dismiss an appeal against such a judgment.

ARTICLE THREE HUNDRED NINETEEN

The court cannot give to individuals the duplicate of the documents about which a claim of suspiciousness or forgery has been made.

ARTICLE THREE HUNDRED TWENTY

If the court issues an absolute decision stipulating that a document is forged, a summary of the judgment of nullity to that effect shall be written underneath the original and the stub of the (forged) document and the special seal of the president of the court shall be placed on it.

ARTICLE THREE HUNDRED TWENTY-ONE

- 1- Testimony of witnesses means giving information as to the truth in the judicial session with the wording of "I swear".
- 2- The court is obligated to emphatically comply with the conditions of testimony of the witnesses.
- 3- From the point of view of the strength of proof, testimony is placed in the second place.
- 4- The amount of testimony and its conditions are subject to the rules of the Islamic law.

ARTICLE THREE HUNDRED TWENTY-TWO

The testimony of the witnesses is heard individually in the presence of the parties in the session of judicial panel.

ARTICLE THREE HUNDRED TWENTY-THREE

The court prior to hearing the testimony of the witnesses is obligated to clarify the full identity of the witnesses.

ARTICLE THREE HUNDRED TWENTY-FOUR

1- If the plaintiff introduces the full identity of witnesses in response to a query by the court prior to the statements of the witnesses in front of the judicial panel and the party to the claim, but at the time of appearance, the plaintiff brings other witnesses to the court, the court shall not accept those witnesses.

2- If the claimant brings the same witnesses whose full identities he has already introduced, the court shall allow those witnesses to give testimony.

ARTICLE THREE HUNDRED TWENTY-FIVE

If in the legal dealings one of the witnesses attends the proceedings on the specified day and another witness for justifiable reasons could not attend, the court shall hear the statements of the present witness and shall give time for the appearance of the absentee witness.

Witnesses in cases of punishment and retaliation are exempt from this rule.

ARTICLE THREE HUNDRED TWENTY-SIX

The testimony of witnesses in the judicial proceedings shall be recorded by a member of the judicial panel and is read in the presence of witnesses and parties to the claim and their signature, seal and fingerprint are placed on it.

ARTICLE THREE HUNDRED TWENTY-SEVEN

1- If the witnesses cannot give their testimony from memory due to the multiplicity of four borders and multitude of the subject matter of the claim, they shall can read their testimony from writing in the presence of the court panel and they can point at the appropriate time toward the plaintiff, defendant and the subject matter of the claim, as needed.

ARTICLE THREE HUNDRED TWENTY-EIGHT

If after bringing the witnesses the defendant confirms the testimony of the witnesses or admits the actual subject matter of the claim, the court shall issue its judgment in reliance upon that admission.

ARTICLE THREE HUNDRED TWENTY-NINE

The plaintiff is demanded to present its defense against the hostile testimony of witnesses to possession, and after possession is proven, the defendant is demanded to present reason and evidence. If the defendant is unable to bring reason and evidence, the court shall make a judgment prohibiting and neutralizing the attack of the defendant against the subject matter of the claim.

ARTICLE THREE HUNDRED THIRTY

1- The court is authorized to specify, by having regard to the distance and manner of appearance, the time and duration for the presentation of witnesses.

2- The court shall allow the claimant/plaintiff three opportunities to bring witnesses.

ARTICLE THREE HUNDRED THIRTY-ONE

If the plaintiff expresses before the court that he/she would not be able to bring witnesses no matter how much time he/she is given, his/her statements to this effect shall be recorded in the claim form and underneath it his/her fingerprint and signature shall be placed. If the plaintiff then presents witnesses, they shall not be accepted.

ARTICLE THREE HUNDRED THIRTY-TWO

If the witnesses as a result of the request by the plaintiff do not appear before the court willingly, the court can pursuant to the request of the plaintiff summon the witnesses.

ARTICLE THREE HUNDRED THIRTY-THREE

1- The quorum of consecutive witnesses for the purpose of proving the subject matter of the claim shall be less than 25 persons.

2- The test of character of the consecutive witnesses is not applicable whether conducted secretly or openly.

ARTICLE THREE HUNDRED THIRTY-FOUR

The testimony of witnesses is not valid outside the court.

ARTICLE THREE HUNDRED THIRTY-FIVE

The testimony of principal regarding proxy and vice-versa, of husband regarding wife and vice-versa and of other relatives up to the second degree is not allowed.

ARTICLE THREE HUNDRED THIRTY-SIX

The testimony of a partner regarding partner in partnership, and of friend regarding friend in interest is not correct.

ARTICLE THREE HUNDRED THIRTY-SEVEN

1- Testing the character of obligated witnesses and the manner and conditions of the test are subject to the rules of Islamic law.

2- The Supreme Court is obligated to regulate and implement according to the rules of Islamic law the manner of performing secret or open test of character of the obligated witnesses.

ARTICLE THREE HUNDRED THIRTY-EIGHT

1- Absolute evidence is that based on whose indication an unclear matter becomes clear. This indication brings evidence to the level of certainty and such evidence can be used at its face value in regards to the actual subject of the dispute.

2- If a person observes the exercise of ownership by another person and does not claim ownership for himself despite the absence of legal excuses such as age of minority, insanity, etc., and then if he/she makes such a claim, his/her claim of ownership is negated based on the indication of absolute evidence.

ARTICLE THREE HUNDRED THIRTY-NINE

1- Circumstantial evidence is that which the court infers from the circumstances of the claim and from the trial proceedings, and then the court relies on it as a basis for its judgment.

2- If there is clear legal text is not allowed, reliance on circumstantial evidence.

ARTICLE THREE HUNDRED FORTY

Oath and retraction of the oath:

If the plaintiff is unable to present in the court other means and sources of proof, he/she can direct the defendant to take an oath. In such a case, the court shall pursuant to the demand of the plaintiff administer an oath to the defendant.

ARTICLE THREE HUNDRED FORTY-ONE

If the defendant takes an oath in the court, the claim of the plaintiff is rejected and a judgment dismissing the current dispute is issued.

ARTICLE THREE HUNDRED FORTY-TWO

In case the claim contains numerous issues, reliance is made on a single oath.

ARTICLE THREE HUNDRED FORTY-THREE

Oath or retraction from oath in the court is valid (only) in the presence of the adversary or his/her substitute.

ARTICLE THREE HUNDRED FORTY-FOUR

Acceptance of the oath or retraction from the oath belongs to the person of the defendant. There is no effect from a refusal by an attorney to take an oath or from his retraction.

ARTICLE THREE HUNDRED FORTY-FIVE

If the plaintiff abandons his/her right to demand an oath, the court shall issue a judgment dismissing the plaintiff's claim.

ARTICLE THREE HUNDRED FORTY-SIX

If the defendant retracts his/her oath, the court shall oblige him to reject the subject matter of the claim or submit it to the plaintiff.

ARTICLE THREE HUNDRED FORTY-SEVEN

The defendant can resort to a proper defense against the claim of the plaintiff. The defense of the defendant is considered proper in the following situations:

- 1- The plaintiff has quit his/her claim.
- 2- The plaintiff has given the subject matter of the claim as a gift.

3- Has purchase the subject matter of the claim from the plaintiff.

4- Has performed what the plaintiff has demanded.

ARTICLE THREE HUNDRED FORTY-EIGHT

1- If the party claiming to have a defense is unable to prove his/her defense, he/she can demand the original plaintiff to take an oath.

2- If the claimant retracts from the claim of defense by the defendant, the claim of the original plaintiff is rejected and he/she becomes culpable.

ARTICLE THREE HUNDRED FORTY-NINE

If the plaintiff swears against the defendant's defense of gift, purchase and waiver, in such a case the defendant becomes culpable.

ARTICLE THREE HUNDRED FIFTY

A defense involving confession in the absence of proof renders the defendant culpable and obliges him/her to surrender the subject matter of the claim.

In case of a defense not involving confession, the proceedings of the case shall continue in the original manner.

ARTICLE THREE HUNDRED FIFTY-ONE

The claim of defense requires compliance with other legal requirements of claims.

ARTICLE THREE HUNDRED FIFTY-TWO

The court pursuant to the provisions of Articles 1022 to 1024 of the Civil Code shall without the demand by the adversary, directly administers the oath to the plaintiff. This oath is within the jurisdiction of the court and is complementary and it takes place in the following situations:

1- In a claim for entitlement where the subject matter of the claim is in the possession of another person and the person entitled to it claims a right to it, the court shall administer an oath to the claimant (of this right) regarding the following matters after the said right has been proven and before the issuance of a judgment:

-- has not sold the subject matter of the claim to any body.

-- has not given the subject matter of the claim to someone as a gift or charity.

2- In a claim related to debt or right against a deceased, the court shall administer an oath regarding the following matter to the claimant after his/her right has been proven and before the issuance of a judgment:

-- The subject matter of the claim has not reached him/her (the plaintiff) either directly or indirectly.

3- In a claim of pre-emption, the court shall after the right of pre-emption has been proven and prior to the issuance of the judgment administer an oath to the person exercising the right of pre-emption regarding the following matters:

-- Has made timely demand for the right of pre-emption.

-- Has in no way abrogated his/her right of pre-emption.

4- In a claim related to the rejection of a purchased property for reason of defect, the court shall administer an oath to the claimant regarding the following matter after the defect has been proven and before the issuance of a judgment:

-- Has not shown acceptance of the defect whether expressly or by indication.

5- In a claim of (lack of maintenance, the court shall administer the following oath to the wife after the proof of right to maintenance and before the issuance of judgment:

-- The husband has not left any maintenance for her.

-- He has not divorced her.

ARTICLE THREE HUNDRED FIFTY-THREE

The court shall pursuant to a demand by the plaintiff administer an oath in the name of Allah to the defendant once without repetition.

ARTICLE THREE HUNDRED FIFTY-FOUR

In taking an oath, representation is not allowed.

ARTICLE THREE HUNDRED FIFTY-FIVE

In an issue related to an event and action that the person taking the oath has brought about an absolute oath is administered, and in an issue related to other event and action an oath of knowledge is administered.

ARTICLE THREE HUNDRED FIFTY-SIX

In an issue related to the occurrence or non-occurrence of a matter an oath as to the reason and in an issue related to the continuation or non-continuation of the status quo an oath of occurrence is administered.

ARTICLE THREE HUNDRED FIFTY-SEVEN

In an issue related to the rejection of oath of the parties to each other, the rules contained in Section Four of Chapter One of Part Five of the Civil Code shall be complied with.

PART THREE: PROCEEDINGS IN SUPERIOR COURTS

CHAPTER ONE: COMPLAINT AGAINST AND OBJECTION TO LOWER COURTS' DECISIONS

ARTICLE THREE HUNDRED FIFTY-EIGHT

Complaint and objection is the right of the convicted person who is not satisfied with the decision of the lower court which is demanded from the superior court by the presentation of a complaint against the judicial proceedings of the setting court.

ARTICLE THREE HUNDRED FIFTY-NINE

1- The convicted person who is not satisfied can bring a complaint and an objection in the higher court against the judgments issued by the setting municipal, city, district and sub-district courts.

2- The non-satisfied convicted person can bring a complaint and an objection in the tribunals of the Supreme Court against the issued judgments of the provincial courts that have issued judgment in a preliminary form.

ARTICLE THREE HUNDRED SIXTY

The civil prosecutor who participates in the case as a plaintiff or a defendant can object to the judgments of the lower courts.

ARTICLE THREE HUNDRED SIXTY-ONE

Complaint and objection against final judgments of lower courts shall take place in the following situations:

- 1- Mistake in the implementation of legal rules.
- 2- Mistake in the interpretation of the legal rules.
- 3- Invalidity in the proceedings due to the issuance of an illegal judgment.

ARTICLE THREE HUNDRED SIXTY-TWO

The fundamental conditions for complaint and objection are as follows:

- 1- The decision of the lower court that possess the attribute of a judgment.
- 2- Non-satisfaction of the convicted person with the decision issued by the lower court.
- 3- Compliance with the legal time period for presentation of the objection.
- 4- Existence of jurisdiction by the upper court to proceed.
- 5- Non-existence of a separate document invalidating the right of the defendant to raise an objection.
- 6- Presentation of an objection by the plaintiff, defendant or their legal representative to the upper court.
- 7- Non-implementation and non-performance of the lower court's judgment to the satisfaction of the convicted person.

ARTICLE THREE HUNDRED SIXTY-THREE

Hearing the complaints against decisions of the city, municipal, district and sub-district courts shall be within the jurisdiction of the tribunals of the Supreme Court.

ARTICLE THREE HUNDRED SIXTY-FOUR

Hearing of complaints against the preliminary decisions of the tribunals related to the presidency of the provincial court or of an equivalent court shall be within the jurisdiction of the Supreme Court tribunals.

ARTICLE THREE HUNDRED SIXTY-FIVE

The time period to present complaint and objection after the issuance of the judgment and its announcement shall be one month.

CHAPTER TWO: MANNER OF PRESENTATION OF COMPLAINT AND OBJECTION

ARTICLE THREE HUNDRED SIXTY-SIX

The complaint by the non-satisfied culpable person against the decision of the lower court takes place in the form of a printed request letter.

ARTICLE THREE HUNDRED SIXTY-SEVEN

The request letter containing the complaint shall be directly presented to the higher court or to the setting court.

ARTICLE THREE HUNDRED SIXTY-EIGHT

If the non-satisfied party mentions its non-satisfaction at the bottom of the paper containing the notice of the judgment that has been given to him by the city, municipal, district and sub-district courts, this shall be tantamount to making a complaint.

ARTICLE THREE HUNDRED SIXTY-NINE

The complaint letter of the non-satisfied party must contain the actual issue and the judgment of the lower court.

ARTICLE THREE HUNDRED SEVENTY

The request letter containing the complaint of the non-satisfied culpable person that is presented to the higher court or to the setting court shall be official and shall be recorded in the office of the court and the person making the complaint shall be given a receipt to this effect.

ARTICLE THREE HUNDRED SEVENTY-ONE

The complaint and objection that are presented after the expiry of the specified time period are not justiciable and are returned to those presenting them, unless the person making the complaint or objection can bring justifiable excuse.

ARTICLE THREE HUNDRED SEVENTY-TWO

The letter of complaint is signed by the person presenting it or his/her legal representative.

ARTICLE THREE HUNDRED SEVENTY-THREE

Objection of the prosecutor that is presented to the higher court shall be signed by the responsible prosecutor.

ARTICLE THREE HUNDRED SEVENTY-FOUR

If a complaint is presented by the legal representative, in addition to the number and date of the instrument recorded in the original letter of complaint, a photocopy or copy of the letter confirming the instruments is also presented to the higher court.

ARTICLE THREE HUNDRED SEVENTY-FIVE

The higher court shall, after receipt of the complaint letters, officially requisition the papers related to the decision from the relevant authority.

ARTICLE THREE HUNDRED SEVENTY-SIX

The papers related to decision are submitted to the judicial panel upon arrival, and the judicial panel shall, after becoming aware of the fact that the complaint was presented in the specified time and that the papers are clear of administrative mistakes, order them to be recorded.

ARTICLE THREE HUNDRED SEVENTY-SEVEN

The detailed objection of the complainant shall be presented within twenty (20) days after the submission of the complaint.

ARTICLE THREE HUNDRED SEVENTY-EIGHT

Written complaint or detailed objection shall contain the following matters:

- 1- The name of the court to which the complaint or objection has been made.
- 2- The identity of the complainant.
- 3- Summary of the decision that is the subject of the complaint or objection.
- 4- The name of the court issuing the decision that is the subject of the complaint.
- 5- Reasons for inaccuracy of the decision.
- 6- Demand of the complainant or the person/party objecting.
- 7- Papers and documents containing the list of contents for the attachment of complaint or objection.

ARTICLE THREE HUNDRED SEVENTY-NINE

The complaint or objection contained in Article 378 of this Code is presented in two copies to the superior court.

CHAPTER THREE: PRELIMINARY PROCEEDINGS OF SUPERIOR COURT

ARTICLE THREE HUNDRED EIGHTY

The office of the superior court's documents shall submit one copy of the written complaint or objection of the complainant after review and consideration by the judicial panel to the opposing party.

ARTICLE THREE HUNDRED EIGHTY-ONE

1- If the complainant refuses to present a detailed written objection or express his/her excuse regarding his/her inability to present the objection, the court shall rely on his/her oral reasons and shall place his/her signature and fingerprint underneath his/her statements.

2- The rule of clause 1 of this Article is also applicable to the party opposing the party making the complaint.

ARTICLE THREE HUNDRED EIGHTY-TWO

The higher court shall issue a ruling regarding the postponement of the proceedings related to the complaint in the following situations and shall give to the complainant or the party making the objection time to correct the complaint or objection.

1- In case the complaint or objection has not been signed by those presenting them.

2- In case the necessary attachments have not been presented to the court together with the complaint.

3- In case the government duties related to the complaint or objection have not been paid.

ARTICLE THREE HUNDRED EIGHTY-THREE

The time period for submission of the complaint or objection is calculated from the date of their submission to the court, on the condition that the party presenting them perform the instructions contained in Article 382 within the specified time period.

ARTICLE THREE HUNDRED EIGHTY-FOUR

The complainant can abandon its complaint on the condition that this decision has not been subjected to a complaint or objection by a third person/party. In this case, the court shall make a ruling dismissing the complaint or objection and shall end the proceedings in this regard.

ARTICLE THREE HUNDRED EIGHTY-FIVE

1- The case containing the complaint and objection shall after statements of the parties with the objection of the prosecutor and response of the parties be submitted to the judicial panel for completion of studies.

2- After completion of the studies by the judicial panel the case shall be recorded in the agenda, and the venue of the proceedings for the complaint and the place of holding of the judicial session shall be announced to the parties to the claim and to the persons making the complaint in the case.

ARTICLE THREE HUNDRED EIGHTY-SIX

If the parties agree to settle at the final stage after submission of complaint or objection, this agreement shall be submitted in written form to the court, and in case the higher court approves of it, the court shall make a decision to end the proceedings.

**CHAPTER FOUR:
HOLDING OF JUDICIAL SESSION TO
HEAR THE COMPLAINT AND OBJECTION**

ARTICLE THREE HUNDRED EIGHTY-SEVEN

The presiding judge shall at the stage of proceeding with the complaint and objection and by taking the provisions of Chapter three of Part Two of this Code take necessary action to ensure the order in the judicial session.

ARTICLE THREE HUNDRED EIGHTY-EIGHT

The presiding judge shall after the opening of the session and introduction of the composition of the judicial panel and the civil prosecutor announce the following matters for the purpose of the proceedings:

- Type of the case to be heard.
- Introduction of the complainant or the person/party objecting.
- Introduction of the court against whose decision the objection has been made.

The identity of the parties to the complaint is recorded in this session by the secretary of the session.

ARTICLE THREE HUNDRED EIGHTY-NINE

If one of the parties involved in the case is absent and this absence has been because of lack of information regarding the date and place of the proceedings of the case, the court shall order the postponement of the proceedings.

ARTICLE THREE HUNDRED NINETY

1- The absence of one of the parties involved in the case despite having information regarding the date and place of the proceedings of the case shall not obstruct the proceedings.

2- If the court considers the absence to be justifiable, it can postpone the proceedings of the case.

ARTICLE THREE HUNDRED NINETY-ONE

1- The court shall inform higher prosecutor or the association of defense attorneys of the unjustifiable absence of the prosecutor or the defense attorney from the hearing session.

2- If the defense attorney after being summoned by the court does not appear in the judicial session within ten days, the court shall officially inform the association of the board of the defense attorneys of his/her absence that has been the reason for the postponement of the proceedings of the case.

ARTICLE THREE HUNDRED NINETY-TWO

1- The proceedings of the case at the appeal stage commences by a reading conducted by the head of the session or one of the judges of a report based on the study of the prepared papers.

2- The report describes the manner of the case, the judgment of the lower court, grounds for complaint, objection and other matters that have been newly presented to the court, and it also contains the sources that the court deals with for the purpose of controlling the accuracy of the decision.

ARTICLE THREE HUNDRED NINETY-THREE

1- The higher court shall while proceedings of a case having regard to the existing reasons and the reasons that have been presented by the parties or others involved in the case evaluate if the decision of the lower court has been legal and whether it has been documented by evidence in sections where complaint has been made and in the sections where there are no complaints against them and also in relation to individuals who have submitted complaints.

2- The court in the all-inclusive evaluation of the case shall not be bound by the reasons for the complaint and objection, and it only uses them as a means of the proceedings.

ARTICLE THREE HUNDRED NINETY-FOUR

The judicial panel shall, after the case is reported, hear the explanations of the parties involved in the case who are present in the judicial session. First, the complainant or his/her representative and then the civil prosecutor, where there is a complaint involved, shall make statements.

If both parties present a complaint, priority in expressing the issues is given to the plaintiff.

ARTICLE THREE HUNDRED NINETY-FIVE

The prosecutor involved in the case shall give explanations regarding whether the decision of the court has been legal and whether it has been documented by evidence, after the statements made by interested persons.

ARTICLE THREE HUNDRED NINETY-SIX

After hearing the explanations given by the parties to the case and the opinion of the prosecutor, the judicial panel shall enter the consultation room in order to make a judicial decision.

ARTICLE THREE HUNDRED NINETY-SEVEN

The consultation of the judicial panel, the decision and the announcement shall take place according to the rules contained in Chapter twelve of Part Two of this Code.

ARTICLE THREE HUNDRED NINETY-EIGHT

The higher court after the preliminary proceedings of the case shall have the following jurisdiction at the final stage:

- 1- Sending the case to the authorized court for retrial in case of invalidating the decision of the lower court.
- 2- Deciding to issue a new decision in case of overruling the decision of the lower court or in case of a need for return of the case to the setting court for the purpose of gathering reasons and further research for a new proceeding.
- 3- Decisions of lower courts clear of situations of being invalidated and overruled, but involving mistakes and errors of numbers and figures shall not be invalidated or overruled by the higher court. They are returned to the lower court only for the purpose of correction and removal of the defect.
- 4- Approval of the decision of the lower court, in case its conformity with the law is established as a result of a review.

ARTICLE THREE HUNDRED NINETY-NINE

The grounds for invalidity of a decision are as follows:

- 1- Lack of the essential pillars of justice in the decision.

- 2- Absence of capacity on the part of one of the parties to the claim to litigate.
- 3- Issuance of judicial decision without the possibility of proof or against objective reality regarding the subject matter of the claim.
- 4- Issuance of a decision by a judicial panel without jurisdiction.
- 5- Issuance of a decision by a court without jurisdiction.

ARTICLE FOUR HUNDRED

The situations where a decision is overruled are as follows:

- 1- The decision not based on evidence.
- 2- Absence of explanation for situations which are necessary to clarify the case.
- 3- Non-conformity of the reasons contained in the decision with the situations of the case.
- 4- Inappropriate use of the rules of the law.
- 5- Issuance of a decision of dismissal due to absence of the plaintiff.
- 6- Other decisions that can legally form the grounds for overruling the decision.

ARTICLE FOUR HUNDRED ONE

Affirmation of the decisions of lower courts by higher courts shall take place by a ruling.

CHAPTER FIVE: ISSUANCE OF A RULING BY THE HIGHER COURT OVERRULING AN INACCURATE DECISION

ARTICLE FOUR HUNDRED TWO

The decision of the higher court concerning a situation of nullity shall be issued in the form of a ruling and the said ruling shall contain the following matters:

- 1- Date and place of issuance of the ruling.

- 2- Name of the court issuing the ruling.
- 3- Composition of the judicial panel.
- 4- Identity of the civil prosecutor and those involved in the proceedings of the case.
- 5- Identity of the complainant or the person presenting the objection.
- 6- A brief text of the lower court's decision.
- 7- A brief text of the presented complaint or objection.
- 8- Explanations of the persons involved in the proceedings of the case in the court.
- 9- Reasons giving rise to the civil case and the conclusion of the court.
- 10- The law on which the court has relied.
- 11- Decision of the judicial panel overruling the decision.

ARTICLE FOUR HUNDRED THREE

In case the decision is overruled and in case of the need for its submission for retrial, the higher court shall clarify the following matters in its ruling:

- 1- The situations of the case to be explained.
- 2- Grounds of proof to be demanded.
- 3- Other proceedings that take place in the lower court.

ARTICLE FOUR HUNDRED FOUR

The ruling of the higher court overruling the decision of the lower court is not subject to complaint and is final.

ARTICLE FOUR HUNDRED FIVE

- 1- Implementation of the contents of the ruling of the higher court invalidating or overruling the decision is mandatory in the new proceedings.
- 2- The lower court shall not in the issuance of its judgment be obligated to follow the ruling of the higher court without any preconditions.

ARTICLE FOUR HUNDRED SIX

In case of the rejection of a submitted complaint or objection, the higher court shall clarify in its ruling the reasons for the rejection.

CHAPTER SIX: SUBMISSION OF COMPLAINT AND OBJECTION TO RULING OF LOWER COURT

ARTICLE FOUR HUNDRED SEVEN

The parties to the case can complain against and object to the ruling of the court that has been issued in the preliminary stage.

ARTICLE FOUR HUNDRED EIGHT

The followings rulings can be subject to complaint and objection:

- 1- The rulings that have been issued by the provincial, city, municipal, district and sub-district courts, considering the authorization and non-authorization.
- 2- The rulings that are issued regarding the expiry or non-expiry of time.
- 3- Other instances in which pursuant to this Code the ruling of the lower court is considered subject to complain and objection.

ARTICLE FOUR HUNDRED NINE

The higher court shall after proceeding with the complaint against and objection to the rulings of the lower court that are provided for in the law make decision in the following order:

- 1- Affirms the ruling and rejects the complaint or objection.
- 2- Overrules the ruling and returns the issue to the lower court for the purpose of a new trial.
- 3- Overrules the ruling that has been issued related to the essence of the claim and returns the case to the original court for the purpose of issuance of a decision.

ARTICLE FOUR HUNDRED TEN

The implementation of the issued ruling of the higher court overruling the ruling of the lower court is mandatory.

**CHAPTER SEVEN:
POWERS OF SUPERIOR COURTS IN PROCEEDINGS
OF
COMPLAINTS AGAINST ISSUED JUDGMENTS OF
LOWER COURTS**

ARTICLE FOUR HUNDRED ELEVEN

If the authority of render a decision in a case according to the rules of this Code is transferred to another court, the complaint against the issued decision is submitted to the setting court or to the presidency of the court of the state/province within whose jurisdiction the court issuing the decision is located.

ARTICLE FOUR HUNDRED TWELVE

1- The right of complaint by the parties ends after the expiry of the specified time period.

2- If the substitute of one of the parties to the claim does not complain in the specified time period, the side that has suffered damages as a result can bring an action in the lower court against the substitute.

ARTICLE FOUR HUNDRED THIRTEEN

If one of the parties makes complaint within the specified time period, the other party shall, despite the expiry of the time period for complaint, have the right to complain until the end of the claim and until the issuance of the decision.

ARTICLE FOUR HUNDRED FOURTEEN

The persons whose complaint has been decided per se in the lower court or by representative, guardian, executor or curator, the right of complaint is also preserved for the same persons.

ARTICLE FOUR HUNDRED FIFTEEN

The superior court cannot without the prior decision of the lower court directly resort to resolving the claim, unless otherwise provided for in the law.

ARTICLE FOUR HUNDRED SIXTEEN

The clear or implicit consent of a minor, insane, interdicted or guardian, executor, representative and curator with the decision of the court is not valid. An proxy who has been given the authority of satisfaction by his/her principal is exempt from this rule.

ARTICLE FOUR HUNDRED SEVENTEEN

The following situations are considered as implicit satisfaction with the decision of the lower court:

- 1- Compromise between the person convicted and the person in whose favor the judgment of conviction has been issued regarding the court expenses or duties.
- 2- Request for time for payment of debt by the convicted person from the person in whose favor the conviction has been issued.
- 3- Absence of complaint by the complainant against the actual issue, but rather reliance on a complaint regarding the expenses of the court.

ARTICLE FOUR HUNDRED EIGHTEEN

If the complainant or the objecting party presents its complaint and objection within the specified time period, but does not appear in the higher court without notice and justifiable excuse, the court shall issue its decision ending the right of complaint or objection, and the decision of the court shall, after being recorded in the (relevant) office, be announced to the concerned authorities.

ARTICLE FOUR HUNDRED NINETEEN

In non-appearance in the court at the specified time period of the party opposing the objecting party, the right of the objecting party shall remain as before.

ARTICLE FOUR HUNDRED TWENTY

The end of the right of objection by the objecting party for reason of the expiry of the time period and the relation of the judgment of the lower court to a third person cannot obstruct the right of that third person to complain against the decision of the lower court.

ARTICLE FOUR HUNDRED TWENTY-ONE

The objection by the third person after the implementation and performance of the final judgment is not valid without the presentation of a justifiable excuse.

ARTICLE FOUR HUNDRED TWENTY-TWO

Overruling and invalidating the judgment of a city, municipal, district and sub-district courts cannot take place by a court of the same level as these courts.

ARTICLE FOUR HUNDRED TWENTY-THREE

The authority of a superior court to hear a complaint has been legally limited by taking into account the price of the subject matter of the claim. The claims whose issues are mentioned as follows are exempted from this limitation:

- 1- Claim related to the right of honor or claim for its establishment.
- 2- Claim related to the closing of door and window.
- 3- Claim related to the division of bequeathed property.
- 4- Right of pre-emption in the way of proving abandonment and avoidance of the claim.
- 5- Claim related to the height of the neighbor's building and request for protection against its harm.
- 6- Claim related to defense against the harm resulting from a drainage in the direction of another person's courtyard.
- 7- Claim related to the digging of a new sub-stream from the common stream.
- 8- Claim related to digging of a canal as a result of the digging of which a harm is done to the satisfaction of another.
- 9- Claim of invalid individuals, persons lacking legal capacity and the absentee who have been plaintiff or defendant and a judgment has been issued at their detriment.
- 10- Claim related to the right of water.
- 11- Claim related to the right of passage.
- 12- Claim related to the passage of time.

13- Claim in which the government is a party and the representative of the government cases is the person convicted.

ARTICLE FOUR HUNDRED TWENTY-FOUR

If there are multiple convicted persons and one of them presents the complaint and if the judgment is considered divisible, the persons who have not complained cannot benefit from the complaint of the party making it.

ARTICLE FOUR HUNDRED TWENTY-FIVE

Rules related to the complaint and objection against the non-final decisions of the lower courts and the issued judicial rulings can also be applied to the final judgments and rulings of the lower courts.

ARTICLE FOUR HUNDRED TWENTY-SIX

Tribunals of the provincial court shall proceed with the civil cases pursuant to the complaint of a party to the claim or objection of the prosecutor to the final judgments in case of violation of the rules of the law, mistake in the implementation of the law, mistake in the interpretation or invalidity in the proceedings in a manner that has led to the issuance of an illegal judgment.

ARTICLE FOUR HUNDRED TWENTY-SEVEN

In case the decision and ruling of the lower court is issued according to the provisions of the law and are clear of mistakes, if the complaint and objection against the decision is considered baseless, the higher court shall issue its judicial ruling upholding the legality of the final judgment and ordering its implementation.

ARTICLE FOUR HUNDRED TWENTY-EIGHT

If (the principal of) legality has not been complied with in the decision of the lower court, the provisions of clause 2 of Article 298 of this Code are applicable.

ARTICLE FOUR HUNDRED TWENTY-NINE

If the final decision of the lower court is subjected to a revocation, the case is transferred to the authorized court for a retrial.

PART FOUR: PROCEEDINGS IN OFFICE OF CIVIL CASES AND PUBLIC RIGHTS OF SUPREME COURT

ARTICLE FOUR HUNDRED THIRTY

The powers of the civil cases and public rights tribunals of the Supreme Court in the transferred cases are as follows:

- 1- The preliminary proceedings of the cases according to the specification of the law.
- 2- Proceedings in the final stage.
- 3- Proceedings from the point of view of legality.

CHAPTER TWO: PRELIMINARY HEARING OF CASES

ARTICLE FOUR HUNDRED THIRTY-ONE

The tribunal of the Supreme Court dealing with civil cases and public rights shall hear the cases that have been referred to it for the purpose of preliminary proceedings according to the provisions of the law.

ARTICLE FOUR HUNDRED THIRTY-TWO

The judgments of the provincial court and the main district are dealt with in a preliminary proceeding in the tribunal of the Supreme Court dealing with civil cases and public rights, in case they are overruled for a second time.

ARTICLE FOUR HUNDRED THIRTY-THREE

The judgment of the tribunal of the civil cases of the Supreme Court that is issued according to the provisions of Articles 431 and 432 of this Code is final.

ARTICLE FOUR HUNDRED THIRTY-FOUR

The principles of trial and the rules that are applicable in the resolution of cases in the preliminary stage are also applicable in the preliminary proceeding of the civil cases tribunal of the Supreme Court.

ARTICLE FOUR HUNDRED THIRTY-FIVE

In case of the difference of opinion in the decision that first is subject to the proceedings of the tribunal the final decision is issued with the majority of opinion.

CHAPTER THREE: CONDITIONS FOR BRINGING FINAL APPEAL AND PROCEEDINGS RELATED TO IT

ARTICLE FOUR HUNDRED THIRTY-SIX

The non-satisfied party, the civil prosecutor and the representative of the office of the government cases can present their complaint and objection to the setting court or the tribunal of civil cases and public rights of the Supreme Court regarding the cases that have been decided in a preliminary manner by the tribunals of provincial courts, the main district and the city court.

The court is obligated to record the appeal and to give the person making the appeal a written receipt.

ARTICLE FOUR HUNDRED THIRTY-SEVEN

- 1- The time period for final appeal is two months.
- 2- The calculation of this period commences from the date of announcement of the judgment.

ARTICLE FOUR HUNDRED THIRTY-EIGHT

The place in which the final appeal is made in the center of Kabul is the tribunal of civil cases and public rights of the Supreme Court, and in the provinces the person making final appeal can deliver its appeal to the presidency of the provincial court.

ARTICLE FOUR HUNDRED THIRTY-NINE

In the public interest cases, the non-satisfied party, representative of the office of the government cases or the civil prosecutor each can petition for a final appeal.

ARTICLE FOUR HUNDRED FORTY

A final appeal consists of the following:

- 1- The introduction of the parties to the claim.
- 2- The name of the court issuing the judgment.
- 3- The ratio decidendi of the decision from which a complaint is made.
- 4- The date of the announcement of the judgment of the court.
- 5- Grounds for bringing final appeal.

ARTICLE FOUR HUNDRED FORTY-ONE

The final appeal which does not comply with the rule of Article 440 of this Code is rejected by the authority dealing with the final appeal, and the interruption time resulting from this is not counted as part of the legal time period for petitioning for the final appeal.

ARTICLE FOUR HUNDRED FORTY-TWO

Expression of non-satisfaction at the bottom of the notice of the judgment is also considered as a final appeal.

ARTICLE FOUR HUNDRED FORTY-THREE

The court issuing the judgment shall prepare the form of the petition for final appeal according to the rule of Article 440 of this Code.

ARTICLE FOUR HUNDRED FORTY-FOUR

If the petition for final appeal is submitted to the office of civil cases and public rights of the Supreme Court, the office of documents of this office shall demand the papers related to issue and decision of the lower court from the relevant authority.

ARTICLE FOUR HUNDRED FORTY-FIVE

The authority dealing with a petition for final appeal in the provinces is obligated to officially send the papers of the issue to the Supreme Court within one week.

ARTICLE FOUR HUNDRED FORTY-SIX

Non-compliance by the relevant authorities with the legal steps for dealing with the final appeal that leads to a delay in sending of papers and as a result causes harm shall render those authorities liable.

ARTICLE FOUR HUNDRED FORTY-SEVEN

In cases in which the government is involved, the papers are transferred to the office of the Supreme Court by the office of government office as a result of the complaint by the person convicted or the objection of the representative of the office of government cases.

CHAPTER FOUR: PROCEEDINGS IN THE FINAL STAGE

ARTICLE FOUR HUNDRED FORTY-EIGHT

The provisions contained in Part Three of this Code are applicable in the proceedings in the final stage in the office of the civil cases and public rights of the Supreme Court. The situation of overruling and referral of the case to the lower court is exempted from this rule.

ARTICLE FOUR HUNDRED FORTY-NINE

The Supreme Court shall have the following powers in the final stage of proceedings of the cases:

- 1- Overruling or invalidating the decision or ruling of the lower court in whole or in part and sending the case for retrial by the same judges or another composition to the relevant court.
- 2- Issuance of a decision for the purpose of correcting a violation in the legal reasoning, if after overruling the decision no need has been felt for collection of new or complementary reasons in the case, and the situations of the case have been dealt with in a complete and correct manner by the lower court, and where only in the legal reasoning a violation has taken place.
- 3- Return of the papers for new trial in case of the dismissal of the court's ruling due to the fact that the proceeding of the issue requires the issuance of a decision. In this case, the presence of the parties is not necessary in the tribunal of the Supreme Court.
- 4- Affirming a judgment of the lower court in case of its issuance according to the law.

**CHAPTER FIVE:
PROCEEDINGS OF THE FINAL RULES OF THE
LOWER COURTS FROM THE POINT OF VIEW OF
LEGALITY**

ARTICLE FOUR HUNDRED FIFTY

The final appeal proceedings regarding the final judgments of the provincial, main district and Kabul city courts is within the jurisdiction of the Supreme Court which is implemented by the tribunal of civil cases and public rights of the Supreme Court based on the petition for final appeal by the petitioner.

ARTICLE FOUR HUNDRED FIFTY-ONE

1- The tribunal of the civil cases and public rights of the Supreme Court shall take up the final judgments of the lower courts only from the perspective of legality and of their conformity with the rules of the Islamic law.

2- If the said office becomes confident as a result of close attention that the judgment of the lower court has been issued in conformity with the rules of Islamic law, it shall reject the complaint and objection and issue a ruling for the application of the final judgment.

3- If as a result of the close attention by the office related to the Supreme Court, it is proven that there have been legal violations in the final judgments of the lower courts, the court shall overrule the decision and clarify its conditions with reasons, and shall return it to the lower court for issuance of a new decision.

ARTICLE FOUR HUNDRED FIFTY-TWO

The grounds for invalidity of the final judgments of the lower courts as provided in Article 399, and the grounds for overruling as provided for in Article 400 of this Code in the stage of proceeding with the final judgments of the lower courts are also applicable from the point of view of legality.

ARTICLE FOUR HUNDRED FIFTY-THREE

Proceedings regarding the final judgments of the lower courts for reasons of non-satisfaction in the civil tribunal of public rights of the Supreme Court are not confined to the presentation of the objection. In case of the existence of legal flaws the said judgments are overruled.

ARTICLE FOUR HUNDRED FIFTY-FOUR

In overruling a decision for reason of its conflict with the rules of law, consideration is given to the legislative documents that were in force during the issuance of the judgment of the lower court.

ARTICLE FOUR HUNDRED FIFTY-FIVE

Renewal of proceeding of an overruled decision by the order of the tribunal of the Supreme Court in the lower courts is not restricted to the presentation of a new demand and request.

ARTICLE FOUR HUNDRED FIFTY-SIX

Objections outside the issue under consideration by the court in the stage of final appeal cannot be justiciable and are considered a new claim.

ARTICLE FOUR HUNDRED FIFTY-SEVEN

The judgments that are issued in the incidental claim while the original claim is under adjudication cannot be subject to final appeal prior to the resolution of the original claim.

ARTICLE FOUR HUNDRED FIFTY-EIGHT

Lodging final appeal stops the implementation of judgments related to the decision of the lower court.

ARTICLE FOUR HUNDRED FIFTY-NINE

The tribunal of civil cases and public rights of the Supreme Court can require the appearance of the parties to the claim while adjudicating the final judgments of the lower courts from the point of view of legality.

ARTICLE FOUR HUNDRED SIXTY

If as a result of demand and complaint by the party to the claim the tribunal related to the Supreme Court can overrule the judgment of the tribunal of provincial court that has been issued pursuant to the expiry of the time period or rejection of the right of appeal by the party to the claim. The court returns the issue to the tribunal of the lower court for new proceedings.

ARTICLE FOUR HUNDRED SIXTY-ONE

If the ruling or the judgment related to the expiry of the time period that has been issued from the tribunal related to provincial court cannot be overruled and if the complainant or the objecting party only complains against or objects to the legality of the decision of the first court, the provincial court shall adjudicate the case from the point of view of legality.

ARTICLE FOUR HUNDRED SIXTY-TWO

If the office related to the court of the provincial court against the decision of the tribunal of civil cases and public rights of the Supreme Court issues judgment and the said tribunal considers the second decision of the provincial court liable to be overruled, the full board of the Supreme Court's civil cases shall adjudicate the matter.

ARTICLE FOUR HUNDRED SIXTY-THREE

If the tribunal of the civil cases and public rights of the Supreme Court is not satisfied with the reasons submitted after the issuance of the second decision of the tribunal related to the lower court, it shall issue a ruling for the implementation of the judgment.

ARTICLE FOUR HUNDRED SIXTY-FOUR

The ruling of the provincial court overruling the judgment of the lower court and the return of the claim to the said court cannot be the subject to final appeal in the tribunal of the civil cases and public rights of the Supreme Court.

ARTICLE FOUR HUNDRED SIXTY-FIVE

If the decision of the lower court is clear of the defect of invalidity and if it only contains small defects and defects of the form, the decision shall be returned to the court issuing the judgment for correction of the defect. In this case, there is no need for renewal of the claim and appearance of the witnesses.

ARTICLE FOUR HUNDRED SIXTY-SIX

The tribunal hearing the final appeal can demand the original papers that the parties to the claim have presented to the lower court for the purpose of consideration.

ARTICLE FOUR HUNDRED SIXTY-SEVEN

If the party lodging the final appeal fails to present its objection to the tribunal adjudicating the final appeal within one month from the arrival of the case and has not justifiable excuse for such failure, or it does not appear by itself, a judicial ruling is issued for the implementation or dismissal of the lower court's decision.

ARTICLE FOUR HUNDRED SIXTY-EIGHT

The ruling issued by the final appeals court contains the following matters:

- 1- Identity, occupation and place of residence of the parties to the claim.
- 2- The reason that gave rise to the claim.
- 3- The judgment of the lower court.
- 5- Summary of the objection and the reasons presented by the parties.
- 6- Grounds for rejection and invalidation from the point of view of legality.

ARTICLE FOUR HUNDRED SIXTY-NINE

The decision or the ruling that has been overruled or invalidated by the tribunal of final appeal is remanded to the setting court. The court to which the decision is transferred is obligated to enter the judgment or the decision of final appeal with the same words into its second decision. In the absence of compliance with this issue the decision shall be overruled for the second time.

ARTICLE FOUR HUNDRED SEVENTY

If in a claim the convicted party is more than one person and as a result of final appeal by one of them the decision (of the lower court) is revoked, others cannot make use of this revocation. The following situations are exempted from this rule”

- 1- Conviction of the principal and proxy for payment of debt.
- 2- Assignment and division of lands and common properties between the heirs and partners.

ARTICLE FOUR HUNDRED SEVENTY-ONE

If the party appealing from the decision of the appellate court dies prior to the consideration by the court of final appeal, the rights of final appeal devolves to its successors.

ARTICLE FOUR HUNDRED SEVENTY-TWO

The appellant cannot lodge final appeal against a third person outside of the decision.

ARTICLE FOUR HUNDRED SEVENTY-THREE

If the appellant dies after the expiry of the limitation period for bringing the final appeal, his/her successors do not have the right to bring the final appeal. Justifiable excuse is exempt from this rule.

ARTICLE FOUR HUNDRED SEVENTY-FOUR

Not having tested the character of the required witnesses shall render the decision subject to examination by the tribunal of last resort and shall lead to the return of the case back to the setting court.

ARTICLE FOUR HUNDRED SEVENTY-FIVE

Emergence of difference about the right to bring final appeal or the expiry of the time period shall lead to the adjudication of the issue by the tribunal of final resort.

ARTICLE FOUR HUNDRED SEVENTY-SIX

The tribunal of final resort shall perform its adjudication of the case according to the following:

- 1- Examination of the strength and weakness of the reasons submitted by the parties to the claim.
- 2- Examination of the strength and weakness of the grounds contained in the judgment of the lower court.

ARTICLE FOUR HUNDRED SEVENTY-SEVEN

The lower courts are obligated to record in a clear manner in the decision their available reasons, the (name of the) parties to the claim and their reasons, supported by evidence with the mention of the legal articles and details of the Islamic law.

ARTICLE FOUR HUNDRED SEVENTY-EIGHT

Rejection or acceptance of the objections of the party making the final appeal shall having regard to the submitted reasons and documents be recorded in the ruling article by article.

ARTICLE FOUR HUNDRED SEVENTY-NINE

The rulings issued by the lower court cannot be subject to final appeal in the following situations:

1- The judgments that are based on a clear confession or exoneration and the party making the final appeal only denies its apparent confession or exoneration and there do not exist strong reasons to render the instrument suspect.

Existence of witnesses that repeatedly negate the lack of presence and absence of confession are exempt from this rule.

2- Extinction of the right of final appeal as a result of the consent of the parties that has assumed the official form.

3- The judgment of the arbitrator that the parties have willingly admitted the absoluteness of that judgment and that judgment has been recorded in the legal security document.

PART FIVE: REVIEW OF THE FINAL DECISIONS AND RULINGS IN THE CIVIL AND PUBLIC INTEREST CASES

CHAPTER ONE: REVIEW (APPEAL)

ARTICLE FOUR HUNDRED EIGHTY

The chief justice and the chief prosecutor who have been harmed can each for reasons of the emergence of new evidence object to the final rulings or decisions of the courts.

ARTICLE FOUR HUNDRED EIGHTY-ONE

Review of the final decisions or rulings of the courts shall be within the jurisdiction of high council of the Supreme Court.

ARTICLE FOUR HUNDRED EIGHTY-TWO

The situations for appeal/review are as follows:

- 1- Proof of the falsehood of the testimony of the witnesses.
- 2- Proof of the falsehood of conclusions of the experts.
- 3- Proof of forgery and falsification in the documents and sources of proof.
- 4- Proof of inaccurate translation that would affect the judgment.
- 5- Presentation of a proving document by the convicted person which does not exist during the issuance of the judgment.
- 6- Other new evidences that have not been known to the court during the examination of the issue and has not become known after the issuance of the judgment or has not been noticed during the proceedings of the settlement, and if the above-mentioned evidence can be grounds for the cancellation of judgment.

CHAPTER TWO: PROCEEDINGS RELATED TO APPEAL (REVIEW)

ARTICLE FOUR HUNDRED EIGHTY-THREE

If justifiable reasons exist to render the final judgment abrogated, the high council of the Supreme Court shall issue a ruling canceling the judgment and shall return the case to the setting court or another court for retrial.

ARTICLE FOUR HUNDRED EIGHTY-FOUR

If the high council of the Supreme Court determines that the case subject to review/appeal is worthy of further examination, it shall assign the background materials of the case for preliminary assessment to a commission composed of two members of the civil tribunal under the presidency of one of the members of the high council of the Supreme Court.

ARTICLE FOUR HUNDRED EIGHTY-FIVE

The preliminary commission shall consider the objection to the final decision of the objecting party and in the light of the provisions of Article 482 of this Code examine it.

If it is necessary, the commission can summon the parties to the case and question them on the nature of the issue.

ARTICLE FOUR HUNDRED EIGHTY-SIX

The assigned commission shall arrange its opinions in two copies and shall submit them along with the background (materials) to the head of the secretariat of the high council of the Supreme Court.

ARTICLE FOUR HUNDRED EIGHTY-SEVEN

If the person making the appeal has suffered damages, the authorized place for submission of the appeal is the Supreme Court.

ARTICLE FOUR HUNDRED EIGHTY-EIGHT

1- The time period for submission of an appeal from the final judgments in personal cases (family cases) is a period of three months.

2- The start of the period provided for in clause 1 of this article is calculated from the date of issuance of the final decision.

ARTICLE FOUR HUNDRED EIGHTY-NINE

The time period for hearing an appeal after the submission of the objection is a period of three months.

PART SIX: MISCILANEOUS RULES

ARTICLE FOUR HUNDRED NINETY

The decisions and rulings of the non-judicial gatherings in civil matters and public rights are not valid.

ARTICLE FOUR HUNDRED NINETY-ONE

Judgment in matters of the Civil Code takes place after the submission of request of the claim.

ARTICLE FOUR HUNDRED NINETY-TWO

The judge cannot transfer to another judge the authority of judgment, unless otherwise provided in the law.

ARTICLE FOUR HUNDRED NINETY-THREE

The judge cannot postpone and delay without legal reason the resolution of cases within his/her authority.

ARTICLE FOUR HUNDRED NINETY-FOUR

The judge is obligated to seriously object to the speech and actions that are judicial probity.

ARTICLE FOUR HUNDRED NINETY-FIVE

The judgment of the judge can be limited, specified and analyzed by taking into account the time, place, issue and event.

ARTICLE FOUR HUNDRED NINETY-SIX

If the subject matter of the claim is a debt or purchase of moveable and immovable properties, and the defendant has died without leaving any legal heir, the tribunal of the government cases is recognized as the legal successor of the deceased and the court shall adjudicate the issue.

ARTICLE FOUR HUNDRED NINETY-SEVEN

The judge cannot dictate to the plaintiff, defendant and witnesses in any manner.

ARTICLE FOUR HUNDRED NINETY-EIGHT

The judge must, in addition to having complete grasp and understanding of the effective laws of the country and of the rules of the Islamic law, have complete awareness of the general culture, manners and customs of the society.

ARTICLE FOUR HUNDRED NINETY-NINE

The judgment of the court based on the sources of evidence for and against one or some of the heirs is tantamount to a judgment for and against all of the heirs.

ARTICLE FIVE HUNDRED

The court is a venue and not a proving party. The subject matter of a judgment is in fact a fixed matter and the judge expresses it based on the legal and legitimate reasons.

ARTICLE FIVE HUNDRED ONE

In the absence of the clear rules of law, the judgment of the judge are issued according to the fundamental principles of the Islamic law and shall possess the force and strength with regard to the subject matter of the ruling.

ARTICLE FIVE HUNDRED TWO

A minor, insane, idiot, interdicted and absentee cannot directly be a legal adversary.

ARTICLE FIVE HUNDRED THREE

The decisions of the city, municipal, district and sub-district courts that are based on the confession of the plaintiff or defendant or are based on a credible instrument of a ruling issued pursuant to the confession of the plaintiff, defendant and their heirs or a legal waiver cannot be appealed against. The higher court shall decide against the grant of leave for appeal in such cases. Doubtful instruments are exempt from this rule.

ARTICLE FIVE HUNDRED FOUR

The Supreme Court is obligated to enact for the purpose of effective implementation of the rules of this Code special rules and regulations that have been approved by the high council of the Supreme Court regarding conditions for accuracy of the claim.

ARTICLE FIVE HUNDRED FIVE

Decisions of the district and sub-district courts in which the taking of oath or waiver of dropping of oath are the grounds for judgment are subject to the following actions:

- 1- In case the said decision is overruled in the superior court, the procedures and rules contained in Chapter Four of Part Three of this Code shall be observed.
- 2- In case the said decision is not overruled in the higher court and the plaintiff demands (the right) to bring witnesses, the tribunal of the provincial court and a court equivalent to it shall refer the case in pursuant to a judicial ruling to the relevant court for proceedings related to the testimony of witnesses.

3- In a court to which a case has been assigned, only the question of presentation of witnesses is recorded in the new claim form (pleading) and the defendant is asked to bring witnesses. The new proceedings of the case for this purpose do not require a new action.

4- The time period allowed for bringing witnesses after the commencement of the new proceedings in the court shall be one month.

5- If the plaintiff brings witnesses and the said witnesses are accepted or rejected, the case must pass through the higher courts in either case.

6- If the plaintiff fails to bring witnesses within one month, the original decision becomes absolute.

7- The legal action in the original court for the purpose of presenting witnesses is considered to be completely the same as the initial decision which cannot be appealed against in the appellate or supreme courts.

ARTICLE FIVE HUNDRED SIX

This law shall come into force one month after it is published in the official gazette and upon entry into effect of this law, the Code of Administrative Rules of Judicial Courts, dated October 10, 1959, with its attachments, the Rules of Procedure for Legal and Judicial Courts, dated December 2, 1960, Code of Rules for Determination of Time Period for Preliminary Claims and the Hearing of Appeal in the Appellate and Supreme Courts, dated September 17, 1955 with all its appropriate attachments and amendments and the single article of the Procedure for Administrative Trials, effective as of January 14, 1952 and the rules of other laws of legislative documents that are contrary to the rules contained in this Code are considered overruled.